

SENATE JOINT RESOLUTION NO. 46
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ELIASON

Introduced: 2/5/92
Referred: Resources

A RESOLUTION

1 Endorsing S 1934, legislation pending before the United States Congress that would extend
2 all benefits of the Merchant Marine Capital Construction Fund Program to persons who
3 contribute to a fishing vessel capital construction fund established under that program and
4 who calculate and pay the self-employment tax, and supporting the Merchant Marine
5 Capital Construction Fund Program in its application to commercial fishing vessel
6 construction and improvement.

7 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 **WHEREAS** the Merchant Marine Act was amended in 1936 to provide fishermen a mechanism
9 to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels; and

10 **WHEREAS** the mechanism authorized by the 1936 amendment, codified as sec. 607(d) of the
11 Merchant Marine Act, 46 U.S.C. Appx. 1177(d) and 1177-1, permits any citizen owning or leasing a
12 commercial fishing vessel of a least two net tons to enter into an agreement with the Secretary of
13 Commerce to establish a fishing vessel capital construction fund; and

14 **WHEREAS** taxation of money deposited into a fishing vessel capital construction fund is
15 deferred in order to facilitate accumulation of the fund balance necessary to complete the acquisition,

1 construction, or reconstruction work on the vessel; and

2 **WHEREAS** the deferral of taxation is a form of advance depreciation under which, when the
3 money in a fishing vessel capital construction fund is withdrawn for a use permitted by law, the tax
4 depreciation basis of the vessel is reduced to reflect the tax benefit received when the money was
5 originally deposited; and

6 **WHEREAS** Revenue Ruling 79-413 and the decision in *Eades v. Commissioner*, 79 Tax Court
7 985 (1982), reduce the self-employment tax benefits of this program, known as the Merchant Marine
8 Capital Construction Fund Program, for persons obligated to pay a self-employment tax, thereby
9 burdening persons who make contributions from self-employment income to an individual fishing vessel
10 capital construction fund established under that program; and

11 **WHEREAS**, under the revenue ruling and decision, the Internal Revenue Service takes the
12 position that contributions to a fishing vessel capital construction fund do not reduce a taxpayer's net
13 earnings from self-employment for purposes of computing self-employment taxes on the grounds that
14 self-employment taxes are imposed on gross income while contributions to a fishing vessel capital
15 construction fund reduce taxable income; and

16 **WHEREAS** that tax treatment effectively amounts to a taxation disincentive in that fishermen
17 using the program must pay tax on their income taxable under the self-employment tax and are denied
18 the tax basis reduction for vessel construction and improvement authorized by the program; and

19 **WHEREAS**, as the state's largest employer, the commercial fishing industry contributes
20 significantly to the state's economy; and

21 **WHEREAS** the tax treatment under the revenue ruling and decision is particularly detrimental
22 to the fishing industry in the state, a jurisdiction in which an estimated 70 percent of persons who have
23 entered into fishing vessel capital construction fund agreements are individuals and married couples who
24 cannot benefit from the tax incentive elements of the program; and

25 **WHEREAS** the tax treatment is inconsistent with more recent Congressional initiatives, notably
26 under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., to encourage
27 commercial fishing and facilitate the rehabilitation of the domestic fishing fleet; and

28 **WHEREAS** S 1934 would reverse the effect of the revenue ruling and decision by providing that
29 contributions to a fishing vessel capital construction fund would reduce net earnings from self-
30 employment for purposes of calculating self-employment taxes; and

31 **WHEREAS** other provisions of the legislation would extend its benefits to tax matters beginning
32 with tax year 1986, would provide taxpayers one year from the date of enactment to claim tax refunds,

1 and would tighten recapture provisions applicable to withdrawals from fishing vessel capital construction
2 funds for nonqualified purposes; and

3 **WHEREAS** enactment of S 1934 would eliminate the tax disincentive and would be of
4 significant benefit to Alaska fishermen, many of whom are self-employed, contemplate vessel
5 improvements or replacement, and would benefit from the opportunity to participate in the program.

6 **BE IT RESOLVED** by the Alaska State Legislature that it endorses S 1934, legislation under
7 which deposits into a fishing vessel capital construction account under section 607(d) of the Merchant
8 Marine Act would be excluded from net earnings from self-employment, and urges the measure's prompt
9 passage; and be it

10 **FURTHER RESOLVED** that the Alaska State Legislature generally supports the Merchant
11 Marine Capital Construction Fund Program and encourages its continued use and application to overhaul,
12 upgrade, and expand the nation's domestic fishing fleet.

13 **COPIES** of this resolution shall be sent to the Honorable Lloyd Bentsen, Chair, Finance
14 Committee of the U.S. Senate; to the Honorable Barbara Franklin, U.S. Secretary of Commerce; to
15 William W. Fox, Jr., Assistant Administrator, National Marine Fisheries Service, National Oceanic and
16 Atmospheric Administration; and to the Honorable Ted Stevens and the Honorable Frank Murkowski,
17 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation
18 in Congress.