

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

March 20, 2020

3:35 p.m.

**MEMBERS PRESENT**

Senator Peter Micciche, Chair  
Senator John Coghill, Vice Chair  
Senator Joshua Revak  
Senator Scott Kawasaki  
Senator Jesse Kiehl

**MEMBERS ABSENT**

Senator Click Bishop  
Senator Cathy Giessel

**COMMITTEE CALENDAR**

SENATE BILL NO. 130

"An Act relating to a seafood product development tax credit; providing for an effective date by repealing secs. 32 and 35, ch. 61, SLA 2014; and providing for an effective date."

- MOVED SB 130 OUT OF COMMITTEE

SENATE BILL NO. 160

"An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

- HEARD & HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 16

"An Act relating to shared animal ownership; and relating to the sharing and sale of raw milk and raw milk products."

- HEARD & HELD

SENATE BILL NO. 194

"An Act relating to advanced nuclear reactors."

- HEARD & HELD

D

**PREVIOUS COMMITTEE ACTION**

BILL: SB 130

SHORT TITLE: SEAFOOD PRODUCT DEVELOPMENT TAX CREDIT

SPONSOR(s): SENATOR(s) STEVENS

01/21/20 (S) PREFILE RELEASED 1/10/20  
01/21/20 (S) READ THE FIRST TIME - REFERRALS  
01/21/20 (S) RES, FIN  
03/04/20 (S) RES AT 3:30 PM BUTROVICH 205  
03/04/20 (S) <Bill Hearing Canceled>  
03/13/20 (S) RES AT 3:30 PM BUTROVICH 205  
03/13/20 (S) Heard & Held  
03/13/20 (S) MINUTE(RES)  
03/20/20 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 160

SHORT TITLE: FOREST LAND USE PLANS; TIMBER SALES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/20 (S) READ THE FIRST TIME - REFERRALS  
01/22/20 (S) RES, FIN  
03/20/20 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 16

SHORT TITLE: SHARED ANIMAL AND RAW MILK/PRODUCTS

SPONSOR(s): TARR

02/20/19 (H) PREFILE RELEASED 1/7/19  
02/20/19 (H) READ THE FIRST TIME - REFERRALS  
02/20/19 (H) RES, FIN  
03/20/19 (H) SPONSOR SUBSTITUTE INTRODUCED  
03/20/19 (H) READ THE FIRST TIME - REFERRALS  
03/20/19 (H) RES, FIN  
03/22/19 (H) RES AT 1:00 PM BARNES 124  
03/22/19 (H) Heard & Held  
03/22/19 (H) MINUTE(RES)  
03/29/19 (H) RES AT 1:00 PM BARNES 124  
03/29/19 (H) Moved SSHB 16 Out of Committee  
03/29/19 (H) MINUTE(RES)  
04/01/19 (H) RES RPT 5DP  
04/01/19 (H) DP: TUCK, HANNAN, TALERICO, RAUSCHER,  
TARR  
04/23/19 (H) FIN AT 1:30 PM ADAMS ROOM 519  
04/23/19 (H) Heard & Held

04/23/19 (H) MINUTE (FIN)  
 04/26/19 (H) FIN RPT 9DP  
 04/26/19 (H) DP: JOHNSTON, CARPENTER, TILTON, LEBON,  
 MERRICK, JOSEPHSON, ORTIZ, WILSON,  
 04/26/19 (H) FOSTER  
 04/26/19 (H) FIN AT 9:00 AM ADAMS ROOM 519  
 04/26/19 (H) Moved SSHB 16 Out of Committee  
 04/26/19 (H) MINUTE (FIN)  
 05/03/19 (H) TRANSMITTED TO (S)  
 05/03/19 (H) VERSION: SSHB 16  
 05/06/19 (S) READ THE FIRST TIME - REFERRALS  
 05/06/19 (S) RES, FIN  
 03/20/20 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 194

SHORT TITLE: ADVANCED NUCLEAR REACTORS  
 SPONSOR(s): COMMUNITY & REGIONAL AFFAIRS

02/17/20 (S) READ THE FIRST TIME - REFERRALS  
 02/17/20 (S) CRA, RES  
 03/03/20 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)  
 03/03/20 (S) Heard & Held  
 03/03/20 (S) MINUTE (CRA)  
 03/10/20 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)  
 03/10/20 (S) Moved CSSB 194 (CRA) Out of Committee  
 03/10/20 (S) MINUTE (CRA)  
 03/11/20 (S) CRA RPT CS 3DP 1NR SAME TITLE  
 03/11/20 (S) DP: BISHOP, GRAY-JACKSON, HOFFMAN  
 03/11/20 (S) NR: MICCICHE  
 03/20/20 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 130

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 03/04/20 (S) <Bill Hearing Canceled>  
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03/10/20	(S)	MINUTE(CRA)
03/11/20	(S)	CRA RPT CS 3DP 1NR SAME TITLE
03/11/20	(S)	DP: BISHOP, GRAY-JACKSON, HOFFMAN
03/11/20	(S)	NR: MICCICHE
03/20/20	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

TIM LAMKIN, Staff  
 Senator Gary Stevens  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Provided a summary of SB 130.

MARK PALMER, President  
 Ocean Beauty Seafoods  
 Seattle, Alaska

**POSITION STATEMENT:** Testified in support of SB 130.

CHRIS BARROWS, President  
 Pacific Seafood Processors Association  
 Tacoma, Washington

**POSITION STATEMENT:** Testified in support of SB 130.

CHRIS MAISCH, Director  
 Division of Forestry  
 Alaska Department of Natural Resources  
 Fairbanks, Alaska

**POSITION STATEMENT:** Introduced SB 160 on behalf of the administration.

CHRISTOPHER ORMAN, Assistant Attorney General  
 Civil Division  
 Natural Resources Section  
 Alaska Department of Law  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding a committee substitute for SB 160.

TESSA AXELSON, Executive Director  
 Alaska Forest Association  
 Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of SB 160.

REPRESENTATIVE GERAN TARR  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 16.

SUZY CROSBY, Owner  
Cottonwood Creek Farm  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in support of HB 16.

CODY GRUSSENDORF, Staff  
Senator Click Bishop  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 194.

MARCUS NICHOL, Senior Director,  
New Reactor Deployment  
Nuclear Energy Institute  
Washington, DC

**POSITION STATEMENT:** Provided supporting details in regard to SB 194.

#### **ACTION NARRATIVE**

[3:35:50 PM](#)

**CHAIR PETER MICCICHE** called the Senate Resources Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Revak, Kawasaki, Kiehl, and Chair Micciche.

#### **SB 130-SEAFOOD PRODUCT DEVELOPMENT TAX CREDIT**

CHAIR MICCICHE announced that the first order of business would be SENATE BILL NO. 130, "An Act relating to a seafood product development tax credit; providing for an effective date by repealing secs. 32 and 35, ch. 61, SLA 2014; and providing for an effective date."

He noted that the bill was previously heard and public testimony was started. He said the intention today is to finish public testimony, consider an amendment and look to the will of the committee. He asked Mr. Lamkin to provide a brief recap of the bill.

[3:37:09 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, stated that SB 130 continues a direct economic development policy that the State has used for some time. It is intended to support the long-term development of Alaska's value-added seafood processing industry. The salmon and herring fisheries have traditionally been targeted and SB 130 adds pollock and cod products.

He detailed that the economic incentive has historically been in the form of a tax credit applied to these fisheries that invest in infrastructure and research and development to find ways of improving existing or discovering new technologies in adding value to all parts of the fish, from the gills to the collagen to the scales.

MR. LAMKIN noted that there was an amendment for the committee to consider that would add fisheries including cod, sole, flounder, rockfish, and perch.

CHAIR MICCICHE said the amendment does not have a fiscal note so it will not be considered today. He suggested that another committee could take it up and he would be happy to discuss the details of the amendment with those members.

[3:39:04 PM](#)

CHAIR MICCICHE turned to public testimony.

[3:39:17 PM](#)

MARK PALMER, President, Ocean Beauty Seafoods, Seattle, Alaska, testified in support of SB 130. He stated that Ocean Beauty Seafoods has five Alaska-based seafood processing plants in Bristol Bay, Kodiak Island, Prince William Sound, and Southeast Alaska.

MR. PALMER said Alaska has supported the seafood processing industry over the years. The industry's last critical need was to diversify the salmon product mix in Alaska. The State helped the industry succeed with added-value infrastructure investment in facilities and the industry continues to benefit from the investment. SB 130 is the final piece for the industry to fully utilize its processing waste stream.

He said as the seafood processing industry faces increased demands from the United States Environmental Protection Agency (EPA), an opportunity exists to develop an economic benefit from the 10 million pounds of permitted discharge from each of Ocean

Beauty Seafoods' processing facilities. There is an opportunity to develop economic benefit for the State by reprocessing the industry's waste stream into finished goods and value-added products, including existing markets for nutraceutical and pharmaceutical products.

MR. PALMER said the seafood processing plants in Alaska are seasonal operations and the industry needs support to get the needed value-added infrastructure in place. The industry anticipates a small fiscal note because the biggest infrastructure requirements are already in place. SB 130 will support remote salmon facilities and smaller processing plants around the state, he said.

CHAIR MICCICHE agreed that the seafood processing industry has challenges ahead and his hope is to pass the legislation during the current legislative session.

[3:41:45 PM](#)

CHRIS BARROWS, President, Pacific Seafood Processors Association, Tacoma, Washington, testified in support of SB 130. He said there is no better way to increase the value of Alaska's resources than to increase the utilization of harvested fish. Seafood processors have proven greater value in the past from increased salmon and herring utilization. Given the volume from the cod and pollock fisheries, increased utilization of the two species is an appropriate approach for a greater return on investment.

[3:42:56 PM](#)

CHAIR MICCICHE closed public testimony. Finding no questions, he solicited the will of the committee.

[3:43:11 PM](#)

SENATOR REVAK moved to report SB 130, work order 31-LS1197\M, from committee with individual recommendations and attached fiscal note.

[3:43:27 PM](#)

CHAIR MICCICHE found no objection and SB 130 was reported from the Senate Resources Standing Committee.

[3:43:36 PM](#)

At ease.

**SB 160-FOREST LAND USE PLANS; TIMBER SALES**

[3:44:50 PM](#)

CHAIR MICCICHE announced that the next order of business would be SENATE BILL NO. 160, "An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

[3:45:05 PM](#)

CHRIS MAISCH, Director, Division of Forestry, Alaska Department of Natural Resources, Fairbanks, Alaska, stated that the goal of SB 160 is to provide better support to Alaska businesses and communities that depend on State timber sales for economic stability and growth. The legislation would remove barriers and improve the timber sales process while allowing for public and community input on proposed projects.

MR. MAISCH said he would walk through portions of the briefing paper in the bill packets, focusing on the current timber sale process and highlighting the changes the bill makes to that process. The briefing paper read as follows:

**Issue 1: Negotiated Timber Sales.** Under current law, negotiated timber sales are authorized under three different statutes, which is unnecessarily complicated and confusing. In addition, the Division lacks authority to offer long-term negotiated sales for out-of-state markets, and to offer more than one negotiated sale per year to a purchaser, which the industry currently requires.

**Issue 2: Forest Land Use Plans & Appeals.** For certain timber sales, especially large acreage and long-term sales, the Division of Forestry (DOF) may issue a Best Interest Finding (BIF) and award the sale before all the Forest Land Use Plans (FLUPs) for the sale area are completed. In these cases, the BIF and FLUPs may be appealed at different times, delaying the actual sale and interrupting harvest operations. This creates uncertainty in executing the sale.

**Background: Negotiated Timber Sales.**

Timber sale statutes currently provide for the following types of sales. AS 38.05.115 authorizes negotiated sales without advertisement of no more than 500 MBM per year to the same purchaser. These are small-scale sales.

AS 38.05.118 authorizes negotiated sales of timber

- to a local manufacturer of wood products or a user of wood fiber,
- for a period not to exceed 25 years,
- and requires that the appraised value of the timber remaining to be harvested is redetermined every five years.

AS 38.05.120 authorizes sales by sealed bids or public auction. The commissioner determines conditions, limitations, and terms of the sale are. This is the Division of Forestry's basic timber sale authority.

AS 38.05.123 authorizes negotiated sales

- for use in the local manufacture of high value-added wood products
- of up to 10 million board feet per year
- for a term of up to 10 years.

**Background: Forest Land Use Plans & Appeals**

Timber Sale Process: The state timber sale process is governed by AS 38.05, AS 41.17, and 11 AAC 71. Four steps are required before a timber sale may be offered. Steps 3 and 4 may be done simultaneously for certain sales.

Step 1: Regional planning. The Department of Natural Resources (DNR) develops area plans (AS 38.04.065) and state forest management plans (AS 41.17.230) to designate appropriate uses for state land. These plans determine where timber sales are an allowed use and what other uses must be considered when designing and implementing sales.

Step 2: Five-Year Schedule of Timber Sales (FYSTS) (AS 38.05.113). The DOF area offices prepare a FYSTS every other year. The FYSTS identifies proposed sales, including their location, volume, and main access routes. The FYSTS are scoping documents that provide an opportunity for the public, agencies, and industry to identify potential issues and areas of interest for further consideration in the BIF and FLUP. A proposed timber sale must appear in at least one of the two FYSTS preceding the sale. FYSTSs are not appealable.

Step 3: Best Interest Finding (AS 38.05.035(e)). A BIF is the decision document that:

- Establishes the overall area within which the timber sale may occur,
- Determines the amount of timber that may be offered for sale, and the sale duration,
- Sets the overall harvest and reforestation strategy for the sale area,
- Determines whether the sale proposal complies with the Alaska Constitutional requirement to manage for sustained yield by evaluating the amount of timber in the sale and the annual allowable cut for the affected area,
- Selects the appropriate method of sale (e.g., competitive or negotiated sale), and
- Determines the appraisal method that will be used to determine the sale price.

A Preliminary Best Interest Finding (PBIF) is intended to document that the best interest of the State will be served by the proposed action and satisfies the public notice requirement for disposals of state resources in article VIII, section 10 of the Alaska Constitution. After public and agency review of the PBIF, DOF reviews comments, makes changes as appropriate, and issues a final best interest finding. DOF must adopt a final BIF before selling timber. Final BIFs are decision documents and may be appealed to the commissioner (if originally signed at the director level) or superior court (if originally signed by the commissioner).

Step 4: Forest Land Use Plans (AS 38.05.112). Prior to authorizing harvest of timber on any area greater than 10 acres, DOF must adopt a site-specific FLUP for each harvest unit within the sale area covered by the BIF. A FLUP may be adopted before or after the timber is sold, but it must be completed prior to harvest. A FLUP specifies the site, size, timing, and harvest methods for harvest units within the sale area, as well as addressing site-specific requirements for access construction and maintenance, reforestation, and multiple use management. Draft FLUPs are based on additional field work, agency and community consultation, and site-specific analyses by DOF, and are subject to public and agency review. FLUPs are required by statute, but the format and contents of the FLUP are subject to DNR's discretion.

Appeals:

Both the BIF and FLUP are subject to appeal under AS 38.05.035 and AS 44.37.011.

- For BIFs, which are signed by the commissioner, AS 38.05.035(e) and AS 44.37.011(c) allow an aggrieved person to request a reconsideration of the commissioner's decision. AS 38.095.035(i) details the public notice and appeal process.
- FLUPs are signed by Area Foresters, and are decision documents under 11 AAC 02.900(4), defined as "a written discretionary or factual determination by the department specifying the details of the action to be allowed or taken." FLUPs therefore are appealable to the commissioner under AS 44.37.011(b) and 11 AAC 02.
- DOF provides public notice and a minimum 30-day public comment period on proposed FLUPs because doing so enables DOF to restrict eligibility to appeal or request reconsideration to those who submitted comments. See AS 38.05.035(i).

**Current Situation: Forest Land Use Plans & Appeals.**

Purchasers often desire large and/or long-term sales to provide a steady supply of timber over several years. However, DOF does not have sufficient staff to do the in-depth fieldwork and research necessary to prepare the multiple FLUPs required for large acreage sales or sales lasting more than three years before offering the entire sale. Long-term sales also require intermediate recalculations of the total allowable cut. As a result, timber harvest on a long-term sale may be interrupted by administrative (and potentially judicial) appeals of FLUPs that are prepared after award of the contract.

Appeals of a BIF are limited in scope to decisions made in the BIF (whether and how much timber will be sold), while appeals of a FLUP are limited to the scope of that document (site specific details of how the harvest will be conducted). In practice, however, appellants sometimes challenge aspects of the BIF in the context of a FLUP appeal. While these appeals may be dismissed on procedural grounds, processing them diverts staff and interrupts timber harvest. Even when the appropriate issues are identified in an appeal, the fact that BIFs and FLUPs are often adopted at

separate times provides two opportunities for administrative, and potentially, judicial, appeals to interrupt sale execution.

**Current Situation: Negotiated Timber Sales.** Industry interest recently has focused on long term, negotiated sales for out-of-state markets. Current statutory authorities reflect prior policy to encourage development of in-state use of the state's timber resources, and do not clearly authorize this type of sale.

**Action Needed:** The Division of Forestry proposes statute changes (primarily to AS 38.05) that:

1. Consolidate small-scale negotiated sales (now under AS 38.05.115) into the large-scale negotiated timber sales statute (AS 38.05.118) and delete the requirements that negotiated sales must be for local manufacture, and that only one per year may be offered to a purchaser. These revisions will provide the commissioner of the Department of Natural Resources with the flexibility to negotiate timber sales that balance the evolving economics of the timber industry with the Alaska Constitution's mandate for resource development in the public interest; and
2. Protect forest land use plans from being subject to appeal or reconsideration, while keeping a best interest finding concerning a timber sale appealable under the same statute. This will result in more efficient forest management planning and more predictable timber harvests, while retaining robust public and agency participation in the process.

The proposed statute changes:

1. Make forest land use plans non-appealable or subject to reconsideration under AS 44.37.011(B), while leaving intact other significant public process protections, including:
  - the right to appeal a commissioner's best interest finding concerning a timber sale under AS 44.37.011(B);
  - the public notice and written best interest finding requirements in AS 38.05.035(E)(6)(a);

- public notice requirements for negotiated sales of 500,000 board feet of timber or less in 38.05.945; and
  - the requirement for public notice of disposal of state interests in Article VIII, Section 10 of the Alaska Constitution.
2. Clarify the steps of a timber sale, stating clearly that a timber sale contract may be awarded before a forest land use plan is prepared, but harvest of timber may not occur before a site-specific forest land use plan is adopted.
  3. Clarify the factors that must be considered before deciding under which provision a timber sale will be offered (e.g., competitive or negotiated sale).
  4. Consolidate small-scale negotiated sale authorities from AS 38.05.115 into AS 38.05.118 and remove the limitation of only one negotiated sale per year to the same purchaser.
  5. Preserve the exemption for negotiated sales of less than 500,000 board feet of timber from the written best interest finding requirement under AS 38.05.035(e)(6)(A).
  6. Leave intact AS 38.05.123, which deals with negotiated timber sales for local manufacture of wood products, to assure domestic manufacturers that they have an authority tailored to their specific needs.

These proposed statute changes would also require adopting updated forest management regulations for negotiated sales, including 11 AAC 71.010, .015, .020(d), .035, .045, .050, .055, .070, .092, .094, .096, .098, and .910.

MR. MAISCH explained that there are four steps that the State must complete to sell timber.

He said Step 1 is the regional planning process. There must be a regional plan in place and if it is in a state forest, the State Forest Management Plan is also in place before the State can offer timber on lands that classified for timber purposes.

He explained that Step 2 is the Five-Year Schedule of Timber Sales (FYSTS). The schedule is a document that provides notice to operators, communities, and the public about planned timber sale activities over a five-year time horizon. The division publishes FYSTS documents every two years. Sales listed in year one are typically the sales that will be up next. However, sales may move up; FYSTS is not a linear document.

[3:47:26 PM](#)

MR. MAISCH said Step 3 is a Best Interest Finding (BIF) requirement for the disposal of any State asset, including timber. The BIF process includes a preliminary BIF that has public and affected agency comments. The division publishes the final BIF after making any needed adjustments. The BIF is a decision document that is appealable by potentially aggrieved parties.

MR. MAISCH explained that in Step 4 the division completes a site-specific forest land use plan (FLUP that addresses site-specific actions in the sale. The FLUP is an appealable document, but a key change in the bill is to change the FLUP to an unappealable document.

He explained that the division has five different timber sales authorities under AS 38.05. He detailed that AS 38.05.120 is the competitive sale authority that can be carried out by sealed bid or oral outcry. The division awards the signed contracted sale to the high bidder.

MR. MAISCH explained that the other suite of authorities the division has are various forms of negotiated sale authorities. The first authority is under AS 38.05.117 for timber salvage. This is meant for timber damaged by bark beetles, insects, and fire that requires prompt salvage. The timber salvage authority abbreviates some divisional processes that includes not having to list the sales in the Five-Year Schedule of Timber Sales (FYSTS).

MR. MAISCH said the rest of the authorities the division has are all negotiated sale authorities. AS 38.05.115 authorizes small sales under 500,000 board feet that can be up to 2 years in length. AS 38.05.118 authorizes larger sales over 500,000 board feet that can be up to 25 years in time. AS 38.05.123 authorizes high value-added sales up to 10 million board feet per year that can be up to 10 years.

[3:50:53 PM](#)

CHAIR MICCICHE asked him to go through the changes SB 160 makes to the process.

MR. MAISCH explained that the first change is to [AS 38.05.035(e)(6)(A)]. It is conforming language that changes a reference to a sale type from AS 38.05.115 to AS 38.05.118. This change is not substantive.

He continued to detail the changes in the CS as follows:

- Page 6, Section 2
  - First major change to the BIF process.
  - The criteria under the current BIF process for timber sales was relatively undefined.
  - The CS proposes to add five specific criteria to the section to make a BIF more defensible when challenged by an aggrieved party.
  - The change specifies departmental and divisional conditions for choosing an authority to sell timber by addressing:
    - Local timber markets for materials
    - Foreign or domestic market development
    - Economic constraints for the intended timber market
    - Any reasonable or foreseeable benefit to the State and local economies from the sale
    - Presence of underutilized timber
  - Underutilized timber means the division is not offering the full allowable cut in an area and excess timber is available for offer.

[3:53:21 PM](#)

MR. MAISCH said one example of how adding more flexibility to the BIF process would be beneficial is the young growth logs coming online in Southeast Alaska. These logs only have a market in China, but the division's current authority under AS 38.05.118 does not allow the division to negotiate an export sale for that type of timber. By adding the proposed criteria to the BIF, the division would be able to make the analysis, address the market and economic issues, and offer a sale through a negotiated authority.

CHAIR MICCICHE noted that Mr. Maisch was discussing the CS for SB 160 and asked for a motion to adopt the CS as the working document.

[3:54:32 PM](#)

SENATOR REVAK moved to adopt the CS for SB 160, work order 31-GS2170\M, as a working document.

[3:54:47 PM](#)

CHAIR MICCICHE objected for discussion purposes and asked Mr. Maisch to continue.

MR. MAISCH described the following changes in the CS for SB 160:

- Section 3, Page 6, Line 3
  - o Increases the threshold from 10 acres to 20 acres.
  - o Does not allow timber harvest permit until site-specific Forest Land Use Plan is in place.
  - o The best interest finding allows the division to offer a timber sale, but the FLUP must be completed before the timber harvest can occur.
  
- Section 5, Page 7
  - o Deleted language that would not apply with the proposed changes for negotiated sales.
  
- Section 6
  - o Conforming language changes to the references of where the new, small sales occur.
  
- Section 7
  - o Addresses the notice of intent to negotiate for sales greater than 500,000 board feet or equivalent.
  - o Mid-size sales are high value-added.
  - o AS 38.05.123 targets sales of 10 years and 10 million board feet per year.
  - o Large sales over 500,000 board feet per year can be up to 25 years.
  
- Section 9
  - o High value-added authority section.
  - o Line 3 adds conforming language.
  - o Line 6 adds a definition of other value-added wood products, a term already defined in regulation.
    - Lists products and materials categories that a mill must produce to qualify for a sale under AS 38.05.123.
  
- Section 10
  - o Deletes language currently in AS 38.05.123 to make the authority more efficient.

- o The division proposes to remove seven criteria in the AS 38.05.123 authority that is cumbersome.
- Section 11
  - o Conforming language
- Page 9
  - o Effective date

3:56:20 PM

SENATOR COGHILL joined the committee meeting.

3:58:20 PM

MR. MAISCH summarized that the legislation would provide a consistent and flexible timber sale program to support the entire range of domestic mills. The bill encourages further development of offshore markets for logs as well as manufacturing opportunities for forest products in the state.

He highlighted that the key change makes the FLUP a non-appealable document. He explained that the FLUP appeals impact longer term sales under AS 38.05.118 and AS 38.05.120. The division only writes a FLUP in 5-year increments which means a 25-year timber sale could have 5 appeals. As proposed, just the best interest finding would be an appealable document, but not the FLUP.

SENATOR KAWASAKI asked if the items added in Section 2 to the best interest finding are equally weighted.

MR. MAISCH answered that the section provides broad discretion in how the division addresses the BIF. He explained that the added items to the BIF are not equally weighted because the division may only address one or two items. For example, the young growth timber is market-driven, so the division would only address the market components.

SENATOR KAWASAKI noted that criteria (6) says "any other reasonably foreseeable benefit to the state or local economy resulting from the sale." He remarked that that is a big and open statement that could include something not in the BIF.

MR. MAISCH agreed that the statement is very broad and flexible and deferred further response to Mr. Orman with the Department of Law. He said DOL looked carefully at the criteria and made some of the specific recommendations.

[4:02:05 PM](#)

CHRISTOPHER ORMAN, Assistant Attorney General, Civil Division, Natural Resources Division, Alaska Department of Law (DOL), Juneau, Alaska, explained that the [sixth] criteria in Section 2 was taken from what is currently, AS 38.05.123[(e)](7), which reads: "any other reasonably foreseeable benefits to the state and local economies from the sale." He said preserving that language in AS 38.05.123 along with the other factors in AS 38.05.110 makes it clear that the commissioner is not arbitrarily choosing a means or type of sale. Certain factors and flexibility is needed when considering the best interest of the State within the BIF context. The public can still challenge the BIF through the appeal process.

[4:04:31 PM](#)

SENATOR KAWASAKI noted that Section 2 says the sale can be offered under multiple provisions by considering the best interest of the State in addition to the five other criteria. He asked if a timber sale may be offered exclusively under one of the criteria, but not in the best interest of the State, which is the first criteria.

MR. ORMAN answered that there is the BIF requirement for all timber sales. He said current language under AS 38.05.110 says the commissioner shall determine the applicable provisions under which to offer the timber sale there is no real analysis of the factors to consider for determining the means of sale. Section 2 is intended to remove some of the arbitrariness that currently exists in that statute.

[4:06:51 PM](#)

SENATOR KIEHL said he did not understand the interplay between sections 7 and 8. Section 7 suggests that notice is only required for quantities greater than 500,000 board feet, but Section 8 seems to allow up to an additional 500,000 board feet within a year. He asked if the legislation allows up to one million board feet.

MR. MASCH explained that the new language in section 7 specifies that the division must give notice for all sales greater than 500,000 board feet. He read the language in section 8 and said he did not fully understand the question, but the idea is that the division cannot offer a sale for more than 500,000 feet without notice. He added that there are also notice requirements for smaller sales.

CHAIR MICCICHE asked for clarification of Mr. Maisch's answer to Senator Kiehl.

[4:10:08 PM](#)

MR. ORMAN concurred that Section 7 does not require public notice for small timber sales. Currently under AS 38.05.115 there is a provision that says, "without advertisement." However, the Alaska Constitution has notice requirements. He said Mr. Maisch may have been referring to small timber sales not requiring public notice to the level of AS 38.05.945.

He explained that subsection (d) om section 8 would allow for more negotiated sales within a year. AS 38.05.118(b) is discussing notice and AS 38.05.118(d) is discussing negotiated and pursuant to the amount of board feet at issue.

SENATOR KIEHL remarked that sections 7 and 8 seem to allow a 499,000 board foot sale to become a 1 million board foot sale within a year without additional notice. He said he did not understand what keeps that from occurring.

[4:12:13 PM](#)

MR. ORMAN reiterated that regardless of the size of the sale, public notice must happen. AS 38.05.945 has additional notice requirements, but notice can happen through other avenues. Notice needs to reach the appropriate affected people, pursuant to the Alaska Constitution.

CHAIR MICCICHE summarized that Section 7 states that an amount greater than 500,000 board feet requires the AS 38.05.945 notice. Section 8 allows for additional negotiated timber sales within the year for an amount less than 500,000 board feet, but there is the lesser notification requirement.

MR. MAISCH added that the division would have to go back and do a BIF to negotiate additional board footage. Most timber sales go through a competitive process using the AS 38.05.120 authority and rarely does the division add another 500,000 board feet to a prior negotiated sale. The reason the division usually negotiates sales is to help support local sawmills and manufacturing that is already occurring in the state. Negotiated authorities are not a common way for the division to sell timber, but the process is a way that the division can sell timber.

[4:14:57 PM](#)

SENATOR KIEHL referenced page 8, line 1 and asked if citing AS 34.15.150 was a typo. He noted that AS 34.15.150 references the execution of conveyances.

MR. ORMAN replied that he believes citing AS 34.15.150 is correct. He said he will get back to the committee to confirm if referencing the statute is a typo.

CHAIR MICCICHE said he would like the questions regarding sections 7 and 8 addressed. He noted that the committee will hold SB 160 in committee.

SENATOR KIEHL said the heart of the bill was the notion that the FLUP would no longer be appealable. The argument of not wanting to give somebody four or five bites-of-the-apple over the course of a sale was understandable. However, the FLUP does different things than a BIF. The FLUP addresses things that Alaskans generally want input on like the site, size, timing, harvest methods, access requirements, and reforestation. He remarked that seeing Alaskans having confidence in a FLUP without appeal would be hard for him to see.

[4:17:35 PM](#)

MR. MAISCH explained that the best interest finding (BIF) addresses many of the same topics as the Forest Land Use Plans, but the FLUP has more detail. He reminded the committee that the areas have also been addressed by an area plan and potentially a State Forest Management Plan, which has a lot of public process. Those documents provide strategic guidelines for reforestation and road building. The division must meet minimum standards of the State's Forest Resources and Practices Act (FRPA), which provides guidelines and best practices for the variety of forest practices that the FLUP addresses.

He emphasized that the division is just proposing to change the appeal piece of the Forest Land Use Plans. They will still circulate a FLUP to affected agencies that typically include the Alaska Department of Environmental Conservation (DEC) for water quality, and the Alaska Department of Fish and Game (ADF&G) for fish habitat. And they will continue to take public comment and consider that commentary when crafting the final FLUP.

[4:19:02 PM](#)

SENATOR KIEHL pointed out that for years Alaskans have asked for the opportunity to comment on fish habitat permits, but they are not subject to public comment or appeal. He said one reason ADF&G has given for not taking public comment on those permits,

especially regarding timber sales, is that the FLUP can address habitat concerns when it is subject to comment. He expressed concern about Alaskans' role in the process and questioned the reason for doing the Forest Land Use Plan when there is an area plan and a BIF that covers everything Alaskans are worried about.

MR. MAISCH explained that in places of the state where there are no higher-level planning documents, the FLUP can serve as the guiding plan. For example, the division did a sale in Galena to support the community's biomass project for a woodchip boiler. For the state to hold a timber sale on state land, a planning-level document is required and the FLUP fulfilled that requirement.

[4:21:01 PM](#)

TESSA AXELSON, Executive Director, Alaska Forest Association, Ketchikan, Alaska, testified in support of SB 160. She said she would cover the three primary benefits of SB 160 and why they are important to AFA members and the industry. First, SB 160 provides DNR with the ability to negotiate sales with any user of timber resources. Second, it eliminates the ability to appeal the FLUP, which increases the efficiency of conducting timber sales without compromising environmental review and public comment requirements that exist through other planning components. Third, SB 160 provides DNR the ability to offer small volume timber sales with greater efficiency. She summarized that the bill provides the opportunity to address current challenges with timber sale processes and authorities. This legislation is of particular interest to AFA and its members to ensure a predictable timber supply.

[4:23:33 PM](#)

CHAIR MICCICHE opened public testimony. He said seeing no requests to testify, public testimony remains open for SB 160.

[4:23:54 PM](#)

CHAIR MICCICHE removed his objection and the CS for SB 160 was adopted.

[4:24:02 PM](#)

CHAIR MICCICHE held SB 160 in committee.

### **HB 16-SHARED ANIMAL AND RAW MILK/PRODUCTS**

[4:24:07 PM](#)

CHAIR MICCICHE announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 16, "An Act relating to shared animal ownership; and relating to the sharing and sale of raw milk and raw milk products."

CHAIR MICCICHE noted that the sponsor submitted a blank CS that makes a few changes, but it will not be distributed until the committee hears the presentation on HB 16.

[4:24:32 PM](#)

REPRESENTATIVE GERAN TARR, Alaska State Legislature, Juneau, Alaska, sponsor of HB 16, explained that the bill addresses economic development opportunities and food security issues. Alaska allows raw milk consumption through herd share programs, but it is limited to fluid milk products, which eliminates opportunities for value-added products like cheese, ice cream, butter, or yogurt. HB 16 would open the opportunity for individuals participating in the herd share program to receive such products.

She referred to a document from the National Conference of State Legislatures that shows a spectrum of raw milk programs ranging from no raw milk sales to allowing sales at farmers markets. Alaska is among the most restrictive and only allows herd share programs, whereas the most permissive states allow raw milk sales in retail stores. HB 16 seeks just an incremental step out of safety concerns.

REPRESENTATIVE TARR explained that the herd share program has a closed-loop system that makes it possible to identify where the product comes from and who is receiving the milk. She said Suzy Crosby, owner of Cottonwood Creek Farm, will show how her goat milk operation is able to pinpoint the milk throughout the process, including specific goats, to quickly address safety concerns. She said Ms. Crosby's presentation will help show the hands-on piece of the legislation.

[4:28:05 PM](#)

SUZY CROSBY, Owner, Cottonwood Creek Farm, Wasilla, Alaska, testified in support of HB 16. She explained that the herd share program is legal in Alaska but it is restricted to fluid milk. The benefits of herd share include that goats help pay for their food, it accommodates consumers who want to eat locally and those individuals who cannot digest pasteurized milk from cows. She turned to the slide, Why Goats? and pointed out that goats are a good size for a homestead animal. Some say they are

somewhere between a pet and livestock; they have good personalities and are easy to keep.

MS. CROSBY explained that herd share is legal in Alaska for fluid milk only, and is referred to on the DEC website. Herd share is sustainable, like a Community Supported Agriculture (CSA) system; the milk is distributed with a scheduled weekly pick up and there is a commitment formalized in a signed bill of sale and herd share agreement with each consumer's contact information. The money that is exchanged is paid as a boarding fee. It is not for the purchase of the milk.

[4:30:12 PM](#)

MS. CROSBY emphasized that herd share is not a grocery store where someone goes to buy a random quantity of milk. It is dependent on share owners picking up their milk on the same schedule that the goats are producing. Currently, herd share is only for raw milk but HB 16 would open the door for value-added products such as cheese, while still staying within the safety net of the closed-loop system.

She explained that Cottonwood Creek Farm manages its milking safety and sanitation by separating the barn from the milking location. Goats receive a pre-milking sanitation spray at the milking parlor. Cottonwood Creek Farm is emphatic about washing hands between touching animals and food. Filtered milk goes into sanitized, prechilled jars. Rapid chilling is essential for good shelf life and good product quality.

[4:32:13 PM](#)

MS. CROSBY emphasized that Cottonwood Creek Farm keeps good records by numbering each milk jar to identify which pair of goats produced the milk. The farm works on educating the share owners as part of their herd share agreement on how to take care of their raw milk.

She said Alaskans have talked about food security for years due to the possibility of supply line interruption. She pointed out that the recent pandemic caused people to panic buy and empty stores of dairy products. However, Cottonwood Creek Farm's herd share owners received their expected milk, a graphic illustration of the herd share program during the health crisis.

MS. CROSBY stated that HB 16 would benefit consumers by providing options besides fluid milk as well as digestible goat product options for people who have allergies. Consumers love to buy unique locally made artisan food and HB 16 would allow for

specialty cheeses that are not available in stores. It would allow feta, queso fresco, and chèvre cheeses to be a legal component of a herd share agreement. Precedence for HB 16 was already set by states that allow value-added products in Wyoming, Tennessee, South Dakota, Missouri, and Maine.

[4:35:35 PM](#)

MS. CROSBY noted that raw milk producers would benefit from value-added products. For example, each gallon of milk buys an extra bale of hay. Producers could use seasonal surplus milk to have specialty products available during low milk production periods. The safety net of two-way communication between producer and consumer would remain unchanged. HB 16 would enable product sales at markets, but with the herd share agreement.

CHAIR MICCICHE said HB 16 is important and noted his appreciation that Representative Tarr brought the bill forward.

SENATOR KIEHL noted that elements in the presentation talked about the digestibility of goat milk and that people who are immune are particularly susceptible to food borne illnesses. He asked if value-added products, like cheeses, have a higher risk of dairy related pathogens because the milk is not pasteurized.

[4:38:17 PM](#)

REPRESENTATIVE TARR answered that Ms. Crosby's presentation addressed the importance of proper milk handling and refrigeration. As long as those safety procedures are followed, the value-added products should not be any higher risk than the raw milk. She said it is important to understand that pasteurization came about during the pre-refrigeration era when consumers became more urban and lived further from farms.

SENATOR KIEHL stated that he does not oppose the bill, but the cheesemaking process occurs at moderate temperatures with additional steps. He asked what the comparative risks are with the additional time and handling for cheesemaking.

[4:40:41 PM](#)

REPRESENTATIVE TARR answered that based on other states' policies do not indicate that value-added products present a higher risk. There has not been any increase in illness or anything that would lead someone to believe that value-added products are higher risk.

CHAIR MICCICHE advised that the committee will have the Alaska Department of Environmental Conservation (DEC) present to answer questions at the next hearing.

MS. CROSBY explained that raw milk pasteurization was a result of unsanitary conditions that were commonplace 100 years ago. She said any raw milk dairy would need to be extremely vigilant with regards to sanitation during the cheesemaking process.

[4:42:55 PM](#)

SENATOR KAWASAKI asked if the herd share agreement requires a person to sign a waiver, if farms provide information to educate the public, and if these things are required by regulation.

MS. CROSBY explained that part of the DEC herd share document requires a person to establish a legal contract to clarify ownership of the animal. The document includes a two-part signature page for the bill of sale and herd share agreement. The document also contains information on proper milk handling. An individual initials that they have read and agree to the terms of the agreement. One line states that an individual has done their own research regarding raw milk safety and are willingly choosing to drink it.

[4:44:30 PM](#)

SENATOR KAWASAKI asked if the herd share agreement is a requirement within State law or regulation.

MS. CROSBY answered that the agreement is a regulatory requirement. She said the DEC regulation requires an individual to establish a legal contract to clarify animal ownership prior to removing milk from a premise for personal consumption.

SENATOR KAWASAKI remarked that people sort of know what they are getting into with the information provided before they buy.

MS. CROSBY replied correct. She said Cottonwood Creek Farm does not crusade for the benefits of raw milk. The farm's clientele are people who have done their own homework and arrived at their own conclusion.

CHAIR MICCICHE asked if she would be willing to share the farm's agreement information with the committee.

MS. CROSBY answered yes.

CHAIR MICCICHE said the sanitation and safety inquiries are important for DEC to respond to as well.

He remarked that HB 16 is the first bill that he has heard that fits with the COVID-19 situation and the food security issue that Alaska faces. He noted that the state used to grow 50 percent of its food 60 years ago, but only 4 percent today. Alaska faces exposure if Canada shuts commerce down or other issues occur. Alaska needs to do more for food security and taking advantage of employment opportunities, he said.

[4:47:50 PM](#)

MS. CROSBY thanked the committee for supporting local Alaskan agriculture.

REPRESENTATIVE TARR summarized that agriculture is the good news story coming out of Alaska. The agricultural industry in Alaska has shown more growth than other states, provides an economic opportunity, and addresses food security.

CHAIR MICCICHE noted that the committee will bring up the CS at the next hearing for HB 16.

[4:48:53 PM](#)

CHAIR MICCICHE opened public testimony and said public testimony remains open for the next committee meeting.

[4:49:09 PM](#)

CHAIR MICCICHE held HB 16 in committee.

#### **SB 194-ADVANCED NUCLEAR REACTORS**

[4:49:20 PM](#)

CHAIR MICCICHE announced that the final order of business would be SENATE BILL NO. 194, "An Act relating to advanced nuclear reactors."

[CSSB 194(CRA) was before the committee.]

[4:49:36 PM](#)

CODY GRUSSENDORF, Staff, Senator Bishop and the Community and Regional Affairs Committee, Alaska State Legislature, Juneau, Alaska, explained that SB 194 seeks to ensure that advanced nuclear reactor applications in Alaska receive the appropriate level of State oversight. Current statutes allow for nuclear-source development while providing high and thorough oversight

on top of the national oversight by the Nuclear Regulatory Commission (NRC).

MR. GRUSSENDORF detailed that SB 194 has two parts; the first part defines what advanced nuclear reactors are and the second part reduces barriers to entry while leaving in the thorough regulatory process. SB 194 would only apply to advanced nuclear reactors which use state of the art safety mechanisms, have no moving parts, and will never melt down. He said advanced nuclear reactor technology is safe, and the next testifier will speak to that.

He said current Alaska law requires the legislature to designate the site of a nuclear facility. SB 194 would exempt that requirement for advanced nuclear reactors defined in the bill that generate less than 300 megawatts.

4:52:03 PM

MARCUS NICHOL, Senior Director, New Reactor Deployment, Nuclear Energy Institute (NEI), Washington, DC, said advanced reactors are maturing rapidly with possible deployment in Alaska. The NEI expects two types of advanced nuclear reactor deployments for commercial applications within the 2025 to 2030 timeframe.

He said the first type of advanced nuclear reactors are small modular reactors with less than 300 megawatts of capacity. NEI expects the NRC to approve the first design by September 2020 with the first reactor operating at the Idaho National Laboratory (INL) in 2026. The reactor at the Idaho lab would be a commercial reactor owned by Utah Associated Municipal Power Systems (UAMPS).

MR. NICHOL said the other near-term type of advanced reactor is the micro-reactor. Electrical capacity for micro-reactors is 1 to 10 megawatts with designation for remote-area deployment at mines, defense facilities, or remote villages. Micro-reactors can produce heat in addition to power. The first operating license submitted to the Nuclear Regulatory Commission occurred March 2020. NEI anticipates the first demonstrational reactor operating in 2023 and the first commercial deployment around 2026.

MR. NICHOL explained that micro-reactor development and deployment is faster than other advanced reactors because of the very small size. He said the Nuclear energy Institute expects other advanced non-light water reactors to become available in the future.

[4:54:28 PM](#)

MR. NICHOL said NEI expects advanced reactors to be cost competitive when compared to typical diesel generators. NEI sees micro-reactors being cost competitive in remote Arctic villages at its highest cost range and in many markets around the country, including islands, at its lower cost range.

He said the nuclear industry expects generating costs for Small Modular Reactors (SMRs) to be competitive in the Lower 48 electrical grid market. Estimated cost per kilowatt for SMRs is in the \$0.05 to \$0.06 range.

MR. NICHOLS said SB 194 is critical for Alaska to attract advanced reactors. Private investment has spent over \$1 billion on developing advanced reactor designs. Many private investors see nuclear as the answer to reducing carbon emissions and improving living standards. The federal government is supporting many of the advanced reactor designs through research and development, design, and licensing, or in demonstrations. NEI sees action from many states that are considering legislation to welcome new nuclear into their states. One example is Idaho that has passed resolutions and tax incentives for new nuclear and that happens to be the state where there is an ongoing project in the works. All the actions with advanced reactor designs are strong indicators that help states stand out as companies think about their target markets. SB 194 is important as an indicator that Alaska is open for business and welcoming to advanced reactors by reducing unnecessary barriers that creates investment uncertainty and risk.

[4:57:44 PM](#)

SENATOR COGHILL asked how long it takes for applications to go through the NRC.

MR. NICHOL answered that historically it has taken about three years. NEI expects the NRC review to be two years for micro-reactors due to their smaller size and simplicity.

SENATOR COGHILL remarked that the NRC is generally geared toward large reactors. He asked if NRC could make a mindset shift to micro-reactors.

MR. NICHOL concurred that NRC regulations and experiences are based on large, light-water reactors. However, they have been preparing for advanced reactor designs for several years. NRC has received special funding from Congress to prepare for

advanced reactor review and NEI believes the commission is ready. NRC has addressed several technical issues where advanced reactors are slightly different from the large, light-water reactors.

[5:00:10 PM](#)

CHAIR MICCICHE opened public testimony and said it will remain open for the next hearing.

[5:00:28 PM](#)

CHAIR MICCICHE held SB 194 in committee.

[5:00:44 PM](#)

There being no further business to come before the committee, Chair Micciche adjourned the Senate Resources Standing Committee meeting at 5:00 p.m.