

**SENATE BILL NO. 298**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

**BY SENATOR ZHAROFF**

**Introduced: 2/12/96**

**Referred: RES, FIN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the fisheries resource landing tax and to the seafood**  
2 **marketing assessment; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1. LEGISLATIVE FINDINGS, INTENT, AND PURPOSE.** (a) The legislature  
5 finds that

6 (1) the state has various research, management, and enforcement  
7 responsibilities in connection with the offshore fisheries;

8 (2) through transfer of processed products, taking on and disembarking crew,  
9 taking on fuel and supplies, obtaining vessel and gear repairs, discharging wastes, and seeking  
10 protection in sheltered water, the exclusive economic zone catcher-processor fleet has a  
11 significant presence in the state; and

12 (3) the state and its municipalities and unincorporated communities are affected  
13 by the additional burdens placed by the exclusive economic zone catcher-processor fleet on  
14 educational facilities and services, road maintenance, public safety, airport and dock facilities,

1 hospitals and health facilities, and other programs.

2 (b) The fisheries resource landing tax

3 (1) is both designed as and intended to be a compensatory tax that  
4 complements the fisheries business tax levied and collected under AS 43.75;

5 (2) is intended

6 (A) to compensate the state for the burdens that the exclusive economic  
7 zone catcher-processor fleet places on the state and its municipalities and  
8 unincorporated communities; and

9 (B) to require the exclusive economic zone catcher-processor fleet to  
10 bear a portion of the costs of services received from the state and its municipalities and  
11 unincorporated communities; and

12 (3) attempts to achieve a rough equality of treatment between local and  
13 interstate commerce among those engaged in fisheries resource businesses in the state in that  
14 the tax imposes a burden, comparable to that borne by in-state processors through payment  
15 of the fisheries business tax, for the burdens attributable to the activities of the exclusive  
16 economic zone catcher-processor fleet on the state and the benefits that the fleet receives from  
17 the state.

18 \* **Sec. 2.** AS 16.51.120(a) is amended to read:

19 (a) A seafood marketing assessment shall be levied on **the value of** seafood  
20 products **produced** [PURCHASED] in Alaska as provided in (b), (c), (d), or (e) of this  
21 section if an election is held **under** [IN ACCORDANCE WITH] AS 16.51.140 at  
22 which the assessment is approved by eligible processors who together **produce**  
23 [PURCHASE] at least 51 percent of the value of seafood **products produced**  
24 [PURCHASED] in Alaska in the calendar year.

25 \* **Sec. 3.** AS 16.51.120(b) is amended to read:

26 (b) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF  
27 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of  
28 .1 percent of the value **of seafood products produced in Alaska** [PAID] by the  
29 processor.

30 \* **Sec. 4.** AS 16.51.120(c) is amended to read:

31 (c) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF

1 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of  
2 .2 percent of the value **of seafood products produced in Alaska** [PAID] by the  
3 processor.

4 \* **Sec. 5.** AS 16.51.120(d) is amended to read:

5 (d) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF  
6 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of  
7 .3 percent of the value **of seafood products produced in Alaska** [PAID] by the  
8 processor.

9 \* **Sec. 6.** AS 16.51.120(e) is amended to read:

10 (e) Each processor [WHO PURCHASES AT LEAST \$50,000 OR MORE OF  
11 SEAFOOD PRODUCTS IN ALASKA] shall pay a seafood marketing assessment of  
12 .4 percent of the value **of seafood products produced in Alaska** [PAID] by the  
13 processor.

14 \* **Sec. 7.** AS 16.51.120 is amended by adding a new subsection to read:

15 (g) Notwithstanding (a) - (e) of this section and AS 16.51.150(c), a processor  
16 is not subject to, or liable for payment of, an assessment under this section on the  
17 value of the seafood products produced in Alaska if the value of seafood products  
18 produced in Alaska by the processor is less than \$50,000 in a calendar year. This  
19 subsection does not exempt a processor from liability for payment of taxes imposed  
20 under AS 43.75 or AS 43.77.

21 \* **Sec. 8.** AS 16.51.130(a) is amended to read:

22 (a) A seafood marketing assessment levied under AS 16.51.120(b), (c), (d), or  
23 (e) shall be terminated by the commissioner of revenue if

24 (1) an election is held **under** [IN ACCORDANCE WITH]  
25 AS 16.51.140 in which the termination is approved by eligible processors who together  
26 **produce** [PURCHASE] at least 51 percent of the total value of seafood products  
27 **produced** [PURCHASED] in Alaska during the calendar year; or

28 (2) the board, at a regularly scheduled meeting, adopts a resolution  
29 approved by two-thirds of the voting membership of the board requesting the  
30 commissioner of revenue to terminate the assessment.

31 \* **Sec. 9.** AS 16.51.130(b) is amended to read:

1 (b) An election under (a)(1) of this section shall be held if  
2 (1) the proposed election for the termination of the assessment is  
3 approved by a majority of the whole membership of the board at a regularly scheduled  
4 meeting; or  
5 (2) a petition is presented to the director of elections requesting  
6 termination of the assessment by eligible processors who together **produce**  
7 **[PURCHASE]** at least 25 percent of the total value of seafood products **produced**  
8 **[PURCHASED]** in Alaska during the calendar year.

9 \* **Sec. 10.** AS 16.51.150 is amended to read:

10 Sec. 16.51.150. DETERMINATION OF VALUE. Upon request from the  
11 director of elections, the commissioner of revenue shall determine

12 (1) the total value of seafood products **produced** **[PURCHASED]** in  
13 Alaska during any calendar year;

14 (2) whether the eligible processors approving the levy or termination  
15 of a seafood marketing assessment together **produced** **[PURCHASED]** at least 51  
16 percent of the total value of seafood products **produced** **[PURCHASED]** in Alaska  
17 during the calendar year; or

18 (3) whether the eligible processors petitioning for an election under  
19 AS 16.51.130(b)(2) together **produced** **[PURCHASED]** at least 25 percent of the total  
20 value of seafood **products produced** **[PURCHASED]** in Alaska during the calendar  
21 year.

22 \* **Sec. 11.** AS 16.51.150 is amended by adding new subsections to read:

23 (b) The total value of seafood products produced in Alaska in a calendar year  
24 is the sum of the

25 (1) total value of the fisheries resource on which the tax imposed under  
26 AS 43.75.015 and 43.75.100 is levied in that calendar year; and

27 (2) total value of the fisheries resource on which the tax imposed under  
28 AS 43.77 is levied in that calendar year.

29 (c) The value of seafood products produced in Alaska by a processor during  
30 a calendar year is the sum of the

31 (1) total value of the fisheries resource on which the processor must

1 pay the tax imposed under AS 43.75.015 and 43.75.100 in that calendar year; and  
2 (2) total value of the fisheries resource on which the processor must  
3 pay the tax imposed under AS 43.77.010 in that calendar year.

4 \* **Sec. 12.** AS 16.51.160(a) is amended to read:

5 (a) **Each processor** [PROCESSORS] shall remit to the Department of Revenue  
6 **before** [BY] April 1 of each year the total amount of the seafood marketing  
7 assessment owed on the value **of** [PAID FOR] seafood products **produced in Alaska**  
8 by the processor in the previous calendar year.

9 \* **Sec. 13.** AS 16.51.180(3) is repealed and reenacted to read:

10 (3) "processor" means a person who is liable for  
11 (A) the tax imposed under AS 43.75.015;  
12 (B) the tax imposed under AS 43.75.100; or  
13 (C) the landing tax imposed under AS 43.77.

14 \* **Sec. 14.** AS 16.51.180 is amended by adding new paragraphs to read:

15 (7) "eligible processor" means a processor who would be liable for  
16 payment of a seafood marketing assessment levied under AS 16.51.120;

17 (8) "produce" means perform an activity upon which a tax is imposed  
18 under AS 43.75 or AS 43.77, including the purchase, production, landing, or export  
19 of a fisheries resource.

20 \* **Sec. 15.** AS 21.89.070(c) is amended to read:

21 (c) A contribution claimed as a credit under this section **may not**

22 (1) [MAY NOT] be claimed as a credit under more than one provision  
23 of this title; and

24 (2) [MAY NOT,] when combined with credits taken during the  
25 taxpayer's tax year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018,  
26 [OR] AS 43.75.018, **or AS 43.77.043,** exceed \$150,000.

27 \* **Sec. 16.** AS 43.20.014(d) is amended to read:

28 (d) A contribution claimed as a credit under this section **may not**

29 (1) [MAY NOT] be claimed as a credit under another provision of this  
30 title;

31 (2) [MAY NOT] also be allowed as a deduction under 26 U.S.C. 170

1 against the tax imposed by this chapter; and

2 (3) [MAY NOT,] when combined with credits taken during the  
3 taxpayer's tax year under AS 21.89.070, AS 43.55.019, AS 43.56.018, AS 43.65.018,  
4 [OR] AS 43.75.018, or AS 43.77.043, exceed \$150,000.

5 \* **Sec. 17.** AS 43.55.019(d) is amended to read:

6 (d) A contribution claimed as a credit under this section may not  
7 (1) be claimed as a credit under another provision of this title; and  
8 (2) when combined with credits taken during the taxpayer's tax year  
9 under AS 21.89.070, AS 43.20.014, AS 43.56.018, AS 43.65.018, [OR] AS 43.75.018,  
10 or AS 43.77.043, exceed \$150,000.

11 \* **Sec. 18.** AS 43.56.018(d) is amended to read:

12 (d) A contribution claimed as a credit under this section may not  
13 (1) be claimed as a credit under another provision of this title; and  
14 (2) when combined with credits taken during the taxpayer's tax year  
15 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, [OR] AS 43.75.018,  
16 or AS 43.77.043, exceed \$150,000.

17 \* **Sec. 19.** AS 43.65.018(d) is amended to read:

18 (d) A contribution claimed as a credit under this section may not  
19 (1) be claimed as a credit under another provision of this title; and  
20 (2) when combined with credits taken during the taxpayer's tax year  
21 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, [OR] AS 43.75.018,  
22 or AS 43.77.043, exceed \$150,000.

23 \* **Sec. 20.** AS 43.75.018(d) is amended to read:

24 (d) A contribution claimed as a credit under this section may not  
25 (1) be claimed as a credit under another provision of this title; and  
26 (2) when combined with credits taken during the taxpayer's tax year  
27 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, [OR] AS 43.65.018,  
28 or AS 43.77.043, exceed \$150,000.

29 \* **Sec. 21.** AS 43.77.010 is amended to read:

30 Sec. 43.77.010. LANDING TAX. A person who engages or attempts to  
31 engage in a floating fisheries business in the state and who owns [A PERSON

1 OWNING] a fishery resource that is not subject to AS 43.75 but that is brought into  
2 the jurisdiction of, and first landed in, this state is liable for and shall pay a landing  
3 tax on the value of the fishery resource. The amount of the landing tax is

4 (1) for a developing commercial fish species, as defined under  
5 AS 43.75.290, one percent of the value of the fishery resource at the place of  
6 landing;

7 (2) for a fish species other than a developing commercial fish  
8 species, three [3.3] percent of the value of the fishery resource at the place of the  
9 landing.

10 \* **Sec. 22.** AS 43.77 is amended by adding a new section to read:

11 Sec. 43.77.043. FISHERIES RESOURCE LANDING TAX EDUCATION  
12 CREDIT. (a) In addition to the credit allowed under AS 43.77.040, for cash  
13 contributions accepted for direct instruction, research, and educational support  
14 purposes, including library and museum acquisitions and contributions to endowment,  
15 by an Alaska university foundation or by a nonprofit, public or private, Alaska two-  
16 year or four-year college accredited by a regional accreditation association, a person  
17 engaged in a floating fisheries business is allowed as a credit against the tax due under  
18 this chapter

19 (1) 50 percent of contributions of not more than \$100,000; and

20 (2) 100 percent of the next \$100,000 of contributions.

21 (b) Each public college and university shall include in its annual operating  
22 budget request contributions received and how the contributions were used.

23 (c) A contribution claimed as a credit under this section may not

24 (1) be claimed as a credit under another provision of this title; and

25 (2) when combined with credits taken during the taxpayer's tax year  
26 under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, or  
27 AS 43.75.018, exceed \$150,000.

28 (d) The total tax credits that may be claimed for a tax year under this section  
29 and under AS 43.77.047 combined may not exceed 50 percent of the taxpayer's  
30 landing tax liability under AS 43.77.010 for the tax year.

31 \* **Sec. 23.** AS 43.77 is amended by adding a new section to read:

1           Sec. 43.77.047. FISHERIES RESOURCE LANDING TAX CREDIT FOR  
2 CAPITAL EXPENDITURES. (a) A person who is subject to the tax under this  
3 chapter is entitled to a credit of not more than 50 percent of the landing tax liability  
4 under AS 43.77.010 for capital expenditures made during the tax year if an application  
5 qualifying for the credit is approved by the department in advance of the capital  
6 expenditure and before January 1, 2000. A taxpayer may claim a credit under this  
7 subsection for a maximum period of three consecutive years. A taxpayer may claim  
8 the credit for capital expenditures only for expenditures made by the taxpayer for (1)  
9 equipment and capital improvements; or (2) participation in, contribution to, or  
10 donation for the purchase or construction of equipment or capital improvements by  
11 another person. An applicant for the credit may elect to begin the three-year period  
12 with tax year 1997, 1998, or 1999. The department may modify or revoke the  
13 approval of the application for credit at any time.

14           (b) A taxpayer who elects to begin the three-year period for the capital  
15 expenditures tax credit under this section and whose project was approved by the  
16 department under this section before January 1, 2000, may claim the capital  
17 expenditures tax credit for tax year 2000 or 2001 for capital expenditures made by the  
18 taxpayer during the 1999 tax year.

19           (c) For purposes of this section, a capital expenditure qualifies for a tax credit  
20 if the expenditure

21                   (1) increases product diversity or production efficiency and capacity,  
22 adds product value, or improves product quality, at a shore-based fisheries business  
23 facility in the state; or

24                   (2) contributes to the development of a cooperative seafood industrial  
25 park in the state.

26           (d) Except as provided in (b) of this section, the portion of a capital  
27 expenditure that is eligible for a credit under this section but is claimed during a single  
28 tax year may not be carried back to a prior tax year but is available for the  
29 computation as a credit under this section for subsequent tax years within the three-  
30 year period elected under (a) of this section.

31           (e) The total tax credits that may be claimed for a tax year under this section

1 and under AS 43.77.043 combined may not exceed 50 percent of the taxpayer's  
2 landing tax liability under AS 43.77.010 for the tax year.

3 (f) The department may not approve a tax credit under this section if

4 (1) the property for which the capital expenditure was made was sold  
5 or transferred between fisheries businesses having substantial common ownership; or

6 (2) the taxpayer claiming the credit is in arrears in the payment of a  
7 seafood marketing assessment under AS 16.51.120 or a tax imposed by this title; for  
8 purposes of this paragraph, a taxpayer is not in arrears if the payment is under  
9 administrative or judicial appeal.

10 (g) The department shall prepare an application form for a credit under this  
11 section. A taxpayer claiming the credit allowed by this section must submit an  
12 application for the credit on that form.

13 (h) The department shall approve or disapprove an application for a credit  
14 under this section not later than 60 days after receiving the application.

15 (i) Not later than the 15th legislative day of each regular legislative session the  
16 Department of Revenue, in conjunction with the Department of Commerce and  
17 Economic Development, shall submit to the legislature a report on the capital  
18 expenditures tax credit program under this section. The report must describe the  
19 expenditures for which a credit was approved during the previous tax year and, if  
20 possible, the increase in employment and processing capacity by the taxpayer for  
21 which the credit was approved.

22 (j) In this section,

23 (1) "cooperative" has the meaning given in AS 10.15.595;

24 (2) "seafood industrial park" means a seafood processing center with  
25 facilities to land, handle, and process or to ship or transship to any location all  
26 marketable species of seafood; a seafood industrial park may contain commercial  
27 facilities to support the activities of the park, and the labor force and vessels that  
28 operate at or from the park.

29 \* **Sec. 24.** AS 43.77.050(b) is amended to read:

30 (b) The [AFTER PAYMENT OF THE AMOUNT DETERMINED UNDER

31 (a) OF THIS SECTION, THE BALANCE OF THE] tax collected under this chapter

1 shall be paid into a separate account in the general fund. The annual balance in the  
2 account may be appropriated by the legislature for revenue sharing under  
3 AS 43.77.060. The amount of all tax credits approved by the commissioner under  
4 AS 43.77.040(b) shall be deducted from amounts paid to municipalities under  
5 AS 43.77.060(a) - (c). **The amount of tax credits approved by the commissioner**  
6 **under AS 43.77.043 and 43.77.047 may not be deducted from amounts paid to**  
7 **municipalities under AS 43.77.060(a) - (c).**

8 \* **Sec. 25.** AS 43.77.200 is amended by adding a new paragraph to read:

9 (7) "engages or attempts to engage in a floating fishery business in the  
10 state" means conducting in the state an activity as part of an integrated mobile business  
11 involving the harvesting or taking, processing, transportation, or delivery of a fishery  
12 resource, including transfer of fishery resources or processed products, taking on and  
13 disembarking crew, taking on fuel or supplies, obtaining vessel or gear repairs,  
14 discharging wastes, seeking protection in sheltered waters, and any other related  
15 activity that makes a claim on the resources of the state.

16 \* **Sec. 26.** CREDIT FOR TAXES PAID. The Department of Revenue shall apply the  
17 amount of tax paid by a person under AS 43.77, before the effective date of this section of  
18 this Act, that is equal to three-tenths of one percent of the value of the fishery resource subject  
19 to the landing tax under AS 43.77 as a credit toward the seafood marketing assessment under  
20 AS 16.51, as amended by this Act, that is retroactively imposed by this Act upon a person  
21 subject to the landing tax under AS 43.77, as amended by this Act.

22 \* **Sec. 27.** AS 16.51.180(6) and AS 43.77.050(a) are repealed.

23 \* **Sec. 28.** Except for sec. 23 of this Act, this Act is retroactive to January 1, 1994, and  
24 applies to activities subject to the fisheries resource landing tax levied and collected under  
25 AS 43.77 occurring after December 31, 1993, and to the seafood marketing assessment  
26 assessed and collected under AS 16.51.

27 \* **Sec. 29.** Except for sec. 23 of this Act, this Act takes effect immediately under  
28 AS 01.10.070(c).

29 \* **Sec. 30.** Section 23 of this Act takes effect January 1, 1997.