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House Fisheries Committee
Representative Louise Stutes, Chair
State Capital Room 406
Juneau, AK 99811

RE: Support HB 35 Board of Fisheries Conflict of Interest

I submit this letter on behalf of the Alaska Longline Fishermen's Association (ALFA) in support of HB 35, "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective board; and providing for an effective date." ALFA's members are commercial fishing vessel owners, deckhands and business owners spread throughout Alaska and the western United States. Our members harvest halibut, sablefish, salmon, crab and other resources regulated through the Board of Fisheries process. ALFA supports HB 35 because it enables Board of Fisheries members to provide their expertise and knowledge through the deliberative stage of the process. It maintains the intent of the Executive Branch Ethics Act by precluding Board members from voting on regulatory proposals for which they may have a potential personal or financial interest under Alaska's Executive Branch Ethics Act. These comments are specific to the Board of Fisheries component of HB 35.

Strict application of the Executive Branch Ethics Act provisions undermines the Board of Fisheries process – the Act prohibits Board members from acting in matters in which they have a personal or financial interest by providing advice, assistance, or even participation during the process.¹ Under the current Board of Fisheries process, each Board member discloses any possible conflicts of interest at the beginning of the meeting and then may not serve on any committee considering regulatory proposals which may implicate those conflicts, and must leave the table during discussion, deliberation and voting. The recusal can occur in cases where the potentially conflicted Board member is the most knowledgeable Board member with regard to a specific regulatory proposal.

There are only seven members of the Board of Fisheries.² The governor appoints Board members based on their knowledge about fisheries issues and with the aim of

¹ AS §§ 39.52.960(14)). AS 39.52.120(b)(4).

² AS § 16.05.221(a).

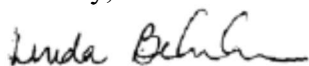
maintaining a Board composition that allows for a diversity of interests and points of view.³ Board members use their knowledge in the regulatory process in numerous ways: setting aside reserve areas, establishing open and closed seasons and areas for fishing, establishing authorized type of fishing gear, and in general, regulating all fisheries “as needed for the conservation, development and utilization of fisheries.”⁴ Also, Board members may make allocation decisions that require knowledge about the history of different fisheries, current fishery participation trends, and the local and statewide importance of different fisheries.⁵

This legislation will help strengthen the Board of Fish process and further the statutory purpose of the Board by fully utilizing the experience and knowledge of its members. The prohibition on participation in deliberations prevents Board members from using their expertise to inform the process, other Board members and the public. As the Sponsor Statement explains, HB 35 “will help the boards make more informed decisions, lead to stronger resource management statewide, and align process with intent as far as the boards benefiting from members’ knowledge and diversity of viewpoints.”

The current recusal process is particularly prejudicial toward Board members from the commercial fishing industry because permit ownership and fishery participation are the most ascertainable potential conflicts. The Alaska Department of Fish and Game’s Board Support Section explains that “[c]onflicts are typically found when a board member or their immediate family members have a significant economic or personal interest in a fishery.” Data compiled by the Alaska Department of Fish and Game’s Board Support Section show that recusals are much more common for the Board of Fisheries, averaging recusals on 11 percent of proposals and exceeded 20 percent in three of the past thirteen years. In contrast, Board of Game recusals average 2 percent of the regulatory proposals, with some years of no recusals at all.

In the fisheries world, a potentially conflicted Board member will be the leading Board expert in a particular fishery or region. For a Board consisting of seven members, the recusal of one expert in a particular commercial fishery or region from deliberations often means regulatory decisions result from incomplete information. HB 35 will address this significant problem.

Sincerely,



Linda Behnken (Director, ALFA)

³ AS § 16.05.221.

⁴ AS §§ 16.05.251(a)(1)-(12).

⁵ AS § 16.05.251(3).