

CS FOR HOUSE BILL NO. 90(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/26/03

Referred: Rules

Sponsor(s): REPRESENTATIVES STEVENS, Wolf, Ogg, Kohring, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a salmon product development tax credit and a salmon utilization**
2 **tax credit under the Alaska fisheries business tax; and providing for an effective date."**

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

4 *** Section 1.** AS 43.75 is amended by adding new sections to read:

5 **Sec. 43.75.035. Salmon product development tax credit.** (a) A taxpayer
6 that is a fisheries business may claim a salmon product development tax credit of 50
7 percent of qualified investment in new property first placed into service in a shore-
8 based plant or on a vessel in the state in the tax year.

9 (b) The amount of the tax credit applied against taxes under this section may
10 not exceed 50 percent of the taxpayer's tax liability incurred under this chapter for
11 salmon during the tax year. The tax credit under this section may not be claimed for
12 investments made after December 31, 2005.

13 (c) If the property for which a tax credit is claimed is installed on a vessel, the
14 amount of qualified investment under (a) of this section is determined by multiplying

1 the investment cost of qualified investment property by a fraction, the numerator of
 2 which is the weight of raw salmon processed on the vessel by the taxpayer in Alaska
 3 in the tax year in which the property is first placed in service, and the denominator of
 4 which is the weight of raw salmon processed on the vessel by the taxpayer in and
 5 outside of Alaska in the tax year in which the property is first placed in service.

6 (d) An unused credit under this section may be carried forward and applied
 7 against the tax liability incurred on salmon in the following three tax years.

8 (e) Qualified investment costs upon which a tax credit is claimed under this
 9 section may not be considered for another tax credit in this title. A tax credit applied
 10 under this section together with a tax credit applied under AS 43.75.036 may not
 11 exceed 50 percent of the taxpayer's tax liability incurred for the processing of salmon
 12 during the tax year.

13 (f) A taxpayer may not claim the tax credit allowed under this section if the
 14 taxpayer is in arrears in the payment of assessments under AS 16.51.120, contributions
 15 under AS 23.20, or taxes or assessments collected or owed under this title. For
 16 purposes of this subsection, a taxpayer is not in arrears if the liability for the
 17 assessment, contribution, or tax is under administrative or judicial appeal.

18 (g) In this section,

19 (1) "first placed into service" means the moment when property is first
 20 used for its intended purpose;

21 (2) "new property" means property whose original use commences
 22 with the taxpayer and does not include property first used by another person;

23 (3) "qualified investment" means an investment cost in the following
 24 depreciable tangible personal property with a useful life of three years or more to be
 25 used predominantly to produce value-added salmon products beyond gutting of the
 26 salmon, including filleting, skinning, portioning, mincing, forming, extruding,
 27 stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining,
 28 packaging, blast freezing, or pin bone removal equipment;

29 (4) "tax liability" means the liability for all taxes under this chapter
 30 before all credits allowed by this chapter;

31 (5) "useful life" means the useful life of the property that is or would

1 be applicable for purposes of depreciation.

2 **Sec. 43.75.036. Salmon utilization tax credit.** (a) A taxpayer that is a
3 fisheries business may claim a salmon utilization tax credit of 50 percent of the
4 amount of the qualified expenditure in the state in the tax year for full utilization of
5 salmon.

6 (b) The amount of the tax credit applied against taxes under this section may
7 not exceed 50 percent of the taxpayer's tax liability incurred under this chapter for
8 salmon during the tax year. The tax credit under this section may not be claimed for
9 investments made after December 31, 2005.

10 (c) If the tax credit is claimed for installation or operation of new equipment
11 on a vessel, the amount of the qualified expenditures under (a) of this section is
12 determined by multiplying the cost of the installation or operation of the equipment by
13 a fraction, the numerator of which is the weight of raw salmon processed using the
14 equipment on the vessel by the taxpayer in Alaska in the tax year in which the
15 property is first placed in service, and the denominator of which is the weight of raw
16 salmon processed on the vessel by the taxpayer in and outside of Alaska in the tax
17 year in which the property is first placed in service.

18 (d) An unused credit under this section may be carried forward and applied
19 against the tax liability incurred on salmon in the following three tax years.

20 (e) Qualified expenditures for which a tax credit is claimed under this section
21 may not be considered for another tax credit in this title. A tax credit applied under
22 this section together with a tax credit applied under AS 43.75.035 may not exceed 50
23 percent of the taxpayer's tax liability incurred for the processing of salmon during the
24 tax year.

25 (f) A taxpayer may not claim the tax credit allowed under this section if the
26 taxpayer is in arrears in the payment of assessments under AS 16.51.120, contributions
27 under AS 23.20, or taxes or assessments collected or owed under this title. For
28 purposes of this subsection, a taxpayer is not in arrears if the liability for the
29 assessment, contribution, or tax is under administrative or judicial appeal.

30 (g) In this section,

31 (1) "first placed into service" means the moment when property is first

1 used for its intended purpose;

2 (2) "new equipment" means equipment with a useful life of three years
3 or more whose original use commences with the taxpayer and does not include
4 property first used by another person;

5 (3) "qualified expenditure" means the cost associated with the
6 development, manufacture, purchase, or operation of new equipment or a
7 manufacturing process to produce marketable products using the bones, skin, viscera
8 and carcasses of salmon;

9 (4) "tax liability" means the liability for all taxes under this chapter
10 before all credits allowed by this chapter;

11 (5) "useful life" means the useful life of equipment that is or would be
12 applicable for purposes of depreciation.

13 * **Sec. 2.** AS 43.75.130 is amended by adding a new subsection to read:

14 (g) For purposes of this section, tax revenue collected under AS 43.75.015
15 from a person entitled to a credit under AS 43.75.035 or 43.75.036 shall be calculated
16 as if the person's tax were collected without applying the credit.

17 * **Sec. 3.** AS 43.75.035, 43.75.036, and 43.75.130(g) are repealed.

18 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **RETROACTIVITY.** Sections 1 and 2 of this Act are retroactive to January 1, 2003.

21 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **RETROACTIVITY.** If the attorney general provides notification under sec. 7(2) of
24 this Act, sec. 3 of this Act is retroactive to January 1, 2003.

25 * **Sec. 6.** Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

26 * **Sec. 7.** Section 3 of this Act takes effect on the earlier of the following:

27 (1) January 1, 2009; or

28 (2) the date of the attorney general's notification to the lieutenant governor and
29 to the revisor of statutes that

30 (A) a court has entered final judgment that AS 43.75.035 or 43.75.036,
31 added by sec. 1 of this Act, violates the commerce clause contained in art. I, sec. 8, of

1 the United States Constitution; and

2 (B) the time for an appeal of that judgment has expired, or, if an appeal
3 was taken, a final order on the appeal has been entered that AS 43.75.035 or
4 43.75.036, added by sec. 1 of this Act, violates the commerce clause contained in the
5 United States Constitution.

6 * **Sec. 8.** Section 5 of this Act takes effect on the date of the attorney general's notification
7 under sec. 7(2) of this Act.