

S

B

6

5

8

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(7)

3/24/82

Date: April 13, 1982

Mr. Speaker:

The Committee on RESOURCES has had SB 658 (efd added)

"An Act increasing the fees for a commercial fishing license; and providing for an effective date."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 658 (Resources) same title
 new title
- and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without ^{individual} recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Eric G. Sutcliffe

MEMBERS HAVING
OTHER RECOMMENDATIONS:

R. B. [unclear] No [unclear]

Eric G. Sutcliffe
CHAIRMAN

AS 16.43.160(b) is amended to read:

(b) Annual fees established under this section shall be no less than \$10 and no more than \$750 and shall reasonably reflect the different rates of economic return for different fisheries. The amount of a fee for a nonresident shall be three times the amount of a fee for a resident.

Introduced: 1/14/82
Referred: Resources and
Finance

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 658 (efd added)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the fees for a commercial fishing
7 license; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA;

9 * Section 1. AS 16.05.480(a) is amended to read:

10 (a) A person engaged in commercial fishing shall obtain a commer-
11 cial fishing license. The fee for the license is \$30 [\$10] for resi-
12 dents, and \$90 [\$30] for nonresidents. Except for those which are also
13 entry or interim-use permits, all commercial fishing licenses are non-
14 transferable. The commercial fishing license shall be retained in the
15 possession of the licensee, readily accessible for inspection at all
16 times. No more than one fee may be charged annually against a person.
17 For the purposes of this section, "commercial fishing license" includes
18 entry permits and interim-use permits issued under AS 16.43 and crew-
19 member fishing licenses.

20 * Sec. 2. This Act takes effect January 1, 1983.

21
22
23 Add this
24 amendment
25
26
27
28

FISHERMEN'S FUND SOURCES OF REVENUE FOR FY 1981

Resident Limited Entry Permits-	14,559 x 6 = \$87,354
Non-resident Limited Entry Permits-	3,359 x 18= 63,702
Resident Crew Member Licenses-	15,737 x 6 = 94,422
Non-resident Crew Member Licenses-	9,131 x 18= 164,358
Total Revenue for FY 1981-	409,836

FISHERMEN'S FUND REVENUE USING FY 1981 AS BASE YEAR

Resident Limited Entry Permits-	14,559 x 18=\$262,062
Non-resident Limited Entry Permits-	3,359 x 54= 191,106
Resident Crew Member Licenses-	15,737 x 18= 283,266
Non-resident Crew Members-	9,131 x 54= 493,074
Total Revenue-	1,229,508

Under SB 658 there would be a difference of \$819,672 in revenues into the Fishermen's Fund.

THE LEGISLATURE OF THE STATE OF ALABAMA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 658
 Title "An Act increasing the fees for a Commercial fishing license."
 Requested by Senate Labor & Commerce Date 1/18/82

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected PUBLIC PROTECTION
 BRU, Program, Or Subprogram(s) Affected Fishermen's Fund
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Revenue from commercial fishing license fees and permits is inadequate to support the Fishermen's Fund which receives sole support from these fees. This legislation would increase the revenue and continue the program to aid fishermen on a self-supporting basis. Income projections from this legislation are:

	FY 83	FY 84	FY 85	FY 86	FY 87
Limited Entry Permits	420.0	450.0	450.0	450.0	450.0
Crewmember Licenses	<u>457.6</u>	<u>780.0</u>	<u>780.0</u>	<u>780.0</u>	<u>780.0</u>
Totals	877.6	1,230.0	1,230.0	1,230.0	1,230.0

Assumes January 1, 1983 effective date.

IV. DATE 1/18/82 PREPARED BY Michael W. Smith
 AGENCY Department of Labor
 Original: Legislative Finance PHONE 455-2720
 cc: Budget and Management
 Prime Sponsor (First Legislator Named):
 33-001 (Rev. 12/81)

Bill No. Senate Bill 658

Date

January 21, 1982

Title "An Act increasing fees for a commercial fishing license."

Contact: Judy Knight 465-2700
Elaine VanderSande
465-2766

The Department of Labor recommends passage of Senate Bill No. 658 increasing fishing license fees to \$30 per resident and \$90 per nonresident from the present \$10 and \$30 in order to increase revenue to the Fishermen's Fund through its 60% portion of the fees.

The purpose of Fishermen's Fund is to relieve fishermen of some of the accident or occupational illness burden of commercial fishing. Due to inflation and increased usage of the Fund, expenditures have risen above revenues in yearly escalating amounts since FY 79 despite restriction on costs imposed by the Fishermen's Fund Advisory and Appeals Council. The Fund balance on January 13, 1982 was down to \$278.1.

In November 1981 the Fishermen's Fund Advisory and Appeals Council recommended increasing revenues by (1) payment to Fishermen's Fund of 60% of all money collected for license fees as a portion of limited entry permits (including duplicate permits), and (2) increasing license fees to \$20 per resident and \$60 per nonresident.

With passage of Senate Bill No. 658, Fishermen's Fund will be able to continue assisting commercial fishermen and will be able to again pay some optional costs which have temporarily been suspended, such as transportation to return the fisherman from the medical facility, extensions above maximum limits, and assistance after discharge from the hospital (convalescence benefits). The Fund would then fulfill the intent envisioned with its implementation in 1951.

Without passage of Senate Bill No. 658, Fishermen's Fund will be insolvent, and probably the law should be repealed.

FISHERMEN'S FUND BALANCE PROJECTIONS WITH LEGISLATION
(Actual figures above dividing line; estimates below)

	July 1 Starting Balance	Adjustment	Receipts	Expenditures	June 30 Ending Balance
FY '79	\$ 698.5	\$	\$ 393.2	\$ 364.3	\$ 727.4
FY '80	727.4	65.7	402.3	461.7	602.2
FY '81	602.2	29.7	409.8	502.5	479.9
FY '82	479.9	48.1	410.0	650.0 (200.0 G.F.)	391.2
FY '83	391.2		877.6	765.0	503.8
FY '84	503.8		1,230.0	880.0	853.8
FY '85	853.8		1,230.0	1,000.0	1,083.8

FISHERMEN'S FUND BALANCE PROJECTIONS WITH LEGISLATURE

		<u>July 1 Starting Balance</u>	<u>Year End Adjustment</u>	<u>Receipts</u>	<u>Expendi- tures</u>	<u>June 30 Ending Balance</u>
ACTUAL	FY 79	698.5		393.2	364.3	727.4
	FY 80	727.4	(65.7)	402.3	461.7	602.2
	FY 81	602.2	(29.7)	409.8	502.5	479.9
	FY 82	479.9	(48.7)			
	FY 82			410.0	650.0 ¹	391.2
	FY 83	391.2		877.6	765.0	503.8
	FY 84	503.8		1,230.0	880.0	853.8
License	FY 85	853.8		1,230.0	1,000.0	1,083.8
Fees	FY 86	1,083.8		1,230.0	1,100.0	1,213.0
\$30.90	FY 87	1,213.0		1,230.0	1,210.0	1,233.0
	FY 88	1,233.0		1,230.0	1,331.0	1,132.0
	FY 89	1,132.0		1,230.0	1,464.0	898.0
	FY 90	898.0		1,230.0	1,610.4	517.6
	FY 91	517.6		1,230.0	1,771.4	(23.0)
	FY 82			410.0	650.0 ¹	391.2
License	FY 83	391.2		643.8	765.0	270.0
Fees	FY 84	270.0		820.0	880.0	210.0
\$20/60	FY 85	210.0		820.0	1,000.0	30.0
	FY 86	30.0		820.0	1,100.0	(250.0)

1 Includes \$200.0 General Fund

These projections assume:

Legislation increasing license fees takes effect January 1, 1983.

The number of fishermen licensed will not change significantly; thus receipts will remain constant.

The number of claims filed will increase yearly through FY '85 primarily due to withdrawal of U. S. Public Health Service coverage. After FY '85 the number of claims and expenditures will stabilize with increased costs of 10% for inflation only.

The cost per claim will rise in FY '83 and '84 because optional benefits will be allowed which presently have been restricted. (The Fishermen's Fund Advisory and Appeals Council monitors the condition of the Fund in determining benefits which will be allowed.)

STATE OF ALASKA

JAY & HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-2700

January 20, 1982

Mr. Michael Thill
Administrative Assistant
Senate Labor & Commerce Committee
Pouch V
Juneau, AK 99811

Dear Michael:

You requested information on Fishermen's Fund concerning the number of claims, benefit costs, projected claims cost, and revenue projections. Elaine VanderSande, Fishers' Fund Officer, and I have worked together to provide our best guess at the estimates and projections you have requested.

<u>Number of Claims</u>							
<u>ACTUAL</u>				<u>PROJECTIONS</u>			
<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82*</u>	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
1,615	1,678	1,621	792 ¹	1,700	1,900	2,100	2,350

<u>Expenditures for Claims</u>							
<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82*</u>	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
\$288.2	\$408.4	\$459.5	\$262.12	\$550.0	\$650.0	\$750.0	\$875.0

<u>Administrative Costs³</u>							
<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82*</u>	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
\$100.94	\$73.0	\$91.7	\$48.0	\$100.0	\$110.0	\$125	\$133

* Number of claims, expenditures, and costs reflect actuals through December 31, 1981.

The following revenue information has been prepared. Actual revenue receipts are as follows:

	<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>
	\$393,186	\$402,228	\$409,842
Revenue from Permits :	\$151,074	\$165,702	\$151,056
Revenue from Licenses:	\$242,112	\$236,526	\$258,786

Mr. Michael Thill
 January 20, 1982
 Page 2

Projected Revenue

	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
Under Existing Statutes	\$ 410.0	\$ 410.0	\$ 410.0	\$ 410.0
SB 658 Proposal	\$ 410.0	\$ 877.6	\$1,230.0	\$1,230.0
SB 658 Proposal With Interest ⁵	\$ 410.0	\$ 877.6	\$1,230.0	\$1,230.0
	\$	\$ 15.1	\$ 26.1	\$ 26.9

Listed below is an estimate of Fishermen's Fund balances reflecting actuals through FY 81 and estimates for receipts assuming Senate Bill 648 becomes law. Balances do not include interest.

FISHERMEN'S FUND BALANCES

	<u>July 1 Starting Balance</u>	<u>Adjustment</u>	<u>Receipts</u>	<u>Expenditures</u>	<u>June 30 Ending Balance</u> (without interest)
FY '79	\$ 698.5	\$	\$ 393.2	\$ 364.3	\$ 727.4
FY '80	727.4	65.7	402.3	461.7	602.2
FY '81	602.2	29.7	409.8	502.5	479.9
FY '82	479.9	48.7	410.0	650.0	391.2
FY '83	391.2		877.6	765.0	503.8
FY '84	503.8		1,230.0	880.0	853.8
FY '85	853.8		1,230.0	1,000.0	1,083.8

Figures below the horizontal line are all estimates and were used to calculate interest.

As I discussed with you on the phone, the Department, at the Council's request, investigated the feasibility of interest being credited to the Fund. This was also discussed with Legislative Audit in 1979. Reference should be made to the annotations in AS 37.05.155 and Attorney General's Opinion No. 5, 1969 (enclosed). Also enclosed is Section 6554 of the State Administrative Manual for your reference.

I hope this is the information you requested. We will be happy to discuss with you or Troy. Please give us a call. Thanks for your interest and concern.

Mr. Michael Thill
January 20, 1982
Page 3

FOOTNOTES

- 1 Actual number of claims filed through January 1, 1982. The number of claims have not reflected the sharp rise anticipated as a result of the withdrawal of U.S. Public Health Service coverage of fishermen. One contributing factor is low crab stocks resulting in curtailment of crab fishing this year. Additionally, some medical facilities particularly in Dutch Harbor and Kodiak have been reluctant to accept Fishermen's Fund claims after Council adopted a policy of referring fishermen on vessels with protection and indemnity insurance coverage to that coverage. This policy of denying Fishermen's Fund coverage to this group has been abandoned.
- 2 Due to shortage of funds, the Fishermen's Fund Advisory and Appeals Council sharply restricted optional coverage such as extension of limits, transportation costs, and convalescence benefits which have resulted in lower total claims costs.
- 3 Administrative costs have been projected and estimates prepared using a 10% inflation factor. Fiscal Year 1984 includes some equipment replacements.
- 4 Includes some claim costs.
- 5 Assumes interest rate of 6% based on one half of projected fund balance as of June 30 of each year, beginning June 30, 1983.
- 6 Expenditures include \$200.0 in General Funds; therefore, only \$450.0 was subtracted from Fishermen's Fund revenue.

Sincerely,

Judy Knight

Judy Knight
Special Assistant
to the Commissioner

JK:kmb
j:20

Enclosures

Money belonging to the State is either in the Treasury or outside of the Treasury. Money outside of the Treasury consists of collections temporarily retained by agencies in local depositories pending transmittal to the Department of Revenue and money retained by public corporations in local depositories as a result of statutory authority.

Money in the Treasury belongs to the General Fund or special funds. All deposits are credited to the General Fund unless the law requires that they be credited to a special fund.

6554 - INVESTMENTS (7-69)

Investments may be held in the name of a fund only if the law establishing the fund authorizes investments. If the law establishing a fund does not provide for investments, investments may not be held in the name of that fund.

Income on investments may be credited to a fund only if the law establishing the fund provides for crediting investment income to it. If the law establishing a fund does not provide for crediting it with investment income, any investment income must be credited to the General Fund.

Whenever the law establishing a fund authorizes investments and provides for the disposition of investment income, the fund is referred to as a specifically invested fund. A specifically invested fund, therefore, is a fund for which there is specific statutory authority both as to the investment of excess cash and the application of investment income.

Only a few funds are specifically invested. Monies on deposit in other funds are invested with other excess cash in the State Treasury and earn income which is credited directly to the General Fund.

All investments held must be of a type authorized by law. For instance, if the statute setting up a fund provides that excess cash may be invested in obligations of the United States, then U. S. Treasury obligations are the only investments that may be held by that fund. That fund cannot be invested in corporate stocks and bonds.

6555 - FORMAT (7-69)

The remaining sections of this part of the manual consist of information on the principal funds on deposit in the State Treasury. The format in which information is presented is outlined below:

A separate section presents the fundamentals of each fund. Following the section number is the name which the fund is commonly called. Following this a summary of pertinent matters under the following headings and subheadings is presented.

TABLE 1
 FISHERMEN'S FUND
 REVENUES EXPENDITURES AND CASES
 1976 - 1982

Fiscal Year	Revenues	%Increase over 1976	Expenditures	%Increase over 1976	Total Cases	%Increase over 1976	Total Approved	%Increase over 1976
1976	214,950	n/a	143,788	n/a	629	n/a	534	n/a
1977	246,258	14.6	185,084	28.7	757	20.3	741	38.8
1978	321,432	49.5	265,331	84.5	1006	59.9	900	68.5
1979	393,186	82.9	326,886	127.3	1615	156.8	1399	162.0
1980	402,228	87.1	336,840	134.3	1678	166.8	1459	173.2
1981	409,842	90.6	461,052 (P)	220.6	1625 (P)	158.3	1400 (P)	162.2
1982	418,000 (E)	94.5	923,400 (E)	542.2	3255 (E)	417.5	2832 (E)	430.3

(P) Preliminary

(E) Estimated

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 5, 1982

SUBJECT: Alteration of the dedication to the
fishermen's fund (Work Order No. 12-2135)

TO: Senator Bob Mulcahy

FROM: Edward H. Hein *E.H.H.*
Legislative Counsel

You have asked whether it is permissible under the Alaska Constitution to provide that 60 percent of the fees for renewal of limited entry permits and interim use permits be dedicated to the fishermen's fund (AS 23.35.150).

The short answer is that such a change would amount to an unconstitutional expansion of a dedication, in violation of Article IX, Sec. 7. However, it would be permissible to increase the amount of the commercial fishing license fee and the percentage of that fee sent to the fishermen's fund. Furthermore, the amount paid by a fisherman for a commercial fishing license could be credited toward payment of a crew member license, a limited entry permit or an interim use permit, as is provided under current law.

Article IX, Sec. 7 provides:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

The fishermen's fund was established in 1951 (sec. 4, Chapter 100, SLA 1951) and was "grandfathered in" under the second sentence of Article IX, Sec. 7 because the fund

existed upon the date of ratification of the Alaska Constitution (April 24, 1956).

No Alaska Supreme Court case has prescribed the manner and extent to which a dedicated fund, or the tax or license upon which it is based can be altered by the legislature. Several Opinions of the Attorney General have discussed this question. Op. Atty. Gen., Nos. 7, 9, 14, (Alaska 1959); Op. Atty. Gen., No. 9 (Alaska 1975); Op. Atty. Gen., No. 22 (Alaska 1978). The opinions uniformly concluded that the legislature may not increase or decrease the rate of the dedication or the amount of the tax or license fee from which the dedicated revenues are derived. The opinions further concluded that a dedication cannot be altered so as to include new or additional sources of revenue. In other words, according to the Attorney General, the dedication is frozen in exactly the form and amount as existed upon the date of ratification of the constitution. In its most recent opinion on the subject, however, the Attorney General's office has reversed its view in part and concluded that the legislature may increase or decrease the amount of the tax or license fee from which a dedication is derived without violating Article IX, Sec. 7. Op. Atty. Gen., June 30, 1981 (Alaska).

A close rereading of the Minutes of the Constitutional Convention indicates that the Committee on Finance and Taxation, which drafted Article IX intended to allow the legislature to increase or decrease both the rate of an existing dedication and the amount of the tax or license fee from which the dedication was derived.

During the floor debates on the constitution, Delegate Ralph Rivers proposed to amend Article IX, Sec. 7 so as to delete the phrase, "the continuance of" from the second sentence of the section. In proposing the amendment, Delegate Rivers apparently assumed that the continuance of a dedication after ratification of the constitution meant that the dedication was frozen at the exact rate and in the exact amount that existed on the date of ratification.

R. RIVERS: . . . I'm in accord with their idea of not letting any more allocations come along, but when you say 'continuance of' allocations I immediately think of the rate of allocations as well as the subject matter.

Then Delegate Steve McCutcheon said:

The principle behind this sentence is not that the rates are frozen, it is the principle of allocating earmarked funds. It is not a matter of percentage-wise, it is a theory of earmarked funds and I can't see his [R. Rivers] argument in this by striking out "continuance". He proposes that this is going to cure the proposition of a freeze. He thinks it is a freeze. It is not a freeze in any respect of the word as far as I can see; it is a matter of a theory of earmarked funds and doesn't have anything to do with dollar and cents or percentages.

Then Delegate Barrie N. White responded to Delegate Victor River's request for a statement of the intent of the Committee on Finance and Taxation. Mr. White, a member of that committee, answered:

"WHITE: I think I can answer for all the Committee on that, Mr. Rivers. It is not the intent of the Committee that this be interpreted to mean a freeze in any way, shape, or form. The Committee feels that the objections raised by Mr. [Ralph] Rivers are covered by the existing language. The reason of the Committee resists the deletion of the words 'continuance of' is that it would then mean that the legislature could discontinue a presently earmarked fund next year and then 50 years from now bring it back into being. We do not intend that that be the case.

"V. RIVERS: If you are not freezing an amount, could they raise an existing allocation under this? On the gasoline tax could they raise that to six per cent according to your thinking on this?

"WHITE: Certainly they could.

"V. RIVERS: If they lowered it down to three could they then reenact two more after that?

"WHITE: The Committee intends that this not have any reference to rates at all. The Committee intends that this apply to the allocation of particular taxes to a particular purpose and no more than that.

"V. RIVERS: I just wanted this in the record. Now if they wipe it out altogether, discontinue it, it's gone forever, is that right?

"WHITE: That is right.

"V. RIVERS: But if you discontinue half of it, you can raise it back up?

"WHITE: That would mean that."

4 Minutes, Alaska Constitutional Convention, 2404 - 2405.

Immediately following this discussion, Ralph River's proposed amendment was rejected by voice vote of the body. Earlier in the day, Delegate Maurice Johnson had proposed a similar amendment which would have deleted the phrase "prohibit the continuance of" and would have inserted the words "apply to". During discussion of that amendment, Delegate Leslie Nerland, said:

Mr. President, I think I can speak for at least the majority of the Committee [on Finance and Taxation], perhaps the whole Committee, but we would oppose this amendment because it was the intention of the Committee that the present allocated earmarked funds be allowed until such a time as they might be removed from the books but it was not our intention that they be removed and put back in again at some later date, so we would oppose that and any other change of wording that would allow that.

4 Minutes, Alaska Constitutional Convention, 2383 - 2384.

This passage reinforces the statement of Delegate White that the intention of the Committee on Finance and Taxation in using the phrase "continuance of" was only to assure that if a dedication were completely discontinued, it could not be reinstated years later merely because it had been in existence on the date of ratification of the constitution.

Thus, according to members of the committee that drafted Article IX, Sec. 7 was intended to prevent alteration of the particular source of revenue and the particular purpose for which that revenue was being dedicated, but no more than

that. Thus, the phrase "all commercial fishermen's licenses" is limited to the meaning it had at the time the constitution was ratified. At that time, there was only one type of commercial fishing license in Alaska. 1949 ALCA secs. 39-4-17 - 39-4-18.

Today, the "commercial fishing license" still exists in AS 16.05.480. The limited entry permit and the interim use permit are licenses different from the "commercial fishing license". The limited entry permit and interim use permit are the successors to the gear license, established in 1959 (sec. 8, Article 3, Chapter 94, SLA 1959), and repealed in 1978 (sec. 19, Chapter 105, SLA 1977). Permit holders are required to purchase a "commercial fishing license" under AS 16.05.480. The money paid for the commercial fishing license by the permit holder is credited toward the renewal fee for the permit (AS 16.43.160(a)).

Thus, the phrase "all commercial fishing licenses" in AS 23.35.150 does not include limited entry permits or interim use permits. In my opinion, expanding the definition of "all commercial fishing licenses" to include limited entry permits and interim use permits would be to alter the source of revenue from which the dedication to the fishermen's fund is derived, in violation of Article IX, Sec. 7.

Based upon the discussion in the Minutes of the Constitutional Convention, including the statements of two members of the Committee on Finance and Taxation, I conclude that the legislature is constitutionally permitted to increase or decrease the rate of the dedication to the fishermen's fund, and the amount of the fee for a "commercial fishing license". It should be noted that the commercial fishing license fee for nonresidents was increased in 1966 from \$15 per year to \$30 per year (sec. 1, Chapter 93, SLA 1966). If it is unconstitutional to increase the amount of the license fee, then the state has been in violation of Article IX, Sec. 7 for the past 15 years.

Finally, I should again emphasize that the Alaska Supreme Court has not ruled on the question of the manner and extent to which the legislature can alter a dedication that existed on the date of ratification of the Alaska Constitution. Furthermore, the Court has previously held that opinions of

Senator Bob Mulcahy
Page 6
January 5, 1982

individual members of the constitutional convention generally are not considered to be a safe guide in ascertaining the purpose of a majority of the convention when adopting a particular provisions. But reports of committees and statements of chairmen of such committees stand on a more solid footing, and may be resorted to in determining the intent of the enacting body. Starr v. Hagglund, 374 P.2d 316 (Alaska 1962). I am not certain what weight the Court would give to the statements of Delegates White and Nerland, who were members of the Committee on Finance and Taxation, but neither of whom was chairman. In my opinion, the statements of Nerland and White, who asserted that they were speaking before the body on behalf of the whole committee, should be weighted heavily by the Court when interpreting the meaning of Article IX, Sec. 7.

EHH:ljb

commissioner shall make monthly remittances of the fees collected to the proper state official. The commissioner is not liable for defalcation or failure to account for the fees collected by an agent, but he shall require a bond in the sum he considers adequate, conditioned upon the faithful accounting of money collected.

(b) A person appointed by the commissioner of revenue under AS 16.05.460 to issue licenses under AS 16.05.440 — 16.05.480, except salaried employees of the state, shall retain the sum of 15 per cent of the interim-use or entry permit fee for assisting in completion of the annual application or renewal form for the interim-use or entry permit. An agent shall transmit promptly to the Commercial Fisheries Entry Commission all application or renewal forms and fees collected by him, less the authorized commission, together with a full accounting of the fees. The commissioner and the Commercial Fisheries Entry Commission are not liable for defalcation or failure to account for the fees collected by an agent, but the commissioner shall require a bond in the sum he considers adequate, conditioned upon the faithful accounting of money collected. (§ 5 art III ch 94 SLA 1959; am § 9 ch 31 SLA 1963; am § 1 ch 8 SLA 1977; am §§ 5, 6 ch 105 SLA 1977)

Effect of amendments. — The first 1977 amendment substituted "15 per cent" for "five per cent" in the first sentence of subsection (a).

The second 1977 amendment designated the former provisions of this section as subsection (a), and in that subsection, substituted "AS 16.05.440 — 16.05.480" for

"AS 16.05.440 — 16.05.720" and "15 per cent" for "five per cent" in the first sentence, "An agent" for "A deputy" in the second sentence, and "an agent" for "a deputy" in the fourth sentence, and inserted "license" preceding "fees collected" in the second sentence. The amendment also added subsection (b).

This section amended by SB 658

Sec. 16.05.480. Commercial fishing license. (a) A person engaged in commercial fishing shall obtain a commercial fishing license. The fee for the license is \$10 for residents, and \$30 for nonresidents. Except for those which are also entry or interim-use permits, all commercial fishing licenses are nontransferable. The commercial fishing license shall be retained in the possession of the licensee, readily accessible for inspection at all times. No more than one fee may be charged annually against a person. For the purposes of this section, "commercial fishing license" includes entry permits and interim-use permits issued under ch. 43 of this title and crewmember fishing licenses.

(b) A person applying for a resident commercial license under this section shall provide the proof of residence which the department requires by regulation.

(c) Repealed by § 12 ch 123 SLA 1978. (§ 6 art III ch 94 SLA 1959; am § 19 ch 131 SLA 1960; am § 1 ch 93 SLA 1966; am § 2 ch 42 SLA 1968; am § 8 ch 105 SLA 1977; am §§ 1, 2, 12 ch 123 SLA 1978)

Effect of amendments. — The 1977 amendment rewrote the first sentence of subsection (a), substituted "crewmember" for "commercial" in the third sentence of

subsection (a), and also in subsection (b), deleted "his" preceding "residence" in subsection (b), and added subsection (c). Sections 1 and 2, ch. 123, SLA 1978.

STATE OF ALASKA

DEPARTMENT OF LABOR

JAY S. HAMMOND, GOVERNOR

BOX 1149
JUNEAU, ALASKA 99811
PHONE: 465-2700

January 12, 1982

Mr. Michael Thill
Administrative Assistant
Senate Labor and Commerce
Committee
Pouch V
Juneau, AK 99811

Dear Michael:

The Department provided copies of Richard Austerman's Special Report on Alaska Fishermen's Fund to the Fishermen's Fund Advisory and Appeals Council members. Attached are comments received from the council members concerning the report and solutions for maintaining the solvency of the Fishermen's Fund. I thought you and Senator Mulcahy might be interested.

I am looking forward to working with you again this session. Thank you again for scheduling my meeting with the Senator yesterday and please convey my thanks to Senator Mulcahy for his time.

Sincerely,

Judy Knight

Judy Knight
Special Assistant

JK/mjs
D-85

Enclosure

EXCERPT FROM MINUTES OF NOVEMBER 1981 FISHERMEN'S FUND ADVISORY AND APPEALS
COUNCIL MEETING:

In order to meet projected administrative and claim expenses, the Council recommended, first, that the law allowing only one contribution into Fishermen's Fund per fisherman issued a permit under AS 16.43 be changed to allow a contribution for each permit issued which includes a commercial fishing license. Their second recommendation was to raise license fees, double if necessary, to meet revenue requirements.

In a December 21, 1981 telephone discussion, Ole Haynes reaffirmed his support for the above statement.

EVS

RECEIVED

DEC 22 1981

FISHERMEN'S FUND

to Elaine VanderSande
Administrator
Fishermen's Fund

Thoughts on the report are
that all recommendations sound
fine to me.

Although I think the
council wanted 30-60 on
licenses. Would like 30-50. For
the simple reason that 50 is
not much to leave in Alaska.

Used to think about lowering
the 2500 limit but I think
100⁰⁰ deductible would be just
as effective.

Steve Johnson

Cordova District Fishermen's Union

RECEIVED

DEC 31 1981

Headquarters: Box 939, Cordova, Alaska 99574

(907) 424-3447 (907) 424-7473

FISHERMEN'S FUND



12/29/81

Ms. Elaine VanderSande, Administrator
Fishermen's Fund
Alaska Dept. of Labor
P.O. Box 1149
Juneau, Alaska 99811

Dear Elaine;

As per review of the Fishermen's Fund report prepared for Senator Mulcahy.

On page 11 the report fails to mention that the UFA's occupational accident plan has a \$2500.00 deductible which meshes with Fishermen's Fund.

My opinion on the recommendations starting page 11.

- #1 - For the time being at least, I would rather see a \$30.00 Resident - \$60.00 Non-resident crew member (Commercial Fishing) license fee rather than a \$30-90 increase. I feel it would be much more equitable to put up more revenue from one of the long range recommendations.
- #2 - For immediate addition - if possible with #1 recommendation pick up the \$6.00 and \$18.00 each from the multiple permit renewals.
- #3 - I would approve of if it actually assists in administering the Fund without excess confusion.
- #4 - Definitely not - I really feel we should not become more reliant on the legislature and definitely not be funded directly out of the General Fund per se.
- #5 - No Workman's Compensation - P and I is costly enough and does the job when it has to - Workman's compensation makes it too easy for free loaders.
- #6 - I would not be opposed to a, say, \$50.00 deductible for Fishermen's Fund. The administrative cost of small claims exceeds benefits, besides I personally feel fishermen should be able to pay their own really small bills.

I feel that both long range recommendations as outlined are excellent ideas and should be pursued if possible. By the time these analysis are ready we will have a considerably better handle on just what effect the recent changes in medical coverage will have on the Fund.

I hope this review will be of some assistance. Please let me know if I can be of further aid during the session.

Sincerely,

Bob Blake

RECEIVED

DEC 31 1981

FISHERMEN'S FUND



MR. EARL MOLLOPAN
PO BOX 137
NAKNEK ALASKA 99633

January 22, 1982



The Honorable Robert Mulhahy, Chairman
Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V State Capitol
Juneau, Alaska 99811

Re; Fishermen's Fund

Dear Sir;

I received your special report by R.G. Austerman, and the memorandum from the Legislative Affairs. I still don't see the problem (Constitutional), if this is done properly.

Alaska Statute Sec. 23.35.010 to 150 establishes the Fishermen's Fund, which is protected by the Constitution of the State, as a dedicated fund. Sec. 23.35.060 states that the fund shall be composed of 60 per cent of the money derived by the state from all fishermen's licenses (commercial). This has nothing to do with establishing a license fee, only that whatever the license fee is, 60 per cent goes to the Fishermen's Fund.

If we leave the above part alone there is no further constitutional question. The action in 1966, was to determine the legal differential that could be used between the resident fee and the non-resident fee. This was by court ruling and a new license fee was established. We could charge no more than three times the resident fee for the non-resident fee.

If we only make the changes in Sec. 16.05.480 to raise the license fee there is no constitutional question involved. Of course that is as long as we stay within the ruling of no more than three times the resident fee for the non-resident fee. However there does need to some changes in the wording of Sec. 16.05.480 and possibly followed through in Sec. 16.42.160 so that 60 per cent of all fees (commercial fishermen) and that portion of limited entry permits goes to the Fishermen's Fund as required by Sec 23.35.060.

I am enclosing parts of a report from the Department of Law, dated April 4, 1969 in regard to the "constitutionality of a tax" Since Limited Entry Permits and commercial fishermen's licenses are issued for the purpose of protection of the fishery and management of the fishery for conservation purposes as set out in the constitution of the State, Article VIII Sec. 15 as amended, and not for the purpose of raising money for the general fund. This might have a bearing on all of this.

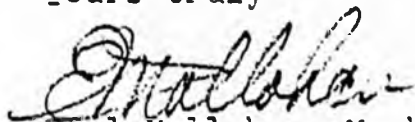
The above might also be useful in the question of Limited Entry which I don't doubt will come up.

Another item that we have been concerned with is that any unused portion of the fund is invested along with the General Fund money but we do not get any investment credit for this. It is still dedicated money regardless of where it is. I don't know whether anything can be done in regard to this.

I will be in Juneau possibly on March 14th and by all means by March 15 and will be available at the Department of Labor on the 16th-17th & 18th.

Thanks for your attention.

Yours truly



Earl Mollenhan, Member
Fishermen's Fund Advisory
and Appeals Council

File - SB 658

Bill No. Senate Bill 658

Date January 21, 1982

Title "An Act increasing fees for a commercial fishing license."

Contact: Judy Knight 465-2700
Elaine VanderSande 465-2766

The Department of Labor recommends passage of Senate Bill No. 658 increasing fishing license fees to \$30 per resident and \$90 per nonresident from the present \$10 and \$30 in order to increase revenue to the Fishermen's Fund through its 60% portion of the fees.

The purpose of Fishermen's Fund is to relieve fishermen of some of the accident or occupational illness burden of commercial fishing. Due to inflation and increased usage of the Fund, expenditures have risen above revenues in yearly escalating amounts since FY 79 despite restriction on costs imposed by the Fishermen's Fund Advisory and Appeals Council. The Fund balance on January 13, 1982 was down to \$278.1.

In November 1981 the Fishermen's Fund Advisory and Appeals Council recommended increasing revenues by (1) payment to Fishermen's Fund of 60% of all money collected for license fees as a portion of limited entry permits (including duplicate permits), and (2) increasing license fees to \$20 per resident and \$60 per nonresident.

With passage of Senate Bill No. 658, Fishermen's Fund will be able to continue assisting commercial fishermen and will be able to again pay some optional costs which have temporarily been suspended, such as transportation to return the fisherman from the medical facility, extensions above maximum limits, and assistance after discharge from the hospital (convalescence benefits). The Fund would then fulfill the intent envisioned with its implementation in 1951.

Without passage of Senate Bill No. 658, Fishermen's Fund will be insolvent, and probably the law should be repealed.

FISHERMEN'S FUND BALANCE PROJECTIONS WITH LEGISLATION
(Actual figures above dividing line; estimates below)

	July 1 Starting Balance	Adjustment	Receipts	Expenditures	June 30 Ending Balance
FY '79	\$ 698.5	\$	\$ 393.2	\$ 364.3	\$ 727.4
FY '80	727.4	65.7	402.3	461.7	602.2
FY '81	602.2	29.7	409.8	502.5	479.9
FY '82	479.9	48.7	410.0	650.0 (200.0 G.F.)	391.2
FY '83	391.2		877.6	765.0	503.8
FY '84	503.8		1,230.0	880.0	853.8
FY '85	853.8		1,230.0	1,000.0	1,083.8

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 658
Title "An Act increasing the fees for a commercial fishing license."
Requested by Senate Labor & Commerce Date 1/18/82

II. FISCAL DETAIL

Agency Affected Labor
Program Category Affected PUBLIC PROTECTION
BRU, Program, Or Subprogram(s) Affected Fishermen's Fund
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Revenue from commercial fishing license fees and permits is inadequate to support the Fishermen's Fund which receives sole support from these fees. This legislation would increase the revenue and continue the program to aid fishermen on a self-supporting basis. Income projections from this legislation are:

	FY 83	FY 84	FY 85	FY 86	FY 87
Limited Entry Permits	420.0	450.0	450.0	450.0	450.0
Crewmember Licenses	457.6	780.0	780.0	780.0	780.0
Totals	877.6	1,230.0	1,230.0	1,230.0	1,230.0

Assumes January 1 1983 effective date.

IV. DATE 1/18/82

PREPARED BY Michael W. Smith
AGENCY Department of Labor
PHONE 465-2720

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)