



August 5, 1980

Mr. Robert M. Johnson, Director  
State of Alaska  
Department of Revenue  
Property Tax Division  
201 E. 9th Avenue  
Anchorage, Alaska 99501

Dear Mr. Johnson:

Pursuant to A.S. 43.56.110, Alascom, Inc. hereby respectfully appeals those assessments for oil and gas property issued July 17, 1980 by the State of Alaska, Department of Revenue and received by Alascom on July 28, which is shown as a supplemental assessment of Alascom for Alascom owned property described as the Backbone Communications System, the Alternate Route Communications System and the Block Valve Communications System (collectively referred to as "TAPS/12"), for the years 1975 through 1980. Alascom believes the assessment in question to be incorrect for several reasons.

The property in question (with the possible exception of the Block Valve Communications System) is an integrated segment of a worldwide public communications system. Alascom is a telecommunications common carrier regulated pursuant to Certificates of Convenience and Public Necessity held with the Federal Communications Commission and the Alaska Public Utilities Commission. In this capacity, it provides long lines telecommunications services throughout the State of Alaska and between Alaska and other parts of the contiguous 48 states and the world.

The Alascom public telecommunications network is comprised of many integrated segments either constructed by Alascom or acquired through purchase. These segments include the Alaska Communications System and the White Alice Communications System which were acquired from the Air Force, as well as numerous systems designed and constructed by Alascom, such

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as the Small Bush Earth Stations, WACS Replacement Earth Stations, and the systems referred to in the Supplemental Assessment Roll as the Backbone Communications System and the Alternate Route Communications System. These segments are integrated to form a statewide telecommunications network and are physically interconnected with the systems of AT&T, CNT, BCT, W.U. and other carriers as part of the worldwide communications network. As such, both message toll as well as private line services transit such systems. Each of the segments has the capability to interface with the other segments in the telecommunications network and, therefore, individual telecommunications may transit one or many of the segments. Thus, it is factually impossible to segregate a portion of the property and attempt to classify that property as being used primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil.

The Department's Administrative Regulation 15 AAC 05.860 provides as follows:

"Property which is used or committed by agreement for use in the exploration, production, or pipeline transportation of unrefined oil and gas, and also used or committed for other purposes is taxable under A.S.43.56 only if the time the property is used or committed for use in the exploration, production, or pipeline transportation of unrefined oil and gas exceeds 50% of the total time that the property is used or committed for use in a previous calendar year."

However, Alascom's telecommunication network, including the property assessed, which is "used or committed by agreement for use in the exploration, production or pipeline transportation of unrefined oil and gas and also used or committed for other telecommunications purposes" is used less than 1% of the total time by Alyeska for exploration, production or pipeline transportation of unrefined oil and gas. Therefore, none of the property assessed could lawfully be assessed under 15 AAC 05.860.

Although the State's segregation of the Backbone Communications System, Alternate Route Communications System, and Block Valve Communications Systems is clearly improper, and even if this impropriety was not being contested here by Alascom, Alascom would not be liable for the tax pursuant to A.S.

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43.56.210(b). Any assessment made by way of segregation would have to be made on the basis that the segments are communications systems utilized in conjunction with the TransAlaska Pipeline System which, in turn, is used primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil. Thus, it follows that the communications segments assessed would have to be argued to be part of an oil and gas pipeline system.

A.S. 43.56.210(6) provides, in part, as follows:

"'Taxable property' does not include permanent residences, office buildings requiring substantial local government services, or oil and gas pipeline systems owned and operated by a certificated public utility regulated by the Alaska Public Utilities Commission;..."

Inasmuch as Alascom is, in fact, a certificated public utility by virtue of Docket U-69-24, Order No. 12 before the Alaska Public Utilities Commission, and it is the owner of the above-referenced system, it would definitely be exempt by virtue of the above provision. <

To hold otherwise would not only go beyond the intended scope of the Act, but might also work a great hardship on the ratepayers of the State of Alaska. The only method Alascom has of recuperating taxes assessed is passing the tax along via increased rates to telecommunications services users. We clearly believe it was not the intent of the legislature to assess an oil and gas pipeline tax to a regulated public utility since the utility would have to include any such costs in its rate base, thereby forcing individuals throughout the State of Alaska to pay the tax. It is thus conceivable that residents in small bush villages as well as urban users of telecommunications services in Alaska would be required, in essence, to pay this tax if it were assessed against a regulated utility. The creation of such a great hardship clearly goes beyond the scope of the tax legislation under which the attempted assessment is being made. <

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While Alascom, Inc. does not believe the assessment to be valid for the foregoing reasons, it believes that the State's attempted assessment for prior years to be invalid as a matter of law even if the assessment were otherwise valid. There is no statutory authority under which the State can make assessment for prior years. A.S. 43.56.090 and A.S. 43.56.100 provide for an annual assessment. In assessing for the years 1975 through 1979, the State has construed A.S. 43.56.140 with respect to supplementary assessment to allow the reassessment of property omitted in prior years' assessment rolls. However, inasmuch as A.S. 43.56.090 provides only for an annual assessment, it follows that A.S. 43.56.140 would only apply to a supplementary roll for omissions in the same year.

It has been held in various jurisdictions that the statutes dealing with corrections, errors in assessment rolls or tax lists shall apply only to errors for the current or taxable year. In Dyer v. Dalton, 174 P.2d 252, 197 Okl. 601; Bridgeport Brass Co. v. Drew 128 A.413 (1925); Board of County Commissioners v. Lane, 90 P. 1092, 76 Kentucky 12 (1907).

More particularly, the State is attempting to parallel the assessment action taken by the Commissioner of Insurance of the State of Kansas in the case of Equitable Life Insurance Society v. U.S. v. Hobb, 127 P.2d 477, 155 Kansas 534 (1942) wherein an insurance company had filed tax returns for the years 1927 through 1934 but had failed to include certain annuity contracts in those returns. In 1936, the State reassessed the insurance company on the basis that the annuity contracts had been omitted from the years when the tax returns had been filed. In that case, the State specifically contended that it was not estopped by any inaction, procrastination or delay on the part of the Commissioner in asserting liability for the tax and contended that the burden was on the companies to make returns including all property they would have been liable for and pay the tax. There, the Court held at 480, in part:

"There is no provision of statute that permits the Commission to resurvey returns previously made upon which an assessment has been made and paid."

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Therefore, the State has no statutory authority for a supplementary assessment pursuant to A.S.43.56.140.

While the foregoing establishes that the assessment is improper, the State would also be precluded from making assessments for the property in question for additional reasons. 15 AAC 05.860, cited supra, requires that the property which is used or committed by agreement for use in the exploration, production or pipeline transportation of unrefined oil and gas can only be taxable if that property was used or committed for use in the exploration, production or pipeline transportation of unrefined oil and gas at least 50% of the total time that the property was used or committed for use in the previous calendar year. In applying this criterion, the assessment would have to be reduced by deleting the Backbone Communications System and the Alternate Route System. Only 52,964 circuit miles of the Backbone Communications System are currently in use by Alyeska. The total circuit capacity of the Backbone Communications System is 247,743 miles. Thus, only 21% of the system is committed for use by Alyeska in the exploration, production or pipeline transportation of unrefined oil and gas. A similar commitment percentage for the Alternate Route Communications System is 1%.

Although Alascom does not know the source of the figures which are included in the assessment, it would appear that the State may have included the equipment used for interim communications in the assessment for the years 1975 and 1976. The amount Alascom believes to have been erroneously included by the State is \$10,479,557 for the years in question. Inasmuch as this system was utilized as a system to provide temporary communications during the construction of the project, Alascom believes that this would not fit within the definition of property uses for the exploration, production or pipeline transportation of unrefined oil and gas and therefore should be eliminated from any assessment.

The State also appears to have included in its assessment capitalization of interest during construction (IDC) in the amounts of \$84,070.00 for 1975, \$1,234,645.00 for 1976, \$4,422,461.00 for 1977, 1978, 1979 and 1980. This portion of the assessment is clearly improper. It has been precluded by A.S.43.56.060 which provides, in part, as follows:

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"For purposes of this section, "actual costs" and "replacement costs" do not include Interest before or during the period of construction nor the value of intangible drilling expenses. In the case of taxable property under construction, "actual costs" for purposes of this section means a cost incurred or accrued with respect to the property as of the date of assessment."

Therefore, Alascom believes that, in addition to the reasons previously cited, assessments for the interim communications, Alternate Route Communications System, the Backbone Communications System and the inclusion of IDC should be reduced from any assessment.

The State, in making the assessment retroactively, has also violated the provisions of A.S. 9.10.070(2) and (3). A.S. 9.10.070(2) and (3) provides in part as follows:

...No person may bring an action...(2) upon a statute for forfeiture or penalty to the State or (3) upon the liability created by statute other than a penalty or forfeiture; unless commenced within two years.

While technically the State, in making the assessment, may not have brought an "action" within the two year period, it is clear that any further action taken by the State with respect to collection of taxes would violate the two year statute of limitations. Moreover, the State would be precluded from assessing any penalties or interest on any amounts.

Therefore, for all of the reasons listed above, the assessments are incorrect and invalid and Alascom appeals those assessments under A.S. 43.56.110.

Sincerely,



Edward R. Geiger  
Controller

AFFIDAVIT OF SERVICE BY MAIL

Jeannette M. Littlefield, being sworn, states that she is an employee of Alascom, Inc.; that on the 6th day of August, 1980, she mailed a letter to Mr. Robert M. Johnson, Director, State of Alaska, Department of Revenue, Property Tax Division, 201 E. 9th Avenue, Anchorage, Alaska 99501, by placing same in the United States mail with postage prepaid at Anchorage, Alaska.

Jeannette M. Littlefield

SUBSCRIBED AND SWORN to before me this 6th day of August, 1980.

Emma E. Oberg  
Notary Public In and For Alaska  
My Commission Expires: 8-21-83



Williams

79 Retro - Stimpson  
story -

HB 460

2098.8

1969  
Hsp #47  
Sen. Sup 62

SB 181

421.5

14. Sup 57

Original sponsor: Resources Committee

Offered: 5/21/81  
Referred: Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 460 (Finance) (efd failed)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the fisheries and salmon enhance-  
7 ment taxes."

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

9 \* Section 1. AS 43.75.015(b) is amended to read:

10 (b) Instead of the taxes levied by (a) of this section, a person  
11 who processes [ENGAGED IN A FISHERY BUSINESS WHICH INCLUDES PROCESSING]  
12 a developing commercial fish species is liable for and shall pay a tax  
13 equal to

14 (1) one percent of the value of the developing commercial  
15 fish species processed by a shore-based fisheries business during the  
16 year; and

17 (2) three percent of the value of the developing commercial  
18 fish species processed by a floating fisheries business during the  
19 year.

20 \* Sec. 2. AS 43.75.015(c) is amended to read:

21 (c) A person engaging or attempting to engage in a fisheries  
22 business who first actually and physically processes the fishery re-  
23 source, or a person who purchases a fishery resource which is frozen  
24 from a person excluded by AS 43.75.017 from liability for the tax, is  
25 liable for and shall pay to the department the entire tax imposed by  
26 this section. In determining this tax liability, the person may [NOT]  
27 deduct from the value of the fishery resources processed the value of  
28 fishery resources that are canned or processed for other fisheries busi-  
29 nesses. A person taking the deduction authorized by this subsection

1 shall report all information relating to the deduction in accordance  
2 with regulations issued by the department [, BUT SHALL INCLUDE THAT  
3 VALUE AS PART OF THE VALUE OF THE FISHERY RESOURCES PROCESSED].

4 \* Sec. 3. AS 43.75 is amended by adding a new section to read:

5 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. A person  
6 is not liable for the fisheries business tax under AS 43.75.015 when  
7 the fishery resource is frozen aboard a fishing vessel if

8 (1) the vessel is operated as a commercial fishing vessel  
9 under a valid commercial fishing license;

10 (2) the fishery resource is not processed beyond heading,  
11 gutting or cleaning, freezing and glazing;

12 (3) the fishery resource which is frozen was caught by the  
13 vessel; and

14 (4) the fishery resource is sold by the person who claims an  
15 exclusion under this section from a tax levied by AS 43.75.015.

16 \* Sec. 4. AS 43.75.130 is amended to read:

17 Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of  
18 revenue shall pay

19 (1) to each municipality unified under AS 29.68.240 -  
20 29.68.440, and to each city located in the unorganized borough, 50 [20]  
21 percent of the amount of tax revenue collected in the municipality from  
22 taxes levied by AS 43.75;

23 (2) to each city located within a borough, 25 [10] percent  
24 of the amount of tax revenue collected in the city from taxes levied by  
25 AS 43.75; and

26 (3) to each borough  
27 (A) 50 [20] percent of the amount of tax revenue  
28 collected in the area of the borough outside cities from taxes  
29 levied by AS 43.75; and

1 (B) 25 [10] percent of the amount of tax revenue  
2 collected in cities located within the borough from taxes levied  
3 by AS 43.75.

4 \* Sec. 5. AS 43.75.140(7) is amended to read:

5 (7) "value" means the actual price paid for the fisheries  
6 resource by the fisheries business, including indirect consideration  
7 such as fuel, supplies, or gear, whether paid at the time of purchase  
8 of the fisheries resource or tendered as a deferred or delayed payment,  
9 except that "value" means the market value of the fishery resource if  
10 the taking of the fishery resource is done [PROCURED] in company-owned  
11 or company-subsidized boats operated by employees of the fisheries  
12 business or in boats which are operated under lease or other arrange-  
13 ment;

14 \* Sec. 6. AS 43.75.140 is amended by adding a new paragraph to read:

15 (9) "taking" means pursuing, fishing, capturing, or killing  
16 a fisheries resource in any manner.

17 \* Sec. 7. AS 43.76.020(a) is amended to read:

18 (a) The salmon enhancement tax levied under AS 43.76.010 or 43.-  
19 76.011 may be terminated by the commissioner of revenue upon majority  
20 vote at an election held under AS 43.76.015 in the region in which the  
21 salmon enhancement tax is levied.

22 \* Sec. 8. AS 43.75.136 is repealed.

23 \* Sec. 9. TRANSITIONAL REVENUE SHARING. Notwithstanding AS 43.75.130,  
24 during the fiscal year ending June 30, 1982, the commissioner of revenue  
25 shall pay

26 (1) to each municipality unified under AS 29.68.240 - 29.68.440,  
27 and to each city located in the unorganized borough, 30 percent of the  
28 amount of tax revenue collected in the municipality from taxes levied by  
29 AS 43.75;

1 (2) to each city located within a borough, 15 percent of the  
2 amount of tax revenue collected in the city from taxes levied by AS 43.75;  
3 and

4 (3) to each borough

5 (A) 30 percent of the amount of tax revenue collected in the  
6 area of the borough outside cities from taxes levied by AS 43.75; and

7 (B) 15 percent of the amount of tax revenue collected in  
8 cities within the borough from taxes levied by AS 43.75.

9 \* Sec. 10. TRANSITION. The taxes paid for the 1980 calendar year under  
10 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130  
11 as that section read before its amendment by sec. 4 of this Act. The taxes  
12 paid for the 1981 calendar year shall be shared with municipalities in  
13 accordance with sec. 9 of this Act. The taxes paid for the 1982 calendar  
14 year and for each succeeding calendar year shall be shared with municipali-  
15 ties in accordance with AS 43.75.130 as amended by sec. 4 of this Act.

16 \* Sec. 11. Sections 2 and 3 of this Act are retroactive to January 1,  
17 1981, and apply to tax years beginning after December 31, 1980.

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# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

April 14, 1981

The Honorable Fred F. Zharoff  
The Honorable Terry Gardiner  
Co-Chairmen  
House Resources Committee  
Room 118 - Capitol  
Juneau, AK 99811

*HB 460*

Re: House Bill No. 460

Dear Mr. Zharoff and Mr. Gardiner:

House Bill No. 460, an Act relating to fisheries and salmon enhancement taxes, was introduced in the House on April 2, 1981, and was referred to the House Resources and Finance Committees.

For the consideration of the House Resources Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division; Mr. Phil Wall, Director, Administrative Services Division and Mr. Robert W. Elliott, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

### Enclosures

cc: The Honorable Samuel R. Cotten  
Chairman  
House Finance Committee

Phil Wall, Director  
Administrative Services Division  
Department of Revenue

Joseph K. Donohue  
Deputy Commissioner, Taxation  
Department of Revenue

Robert W. Elliott  
Research Section  
Department of Revenue

Gary L. Jenkins, Director  
Audit Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 460

Title An Act relating to the fisheries and salmon enhancement taxes

Requested by House Resources Committee Date April 13, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Audit Division

(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) NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R.D. Stevenson dated April 13, 1981.

IV. DATE April 13, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

TO R. D. Stevenson  
Legislative Assistant

DATE April 13, 1981

FILE NO

TELEPHONE NO

FROM Gary L. Jenkins  
Director  
Audit Division

SUBJECT HB 400

This bill would make some much needed clarifications to the Fisheries Business Tax Act and the Salmon Enhancement Tax Act, along with a change in the revenue sharing provisions of the Fisheries Business Tax.

With regard to the specific provisions of the bill, I would suggest the legislature give consideration to clarifying a few of the proposed provisions. First, Sec. 3 of the bill establishes an exclusion from the Fisheries Business Tax provided certain conditions are met. For purposes of effective administration, I recommend one additional condition be added, which is:

(4) the fishery resource is sold by the person claiming the exclusion from tax to a fisheries business licensed under AS 43.75.

This provision will insure our ability to reasonably enforce the law because the tax will be reportable by taxpayers with whom we are already dealing and we will not be required to go out and try to find other persons who might buy the fishery resource and who would then be required to pay the tax.

When the need for the provisions of this bill were discussed previously with some members of the House Resources Committee, it was suggested that the Salmon Enhancement Tax law be clarified regarding whether the taxable event was the act of catching salmon in one of the established regions or was the act of selling salmon in the region regardless of where caught. It was our original understanding that the taxable event was the act of catching salmon in a region, however, during the course of discussions with various legislators, it has become clear that there is a divergence of opinion as to which event is the taxable event. I would strongly urge the legislature to clarify that point by amending AS 43.75.010 and AS 42.75.011. The issue is further confused by the fact that sections 5, 6 and 10 of the bill include provisions that are predicated on the catching of salmon as being the taxable event. Those provisions refer to the imposition of the tax on the person catching the salmon when the salmon are removed from the state by that person without the tax being paid. These concepts were originally suggested when we were still thinking the legislature meant the taxable event to be the catching of

the salmon. Those provisions should be deleted if the legislature intends to keep the tax on a sales basis only.

With regard to section 14 of the bill, which is the effective date clause for the changes in the revenue sharing section in the fisheries business tax, I would suggest that consideration be given to changing the effective date to either January 1, 1982 or July 1, 1982. Either date would seem to be more consistent with the provisions of section 12 of the bill.

Finally, I would also recommend an additional section be added to the bill for the purpose of defining the term "buyer" as it applies in the proposed revision to the Salmon Enhancement Tax. Please consider the following:

"Buyer" means any person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding any transfer to a person engaged solely in interstate transportation of goods for hire.

This broad language is being proposed to insure that deliveries of salmon to a cooperative would be included. This would preclude an argument that a delivery to a cooperative was not an actual sale upon which the tax would not apply.

I. REQUEST

Bill/Resolution No. HB 460

Title Relating to the Fisheries and Salmon Enhancement Taxes

Requested by House Resources

Date April 3, 1981

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Administration and Support, Management Services

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
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 Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

HB 460 increases the percentage of tax paid. The Bill will also cause a small increase in Returns which report the tax paid on certain frozen fishery resources and upon salmon removed from the State. The Bill will cause a substantial increase in the amount refunded to Local governments. However, it appears that the additional cost can be handled within the present and requested budgets.

IV. DATE April 7, 1981

PREPARED BY \_\_\_\_\_

*Carroll*  
Philip A. Wall

AGENCY \_\_\_\_\_

Revenue

Original: Legislative Finance

PHONE \_\_\_\_\_

465-2313

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 460  
 Title Relating to the fisheries and salmon enhancement taxes  
 Requested by House Resources Committee Date 4/13/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

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

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No change in revenues.

IV. DATE 4/13/81

PREPARED BY

*Robert W. Elliott*  
 Robert W. Elliott



I. The Department improperly and arbitrarily assessed a tax on one component part of Alascom's telecommunications system so as to circumvent its own regulations. Alascom's property is not taxable property as defined by 15 AAC 05.860;

II. Alascom's property is not within the class intended to be taxed by AS 43.56;

III. The Department may not retroactively assess taxes for the years 1975 to 1980;

A. The assessment is contrary to the common law principle of finality of tax obligations;

B. The legislature has not authorized retroactive assessment of oil and gas property taxes; and

C. The Department is barred and estopped from retroactively assessing taxes.

In addition Alascom submits that the valuations established by the Department for Alascom's property are not only excessive but are not supported by reliable evidence.

Although Alascom discussed the above delineated arguments in its appeal of September 5, 1980, Alascom will reiterate the points covered therein. Some of the text is repetitive in order that the Board might have Alascom's entire case in one document.

I. THE DEPARTMENT OF REVENUE HAS IMPROPERLY AND ARBITRARILY ASSESSED A TAX ON ONE COMPONENT PART OF ALASCOM'S TELECOMMUNICATIONS SYSTEM SO AS TO CIRCUMVENT ITS OWN REGULATIONS. ALASCOM'S PROPERTY IS NOT TAXABLE PROPERTY AS DEFINED BY 15 AAC 05.860.

The Backbone Communications System (BCS), Alternate Route Communications System (ARCS), and Block Valve Communications System (BVCS) are component parts of Alascom's single integrated telecommunications network. Each is an element necessary to the completeness of Alascom's communications network which operates as an integrated circuit providing

long lines communications services. Just as an integrated circuit contains many interconnected amplifying devices and circuit elements necessary to successfully complete its intended functions, Alascom's communications system components interface to enable the completion of their intended functions.

This web of communications facilities also includes the Alaska Communications System, White Alice Communications System, Small Bush Earth Stations and WACS Replacement Earth Stations. The systems comprise a statewide telecommunications network which, in turn, is physically interconnected with the systems of American Telephone & Telegraph, Canadian National Telephone, British Columbia Telephone, Western Union and other carriers as part of the worldwide communications network. Both message toll and private line services transit such systems. Each segment has the capability to interface with the others. Consequently, individual telecommunications may transit one or many of the segments.

The Department's administrative regulation, 15 AAC 05.860, provides for assessment of property "used or committed" for use in the oil production industry. Alascom's telecommunications network, including the property assessed, which is "used or committed by agreement for use in the exploration, production or pipeline transportation of unrefined oil and gas, and also used or committed for other purposes" is used less than one percent (1%) of the total time by Alyeska for exploration, production, or pipeline transportation of unrefined oil and gas. Therefore, none of the property assessed is "taxable" property.

In order to avoid the relevant statutes and regulation, the Department has improperly and arbitrarily assessed a tax on component parts of Alascom's telecommunications

HUGHES THORSNESS  
VITZ POWELL & BRUNDIN  
ATTORNEYS AT LAW  
69 WEST THIRD AVENUE  
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system. An analogy may assist the Board in understanding Alascom's position. Assume an individual living in Glennallen owns a pickup truck with a power winch on the front, a hand brake and wheel blocks. Assume further that this person uses the truck primarily for hauling in a firewood business, seldom uses the power winch except when hired occasionally to pull oil company vehicles out of snow drifts, and seldom uses the hand brake or wheel blocks except when using the power winch. Based on its approach in the instant case, the Department would focus on each component part of the truck and ignore the fact that it is in fact an integrated piece of machinery. It would thus impose a tax under AS 43.56 on the power winch, the hand brake assembly, and the wheel blocks, contrary to clear intent of 15 AAC 05.860.

15 AAC 05.860 provides:

MULTIPLE USE PROPERTY. Property which is used or committed by agreement for use in the exploration, production, or pipeline transportation of unrefined oil and gas, and also used or committed for other purposes, is taxable under AS 43.56 only if the time the property is used or committed for use in the exploration, production, or pipeline transportation of unrefined oil and gas exceeds 50 percent of the total time that the property was used or committed for use in the previous calendar year.

(Emphasis added). The Department is bound by standards adopted in its regulations. In Jager v. State, 537 P.2d 1100, 1108 (Alaska 1975), the Alaska Supreme Court ruled that "[o]ne indication whether an agency has proceeded in the manner required by law is compliance with its own regulations." Similarly, in United States v. RCA Alaska Communications, Inc., 597 P.2d 489 (Alaska 1979), the Alaska Public Utilities Commission (APUC) adopted a regulation yet believed that applying the regulation as written "would produce an improper allocation" of revenues and that a

different method would result in "an appropriate division." Therefore, the APUC deviated from its regulation. On appeal, the Alaska Supreme Court held that APUC's "interpretation" to be an unreasonable, retroactive modification of the regulation. The Court noted that the agency had not undertaken to amend the regulation. Consequently, the attempted modification was "unreasonable and arbitrary because of the absence of compliance with statutory rule-making procedures." Id. at 499, n. 23. The Department has failed to comply with 15 AAC 05.860.

The analysis of the Department was based at least in part on the excerpt from Alascom's TAPS/12 contract with Alyeska Pipeline Service Company:

RCA Alascom shall at all times during the term of this agreement maintain a separate set of accounts and financial records, segregating all of the revenue, costs and expenses involving provision of the SERVICES to ALYESKA from provision of services over the SYSTEM to any other customer, and further segregating such revenue, costs, and expenses from those of any of RCA ALASCOM'S [sic] other utility services.

Departmental Decision #80-56-1 (Supp) at 4 (emphasis added). The contract clause recognized that the system was designed to provide services other than to Alyeska and was drafted to provide for an accounting procedure. It clearly reflected that there will be system revenue, costs and expenses of "other customers" and "other utility services" as well as those of Alyeska.

Other sections of the TAPS/12 Contract substantiate the intended dual use of the system:

It is understood and agreed that the BACKBONE COMMUNICATIONS SYSTEM shall be used, in addition to providing the SERVICES to ALYESKA as provided in this AGREEMENT, to furnish general communications services to the Alaska public.

Id. at 2.

In no event shall this allocation of investment cost and operating expenses between ALYESKA and other customers using the SYSTEM be changed without the prior written approval of ALYESKA and the approval of the Alaska Public Utilities Commission and any other regulatory body which has jurisdiction through a formal order of such body.

Id. at 34.

The Department also relied on a nonexistent order of the APUC in coming to its erroneous conclusion:

The method used by the Alaska Public Utility Commission in their review of Alascom's tariff revision filing (TA 112-98) is a more applicable method. The APUC's analysis shows total cost for the Backbone System, the major system component, as \$43-44 million dollars, while a system which would serve the public would cost only about \$4,000,000. As such, APUC allocates 10% of the capacity to the public ratepayer and 90% to Alyeska. That same split is an appropriate division here.

Departmental Decision, supra, at 4-5. The APUC has never made any such statement. The only order of the APUC which discusses usage of the BCS is one which the Department ignored. Order No. 3 in Re RCA Alaska Communications, Inc., U-74-25 (Alaska Pub. Util. Comm'n 1974) supports the separation of investment cost and operating expenses contained in the contract:

THE BACKBONE COMMUNICATIONS SYSTEM investment cost and operating expenses shall be allocated seventy-five percent (75%) to ALYESKA, and twenty-five percent (25%) to the public network.

TAPS/12 Contract at 34. As was testified to by Michael E. Holmstrom, Vice President of Finance, Alascom, during the recent rate case hearings, such a separation was premised upon 50% Alyeska/50% public usage. Re: RCA Alaska Communications, Inc., U-78-4 (Alaska Pub. Util. Comm'n 1978), Tr. 300-03.

It would appear that an order from the APUC should be of some relevance to the Board especially since the

Department was content to rely on an adversary document to make its findings.

As a matter of principle, it is completely clear that the reasons behind the doctrine of res judicata as developed in the court system are fully applicable to some administrative proceedings. The reasons against a second litigation between the same parties of the same claims or issues are precisely the same for some administrative determinations as they are for most judicial determinations. The sound view is therefore to use the doctrine of res judicata when the reasons for it are present in full force, to modify it when modification is needed, and to reject it when the reasons against it outweigh those in its favor. The courts generally follow this sound view.

2 Davis, Administrative Law Treatise, 548. Accord, 46 Am. Jur. 2d, Judgments §455:

For the operation of the doctrine of res judicata, there must be a judgment rendered by a body exercising judicial functions....However, despite frequent statements which indicate acceptance of the proposition that the doctrine of res judicata is not applicable where the earlier decision was made, not by a court, but by an administrative agency, or that the doctrine does not ordinarily apply to decisions of administrative tribunals, there is a wealth of reasoned authority for the application of that doctrine, or a similar doctrine, to the determinations of an administrative agency in a proper case, generally where the determinations are made for a purpose similar to those of a court and in proceedings similar to judicial proceedings.

Administrative res judicata has been applied to preclude a redetermination of issues in a subsequent administrative proceeding often. E.g., Matos v. Secretary of H.E.W., 581 F.2d 282 (1st Cir. 1973); Adames v. Califano, 552 F.2d 1 (1st Cir. 1977); Sampson v. Califano, 551 F.2d 881 (1st Cir. 1977); Cooper v. U.S. Nat. Transp. Safety Bd., Washington, 546 F.2d 870 (10th Cir. 1976). See also Ness Investment Corp. v. United States, 595 F.2d 585 (Ct. Cl.

1979) (Board of Forest Appeals determination, that revocation of special use permit was proper, was res judicata, even though determination was never subjected to judicial review).

In Docket U-74-25, supra, Order No. 3 contained the following determinations by the Alaska Public Utilities Commission:

The Commission's approval of the public portion of the TAPS/12 contract that will provide circuitry for public access on the TAPS/12 system is with the understanding that there will be 41 locations within the pipeline corridor where local public service can be connected or tied into the backbone system. It is also the Commission's understanding that the backbone system will be comprised of a 120 circuit voice grade microwave system which can be expanded to 300 circuits and will run the length of the corridor from Prudhoe Bay to Valdez. Furthermore, the approval is based on the representation that 60 of these circuits will be utilized by Alyeska and the remainder will be available to serve the public generally.

It is the Commission's opinion that it is in the public interest to insure that the number of circuits available to the public along the backbone system will not be decreased without this Commission's approval. As indicated above, it appears from the testimony that at least 60 circuits will be available for public use.

Id. at 6-7 (citations omitted).

This exemption [of TAPS/12 contract portions from regulation] does not exempt RCA Alaska Communications, Inc., from any other regulation by the Alaska Public Utilities Commission, specifically including but not limited to, regulation of services provided by RCA Alaska Communications, Inc., to the general public by means of the system provided for in the TAPS/12 contract insofar as that system is used for public service, and the rates and charges therefore [sic].

Id. at 9.

6. RCA Alaska Communications, Inc. shall not decrease the circuits available to the public provided under the TAPS/12 contract below 60 circuits without first obtaining the approval of this Commission.

Id. at 11.

This exemption, however, does not exempt RCA Alascom from the Alaska Public Utilities Commission Act with respect to any part of the system constructed pursuant to the TAPS/12 contract that is available for use by the public.

Id. at 3.

Alascom submits that this Board, while perhaps not bound by the determinations in Docket U-74-25, supra, due to the nature of the proceedings, should at least consider the findings of the APUC to be persuasive evidence that the BCS is dedicated to 50% public use. See Atlantic Richfield Co. v. Fed. Energy Administration, 556 F.2d 542 (T.E.C.A. 1977) (where some requirement is missing, so as to preclude res judicata or collateral estoppel from applying to a case, administrative interpretations and determinations may have persuasive effect which "widely transcends any binding force.") See generally 5 Mezines, Stein & Gruff, Administrative Law Ch. 40 (1980); 2 Cooper, State Administrative Law Ch. XV (1965); 2 Am. Jur. 2d Administrative Law §503, nn. 4, 5 and accompanying text; Annot., 1 A.L.R.2d 338 (1948).

The Department recognized that the TAPS/12 Contract required an accounting for specific utilization of the Alascom system (where a telecommunications appliance or a cable is capable of sending, receiving or carrying messages for Alyeska, "other customers" or "other utility services" there is a need to account for the amount of use by each). Unfortunately, the Department concluded that a "segregation of that portion of the system dedicated to TAPS usage is indeed possible." Departmental Decision, supra, at 4. The Department has confused the 15 AAC 05.860 test of relative time use of an entire system (that is, the system is used "X"% of the time by Alyeska and "Y"% of the time by non-Alyeska customers), with its own new test of dedication of

a portion of the system to particular users (that is, "X" miles of cable and "X" appliances are used solely by Alyeska, and "Y" miles of cable and "Y" appliances are used solely by non-Alyeska customers).

15 AAC 05.860 expressly delineates when multiple use property will be deemed "taxable property" for purposes of AS 43.56, and the test set forth therein requires the Department to make an affirmative finding of taxability based upon relative time use of Alascom's property. The rule of law made clear by the Alaska Supreme Court in United States v. RCA Alaska Communications, Inc., 597 P.2d 489 (Alaska 1979) should be apparent to this Board without further direction from a reviewing court: The Department must adhere to its own regulations as written. An analysis of the controlling regulation, 15 AAC 05.860 is, therefore, essential to a proper determination by this Board.

As shown above, the assessed property is multiple use property. 15 AAC 05.860 dictates that such property "is taxable under AS 43.56 only if the time the property is used or committed for use in the exploration, production, or pipeline transportation of unrefined oil and gas exceeds fifty percent of the total time that the property was used or committed for use in the previous calendar year." (Emphasis added to elements of applicable test). It is significant that the regulation states multiple use property is taxable only if the test is met. This language places the burden upon the Department to make an affirmative finding (on the evidence) that the test is met before assessing the tax. The language does not provide an exemption from the tax. Rather, it limits the scope of the tax, and as such any ambiguity as to its coverage must be construed against the

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taxing authority. The finding required by the regulation may be simply stated in algebraic form:

$$X_a > 1/2 Y_{a-1}$$

Where

X = the time property is used or committed for use in the exploration, production, or pipeline transportation of unrefined oil and gas.

Y = the time property is used or committed for use for all purposes.

a = the current tax year.

a-1 = the year previous to the current tax year.

The Department, in Departmental Decision, supra, at 4-5, based its decision upon the APUC's alleged analysis that a public system could have been built for approximately one-tenth of the cost of the actual system (as noted above, the APUC did not make such a finding). The only other basis offered by the Department is that accounting work papers show public ratepayers use a certain number of circuit miles compared to the total number of system circuit miles. (Alascom's records reflect that Alyeska is using 4% of the ARCS based upon Exhibit 19 in APUC Docket U-78-4, supra, and that Alyeska is using 21% of the BCS capacity]. Such data comparisons may satisfy some intrinsic curiosities. They may also be relevant in the context of public utility regulation. However, they simply do not have any relevance under the test prescribed by 15 AAC 05.860, interpreting AS 43.56.

This Board cannot lawfully uphold the Department's decision unless it finds, for each tax year assessed, that the test of 15 AAC 05.860 ( $X_a > 1/2 Y_{a-1}$ ) is satisfied. The burden of offering sufficient evidence to uphold such a finding for each tax year has been placed squarely upon the Department by AS 43.56.210(6), 15 AAC 05.860, and the decisions of the Courts of Alaska and other jurisdictions including the United States Supreme Court. Nevertheless, to

assist the Board's decision, Alascom will now demonstrate that the requirement of AS 43.56.210(6) and 15 AAC 05.860 cannot be met with respect to any of the assessed years.

When the decision was made to build the BCS and the ARCS, it was intended that both would carry messages for Alyeska and non-Alyeska customers. When the BCS and ARCS were built, they were designed to carry messages of Alyeska and non-Alyeska customers as required by demand. The BCS and ARCS in each tax year carried messages for Alyeska and non-Alyeska customers. The property stands ready and available for use by either class of user at all times. For example, the cables and appliances are inactive most of the time, awaiting use by either class of user. The APUC established that the BCS would be available on a fifty percent Alyeska - fifty percent public basis. Docket U-74-25, supra. Whether the Board similarly views the BCS and ARCS as available to Alyeska and the public on a 50-50 basis, or whether it recognizes that the BCS and ARCS are on constant standby for either use, there is only one possible result. The Board cannot, on the facts, make a legally sustainable finding that  $X_a$  (the time such property is used or committed for use for exploration, production or pipeline transportation of unrefined oil and gas) EXCEEDS fifty percent of the total time such property was used or committed for use in the previous calendar year. To make such a finding without evidence to support it would result in certain reversal on judicial review. See generally State v. 0.644 Acres, No. 2118 (Alaska, June 27, 1980).

Moreover, as has been intimated earlier, any doubts as to the scope of a tax must be resolved against the taxing authority. While such a rule may occasionally misconstrue the legislature's intent, the rule is applied by

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the courts to avoid the inadvertent imposition of taxes on persons and property not intended by the legislature to be taxed.

II. ALASCOM'S PROPERTY IS NOT WITHIN THE CLASS INTENDED TO BE TAXED BY AS 43.56.

The property assessed by the Division of Petroleum Revenue was not intended to be taxed under AS 43.56. This conclusion is supported by the cardinal and universal rule of tax statute interpretation - tax statutes should be interpreted so that the provisions are not extended by implication beyond the clear import of the language used or enlarged to include matters not specifically pointed out. E.g., Gould v. Gould, 245 U.S. 151 (1917). Just as exemptions are construed narrowly, so is the language defining the scope of a tax. Id. Accord, 1971 Alaska Op. Att'y Gen. No. 1 (January 11, 1974) (concluding oil and gas leases are not taxable property under AS 43.56).

One permissible source for determining legislative intent is the executive messages to the legislature relating to the particular Bill. Homer Electric Assoc. v. City of Kenai, 423 P.2d 285 (Alaska 1967). Governor Egan in his transmittal message (accompanying the introduction of H.B. 1, which became AS 43.56) clearly indicated the legislation was aimed at the oil and gas industry, not public utilities providing telecommunications services:

We expect that the tax paid by the oil and gas industry will....

H.B. 1, Alaska House Journal, 8th Leg., 1st Spec. Sess. (October 17, 1973) at 5. Similarly, the Senate committee which considered the bill reported:

The bill reported by this committee is based on the premise that the Trans-Alaska Pipeline...is a State asset insofar as taxation is concerned....The bill is based on a further premise that taxation of the oil and gas industry....

Senate Comm. on Community & Regional Affairs, Senate CS for House Bill No. 1, Alaska Senate Journal, 8th Leg., 1st Spec. Sess. (November 3, 1973) at 74 (emphasis added).

The intent of the legislature was to levy a tax on the oil and gas industry which would be profiting from the anticipated oil production related to the TransAlaska Pipeline. This understanding is bolstered by the fact that an alternative version of the bill would have simply taxed oil and gas reserves in place. See, E.g., Committee Report, Senate Committee On Community & Regional Affairs, Senate CS for CS for [sic] House Bill No. 1, CSHB 1 am, Alaska Senate Journal, 8th Leg., 1st Spec. Sess. (November 3, 1973) at 84. The legislative intent to tax the oil and gas industry is inconsistent with the levy of a special tax on a certificated telecommunications utility, which must pass along such a special burden to its ratepayers, who do not similarly benefit from the increase in production of oil and gas.

It has been said that our proposals [to modify administrative and house versions] "leave money on the table in favor of the oil industry"....

Because ad valorem taxes imposed on the Interborough Common Carrier Pipeline will be a part of the rate charged by that carrier to producers for the transportation of their oil, the ultimate burden of the tax falls on the oil industry in exact proportion of production....The tax would ultimately be borne by the producers of the oil and gas resource.

Id. at 83.

An honest appraisal and examination of AS 43.56 and its history establishes beyond question that it is a tax on the property of Alaska oil and gas producers. Whether such a tax is, in the view of the State Assessment Review Board, wise or equitable is irrelevant to Alascom's appeal. What is relevant is the recognition that the legislature, by

enacting AS 43.56, did not intend to impose a special tax burden on a utility such as Alascom. This recognition of the true intent of AS 43.56 by the Board is crucial to a correct determination where, as here, a company's property has become entangled in one of the "disputes on the periphery of definitions." See letter from Governor William Egan, H.B.1, Alaska House Journal, 8th Leg., 1st Spec. Sess. (October 17, 1973) at 4. Accord, Senate and House Journal Supp. No. 1, 8th Leg., 1st Spec. Sess. (October 17, 1973) at 1, 3-4 (Remarks by Governor William A. Egan) (emphasis added):

[T]he 1972 Legislature undertook to adopt a comprehensive body of laws relating to taxation and regulation of the oil industry in Alaska...

....

I will comment just briefly on the proposed 20 mill tax on oil and gas properties. These being properties directly utilized in the production and transportation of resources belonging to all the people of Alaska.

....

...The oil industry has acknowledged its responsibilities to the State...to provide a substantial support for the necessary public services.

The language of AS 43.56 clearly does not impose a tax upon Alascom's property. The legislative history suggests, if anything, that the tax was not in fact intended to be imposed on such property. At the very least, it must be found that the applicability of AS 43.56 to Alascom's property is ambiguous. As noted, it is a universal rule that any doubt as to the application of taxing laws must be construed against the government and in favor of the taxpayer. See, e.g., Simplicity Pattern Co. v. State Bd. of Equalization, 161 Cal. Rptr. 558 (Cal. App. 1980); Lee Lumber and

Building Material Corp. v. Dep't of Revenue, 398 N.E.2d 933 (Ill. App. Ct. 1979); Quotron Systems, Inc. v. Irizarry, 399 N.E.2d 948 (N.Y. 1979); Horton v. Gaddy, 594 S.W.2d 848 (Ark. 1980); Cascio v. Beam, 594 S.W.2d 942 (Mo. 1980); Geo Resources, Inc. v. Tax Commissioner, 288 N.W.2d 54 (N.D. 1980); Maggiacomo v. DiVincenzo, 410 A.2d 1332 (R.I. 1980).

As set forth above, the general purpose of the tax was to obtain revenue from the oil and gas industry. In addition, regardless of the general intent of the legislation, analysis of its specific language demonstrates that Alascom's property is not taxable.

The Departmental Decision, supra, stated that the term "communication equipment and facilities" is specifically set out in AS 43.56.210(6) within the examples of real and tangible personal property listed by the legislature. Id. at 3. The Decision quoted an abbreviated version of the statute the last phrase of which is improperly abbreviated to change its clear and unambiguous meaning by deletion of the first three words of the phrase. The last item of paragraph (6) reads "air strips and communication equipment and facilities." This item is the last reference in a series in paragraph (6) where each item is set apart by a comma, and is, as are the rest of the items, separated from its predecessor, "docks and other port facilities," by a comma which clearly indicates the end of the previous item and sets it apart as a separate item. The Department has improperly separated the words "communication equipment and facilities" from the words "air strips and" which constitutes the initial part of the item. The separation clearly changes the meaning of the statute and constitutes an improper interpretation of an unambiguous statement by the legislature.

In Poulin v. Zartman, 542 P.2d 251, 270 (Alaska 1975), the Alaska Supreme Court held "if a statute is unambiguous and clearly expresses the intent of the legislature, it should not be modified or extended by judicial construction." Again in White v. Alaska Ins. Guaranty Ass'n, 592 P.2d 367, 369 (Alaska 1979), the Court stated "where the meaning of a statute is apparent, there is no need to resort to methods of statutory construction." Paragraph (6) pertains to transportation facilities, and the reference to "communication equipment and facilities" is clearly related to the words "air strips."

AS 01.10.040 states that "[w]ords and phrases shall be construed according to the rules of grammar and according to their common and approved usage." See also Lynch v. McCann, 478 P.2d 835 (Alaska 1970). The Department's interpretation of this phrase would require a comma to separate the words "air strips" from the words "and communication equipment and facilities." General rules of statutory construction require that a statute which is clear and grammatical will not be extended or changed in meaning by repunctuation. 82 C.J.S. Statutes §341 at 685. The California court in Treiman v. Kennon, 30 P.2d 636 (Cal. 1934) held that "where the statute as punctuated is neither inconsistent, absurd, nor ambiguous, but has a reasonable meaning apparently in accord with the legislative intent, the punctuation will be followed and the statute construed accordingly." Id. at 637 (footnote omitted).

In summary, the Department's assertion through misinterpretation of the last item in AS 43.56.210(6) that the statute specifically sets out "communication equipment and facilities" as taxable property is improper.

Further, Alascom submits that the wording selected by the legislature in providing examples of taxable property

in AS 43.56.210(6) indicates that telecommunications utility systems were never intended to be taxed under the statute. The legislative purpose in such a listing is to assist the Department of Revenue, and the courts in cases of dispute, by providing guidelines for determining the legislative intent. The legislature chose to set out at considerable length various types of items it considered to be examples of taxable property, and in the recent amendment process even grouped these items into general categories for further clarity. The types of items set out within each of these paragraphs are relatively specific items that are significantly different from a telecommunications common carrier.

The maxim expressio unius est exclusio alterius is a basic rule of statutory construction. It should be applied here to the types of items listed as examples of "taxable property." If the legislature intended to include such a comprehensive system either by implication or by extension of their examples, then it would have set out at least one subparagraph dealing with broad support systems of some nature. The legislature did not do so. It not only did not refer to "communications systems" specifically, it chose not to refer to any type of broad system when setting out an extensive list of examples. The maxim of exclusivity, then, should be applied to result in Alascom's communications systems not being classified as taxable property.

Further, the Departmental Decision, supra, dismissed Alascom's argument, in the alternative, that the BCS is utilized in conjunction with the TransAlaska Pipeline System which is used primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil.

Alascom submits that a portion of the BCS and the BVCS are necessary and integral parts of the pipeline. The systems are owned by Alascom, a certificated public utility regulated by the APUC. Therefore, the exemption set forth in AS 43.56.210(6) is applicable:

"taxable property" does not include...  
oil and gas pipeline systems owned and  
operated by a certificated public utility  
regulated by the Alaska Public Utilities  
Commission.

Although the Department admitted that "[t]he communications systems are a vital and integral part of TAPS and are utilized for the operation of TAPS" (Departmental Decision, supra, at 3), it failed to recognize the legislative intent not to tax public utilities owning oil and gas pipeline systems or portions thereof. It must be recognized that without communications no system would operate.

III. THE DEPARTMENT MAY NOT RETROACTIVELY ASSESS TAXES FOR THE YEARS 1975 TO 1980.

As set forth infra, Alascom has established that the Department is not authorized to impose an AS 43.56 tax on any of its facilities. Assuming, however, for the purpose of argument, that the Department is authorized to assess such taxes on Alascom's property, the Department's attempt, on July 17, 1980, to impose taxes for the years 1975 to 1980, is invalid as it is (A) contrary to the common law principle of finality of tax obligations; (B) not authorized by the legislation establishing the tax; and (C) barred and estopped by the Department's actions and failures to act.

A. THE ASSESSMENT IS CONTRARY TO THE COMMON LAW PRINCIPLE OF FINALITY OF TAX OBLIGATIONS.

To promote a stable taxation system and to avoid uncertainty as to a taxpayer's financial obligations, the Alaska Supreme Court, in Anchorage Independent School Dist.

v. Stephens, 370 P.2d 531 (Alaska 1962), held that a school district could not, on the basis of its alleged error, increase the assessment on a taxpayer's tax property. Therein the district assessed taxes, which were paid by the property owner. After payment was received, the tax was reassessed, at a level 460% higher than the initial tax, based on a belief that buildings on the property had been erroneously assessed to an adjoining lot. The Court held that because the tax had been assessed and "concurrent in by the taxpayer, a point of finality had been reached." Id. at 533. The Court ruled that the District did not have the "authority to go back and create an additional tax obligation." Id. The Court based its holding on "the necessity of having a stable system of taxation prevail throughout the taxing area, and to avoid uncertainty as to a taxpayer's financial obligations to the District and as to the status of his property with respect to tax liens." Id. (footnote omitted).

In the present case, Alascom, due to the Department's failure to assess taxes, has not paid any taxes. However, this factual distinction does not affect the rule established. To the contrary, Alascom, as a regulated public utility, has as much, if not more, need for finality than the individual taxpayer. To allow Alascom to establish its rates and maintain its contractual relationships, it must have the ability to determine its tax obligations with finality. The principle of finality established in Anchorage, supra, should be applied in this proceeding. Further, as discussed below, the legislature, in adopting the oil and gas property tax, has limited the time during which such tax may be imposed, in compliance with the common law requirement of finality.

B. THE LEGISLATURE HAS NOT AUTHORIZED RETROACTIVE ASSESSMENT OF OIL AND GAS PROPERTY TAXES.

The legislature, in authorizing the Department to impose taxes on oil and gas related property, created a clear, and carefully defined, time schedule within which such taxes may be imposed. The system of assessment, reduced to its essentials, provides for gathering of information (AS 43.56.080), preparation of an original assessment roll (AS 43.56.090), notification to taxpayers (AS 43.56.100), preparation, if necessary, of a supplementary assessment roll to the original assessment roll (AS 43.56.140), preparation and certification of a final assessment roll (AS 43.56.135), and notice to taxpayers of the amount of tax due (AS 43.56.135). Careful examination of the legislation creating the above tax system establishes, beyond question, that the Department may not retroactively assess taxes.

Generally, the legislature has required persons subject to a tax to file a return with the Department. Indeed, the legislature, for most taxes it imposes, requires that taxpayers file a return. Under AS 43.56, however, returns must be filed only if the Department requires them by notice. The Department, based on any returns it requires and on its own investigation, is required to annually prepare an assessment roll. Although the statutes do not state when the assessment roll must be complete, the Department must send, on or before March 1 of each year, a notice of assessment to each owner of taxable property named in the assessment roll. The legislature recognized that the original assessment roll might be incomplete. It therefore authorized the Department to include property omitted from the initial assessment roll on a supplementary roll using the procedures established for the "original roll." The legislature then required that no later than June 1, the Department must

certify the final assessment roll and mail to owners of taxable property a statement of the amount of tax due. The tax is payable on or before June 30.

The legislature clearly established that the assessment must be completed by June 1 by using the terms original roll, supplementary roll, and final roll.

Clearly, the tax roll prepared on or before March 1 is the first, or original, roll. If, however, such roll is incomplete, the legislature authorized the Department to prepare a supplementary roll. The legislature carefully limited the time in which the original roll may be supplemented by requiring certification of a final roll no later than June 1. The supplementary roll may be used to make changes that convert the original roll to a final roll. However, the use of the term "final roll" clearly established the legislature's determination that after June 1 the assessment roll could not be modified. Indeed, any other interpretation of the statutes would render meaningless the concept of a final roll. This statutory construction is supported by Dyer v. Dalton, 174 P.2d 252 (Okla. 1946); Bridgeport Brass Co. v. Drew, 128 A. 413 (Conn. 1925); and Board of County Comm'rs v. Lane, 90 P. 1092 (Kan. 1907) which Kan. held that statutes authorizing corrections of assessments were limited to errors for the current tax year. This position is also supported by Equitable Life Assurance Soc'y of the United States v. Hobbs, 127 P.2d 477 (Kan. 1942), in which the Court held that past returns which omitted certain contracts did not authorize a reassessment. Further, this interpretation is consistent with the judicial requirement that taxpayers receive an assurance that a determination of their tax liability, or lack of liability, is final and may be relied on. As the Department did not

place Alascom's property on the final assessment roll for the years 1975 through 1980, inclusive, its proposed retroactive assessment is not authorized and is void.

Finally, this contention is also supported, if not conclusively demonstrated, by the legislature's failure, in contrast with the actions of other state legislatures, to adopt an omitted property tax statute.

The Alaska Legislature was clearly advised, based on the events in the Anchorage, supra, that a taxing authority might, through negligence or design, fail to include all taxable property on the final tax rolls at its appropriate value. The possibility that property might be omitted from tax rolls has been the subject of legislation in almost every state except Alaska. Indeed, as set forth on attached Exhibit A, almost every state has provided, through omitted property tax statutes, a procedure to allow correction of incomplete assessment rolls. The Alaska Legislature, however, despite Anchorage, supra, and the actions of other state legislatures, has, by failing to enact an omitted tax statute, chosen to provide finality of tax obligations. Therefore, as the Department did not place Alascom on the tax rolls or give it notice of a tax payable by June 1 of the tax years 1975 through 1980, Alascom is not liable for taxes for such tax years.

Alascom believes the evidence will show that even though the Department had full knowledge of the existence and function of Alascom's communications facilities, the Department, through neglect or design, failed to place Alascom's property on the assessment rolls for the years 1975 through 1980, inclusive. The Department, despite its act or failure to act, asserts that it may retroactively assess such taxes, for an unlimited period of time, because

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Alascom did not file a property tax return. The Department's position must be rejected as it was not authorized by the legislature and, indeed, is contrary to the clear intent of the legislature.

Generally, the Alaska Legislature has required taxpayers to file a return with the Department. In fact, as shown on attached Exhibit B, the legislature, for most Alaska taxes, has required that taxpayers file a return. In contrast, however, oil and gas property tax returns must be filed only if the Department requires them by notice. AS 43.56.070. Alascom believes the evidence will show that despite the Department's knowledge of the existence and function of Alascom's communications facilities, the Department did not until late 1979 require Alascom to file a tax return. Further, although Alascom filed a return in response to the Department's request, the Department still did not timely assess taxes in 1980. Thus, the Department's contention that it may retroactively assess taxes based on AS 43.05.260 must be rejected as AS 43.05.260 applies only in instances in which a return is required to be filed. The Department, which had the sole option as to whether Alascom should be required to file a return, should not, by virtue of its decision not to require a return, be allowed to expose Alascom, or any taxpayer, to an infinite number of years of potential retroactive tax liability.

C. THE DEPARTMENT IS BARRED AND ESTOPPED FROM IMPOSING A RETROACTIVE ASSESSMENT ON ALASCOM.

Alascom believes the evidence will establish that, as a regulated public utility of substantial magnitude, its activities in providing communications service, including service provided by the property in question, have been well known throughout Alaska. Further, Alascom believes the

evidence will establish that the Department has been aware that Alascom's rates and charges for service, pursuant to tariff and contract, were and are subject to government review and control. Despite its knowledge of Alascom's activities and of the fact that any taxes imposed by the Department might affect Alascom's rates and charges, the Department, for over five years, deliberately took no action to require a return or to assess taxes on the properties in question.

Alascom, in reasonable reliance on the Department's acts and failures to act, did not require persons or entities receiving service from it to make any payment toward any hypothetical, unassessed, and unknown tax obligations.

It is impossible to know whether Alascom, if required to retroactively pay several years' taxes, will be able to recover such expenditure from telephone ratepayers receiving service. Clearly, however, it is beyond reasonable dispute that it will be substantially more difficult for Alascom to recover such taxes in 1980, 1981, or thereafter, than it would have been if the taxes had been currently and properly assessed between 1975 and 1980. Because Alascom reasonably relied, to its detriment, on the Department's clear and conscious decision not to impose taxes on a timely basis, the Department is barred and estopped from retroactively assessing such taxes.

#### CONCLUSION

The tax assessments imposed by the Department are invalid because the legislature did not impose any tax on Alascom's properties under AS 43.56. Further, even if Alascom's property is subject to taxation, the purported retroactive assessments, which were not applied in accordance with required statutory procedures, are invalid.

DATED this 27th day of October, 1980.

HUGHES, THORSNESS, GANTZ,  
POWELL & BRUNDIN  
Attorneys for Alascom, Inc.

By: *Mary K. Hughes*  
Mary K. Hughes

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 27  
day of October, 1980, the attached  
documents were mailed to the attorneys of record MKH

---

HUGHES THORSNESS  
& GANTZ POWELL & BRUNDIN  
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## EXHIBIT A

## STATE OMITTED PROPERTY TAX STATUTES

Alabama	Ala. Code § 40-7-23.
Alaska	None.
Arizona	Ariz. Rev. Stat. Ann. § 42-236(C).
Arkansas	Ark. Stat. Ann. § 84.444.
California	Cal. Rev. & Tax. Code § 531 <u>et seq.</u>
Colorado	Not available.
Connecticut	Conn. Gen. Stat. Ann. §§ 12-53, 12-111, 12-115 (apparently limited to current assessment year).
Delaware	Del. Code Ann. tit. 9, §§ 8301 <u>et seq.</u> (explicit prohibition against retroactive assessment: § 8341).
Florida	Fla. Stat. Ann. § 199-311 (intangible personalty).
Georgia	Ga. Code Ann. § 91A-1440.
Hawaii	Hawaii Rev. Stat. § 246-51.
Idaho	Idaho Code Ann. § 63-718.
Illinois	Ill. Ann. Stat. § 602, 701.
Indiana	Ind. Stat. Ann. § 6.1.1-9 <u>et seq.</u>
Iowa	Iowa Code Ann. Ch. 440.
Kansas	Kan. Stat. Ann. § 79-31186 (intangibles).
Kentucky	Ky. Rev. Stat. § 132.290.
Louisiana	La. Rev. Stat. Ann. § 47:1966.
Maine	Me. Rev. Stat. Ann. tit. 36 § 713.
Maryland	Md. Ann. Code §§ 81-38, 81-39.
Massachusetts	Mass. Ann. Laws § 59-75 (extending assessment period to December).
Michigan	Mich. Comp. Laws § 211.154.
Minnesota	Minn. Stat. Ann. § 274.12.
Mississippi	Miss. Code Ann. §§ 27-35-155, 27-35-325.

EXHIBIT A  
State Omitted Property Tax Assessments  
Page 2

Missouri	Mo. Ann. Stat. § 137.165.
Montana	Mont. Rev. Codes Ann. § 15-8-601.
Nebraska	Neb. Rev. Stat. §§ 77-1317, 77-1318.
Nevada	Uncertain; see Nev. Rev. Stat. §§ 361.330, 361.770.
New Hampshire	Uncertain; see N.H. Rev. Stat. Ann. § 76:14.
New Jersey	N.J. Stat. Ann. § 54:4-63.12 <u>et seq.</u>
New Mexico	New Mex. Stat. Ann. § 7-38-76 (personalty).
New York	N.Y. Real Prop. Tax Law § 550 <u>et seq.</u> (Consol.)
North Carolina	N.C. Gen. Stat. § 105-312.
North Dakota	N.D. Cent. Code § 57-14-06.
Ohio	Ohio Rev. Code Ann. § 57-14-05 <u>et seq.</u> (realty).
Oklahoma	Okla. Stat. Ann. § 2439.
Oregon	Or. Rev. Stat. § 311.205 <u>et seq.</u>
Pennsylvania	72 Pa. Cons. Stat. Ann. § 5020-406.
Rhode Island	R.I. Gen. Laws §§ 44-5-23, 44-5-24.
South Carolina	S.C. Code § 12-55-10 <u>et seq.</u>
South Dakota	S.D. Comp. Laws Ann. §§ 10-1-24, 10-11-1 through 10-11-8.
Tennessee	Tenn. Code Ann. § 67-1201 <u>et seq.</u>
Texas	Tex. Stat. Ann. §§ 7172 (lien), 7208 (personalty), 7299 (realty).
Utah	Utah Code Ann. § 59-5-17.
Vermont	Unclear; see, Vt. Stat. Ann. §§ 4261, 4262, 4797.
Virginia	Va. Code § 58-1160 <u>et seq.</u>
Washington	Wash. Rev. Code Ann. § 84.40.080.
West Virginia	W. Va. Code §§ 11-3-5 (generally), 11-5-10 (personalty).
Wisconsin	Wis. Stat. Ann. § 70.44.
Wyoming	Wyo. Stat. § 39-2-403(c).

B

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHB 460 (fin)  
 Title relating to the fisheries and salmon enhancement taxes  
 Requested by \_\_\_\_\_ Date May 20, 1981

II. FISCAL DETAIL  
 Agency Affected Department of Revenue  
 Program Category Affected Shared Taxes  
 BRU, Program, or Subprogram(s) Affected Fisheries Tax  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1969.0	5907.0	5907.0	5907.0	
TOTAL		1969.0	5907.0	5907.0	5907.0	

FUNDING (Thousands of Dollars)

GENERAL FUND		1969.0	5907.0	5907.0	5907.0	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE May 20, 1981 PREPARED BY Oral Freeman  
 AGENCY \_\_\_\_\_  
 PHONE \_\_\_\_\_  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

*Rec'd 6/22/81  
after bill passed  
from SFC*

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S CSCSHB 460 (Resources)

Title An Act relating to fisheries and salmon enhancement taxes

Requested by Senate Finance Committee

Date 6/19/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection And Management

BRU, Program, or Subprogram(s) Affected Audit Division

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		111.0	62.2	62.2	62.2	62.2
200 TRAVEL		10.0	10.0	10.0	10.0	10.0
300 CONTRACTUAL		4.0	4.0	4.0	4.0	4.0
400 COMMODITIES		1.6	1.6	1.6	1.6	1.6
500 EQUIPMENT		3.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>129.8</b>	<b>77.8</b>	<b>77.8</b>	<b>77.8</b>	<b>77.8</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		129.8	77.8	77.8	77.8	77.8
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		4	3	3	3	3
PART TIME						
TEMPORARY						

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

The modifications to and new retroactive provisions of the Investment Tax Credit will result in additional increased workload in FY 82 as well as a continuing impact in subsequent fiscal years on our audit program. It is anticipated that we will receive 5,000 to 6,000 claims for refund during FY 82 because of the significant tax benefit which this represents. Also, because of the change whereby the credit will be applicable to property placed in service in Alaska only, our audits of the claims and of returns filed in subsequent years will be made much more difficult because of having to verify the location of the property for all multistate corporations. We now apportion the credit for all multistate corporations, which is very simple. The positions requested are two tax examiners and two revenue auditors. The tax examiners are for

IV. DATE FY 82 only, June 22, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS CSHB 460(Res)  
 Title Relating to taxes  
 Requested by Senate Finance Committee Date 6/19/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_ Community Development \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected Shared Taxes - Fisheries Tax  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(1,969.0)	(5,907.0)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The bill provides for a 150% increase in the sharing of fisheries taxes with 50% of the increase beginning in FY82 and full increase beginning in FY83.

There is no additional administrative cost effect upon the General Government Administration and Support BRU.

IV. DATE June 22, 1981

PREPARED BY Philip A. Wall

AGENCY Revenue

PHONE 465-2313

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS CS HB 460 (Fin)  
 Title An Act relating to taxes  
 Requested by Resources Committee Date June 22, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(15,530.0)	(7,000)	(7,500.0)	(7,930.0)	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

NONE

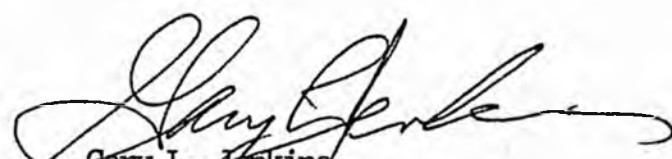
FULL TIME						
PART TIME						
TEMPORARY						

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

This investment credit provisions of this bill will primarily benefit multistate/multinational corporations as well as larger domestic corporations. The estimated loss of revenue for the credit is 5 to 7 million dollars of corporate income tax per year. The effect is so large in FY 82 because of the retroactive provision back to 1/1/79.

The total includes what the state would have obtained if the property exempted under this bill is taxed under AS 43.56. The lost revenue constitutes 2% of assessed value of the property less that amount (about 16%) which is credited for municipal levies. Municipalities could tax the exempted property under local law.

IV. DATE June 22, 1981

  
 PREPARED BY Gary L. Jenkins  
 AGENCY Department of Revenue  
 PHONE 465-2320

Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

Original sponsor: Resources Committee

Offered: 6/18/81  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 460 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to taxes; and providing for an effective date."  
7

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

9 \* Section 1. AS 43.20.036(b) is amended to read:

10 (b) For purposes of calculating the income tax payable under this  
11 chapter, the taxpayer may apply as a credit against his tax liability  
12 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes  
13 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the  
14 first \$20,000,000 [\$500,000] of qualified investment put into use in the  
15 state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation does  
16 not apply to the amounts invested in equipment which meets the defini-  
17 tion of a certified pollution control facility as defined under Internal  
18 Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975  
19 [THE EFFECTIVE DATE OF THIS ACT] except that the date specified in In-  
20 ternal Revenue Code [THAT] section 169(d) as a condition of qualifying a  
21 certified pollution control facility for a deduction does not apply.

22 \* Sec. 2. AS 43.75.015(b) is amended to read:

23 (b) Instead of the taxes levied by (a) of this section, a person  
24 who processes [ENGAGED IN A FISHERY BUSINESS WHICH INCLUDES PROCESSING]  
25 a developing commercial fish species is liable for and shall pay a tax  
26 equal to

27 (1) one percent of the value of the developing commercial  
28 fish species processed by a shore-based fisheries business during the  
29 year; and

1 (2) three percent of the value of the developing commercial  
2 fish species processed by a floating fisheries business during the  
3 year.

4 \* Sec. 3. AS 43.75.015(c) is amended to read:

5 (c) A person engaging or attempting to engage in a fisheries  
6 business who first actually and physically processes the fishery re-  
7 source, or a person who purchases a fishery resource that is frozen  
8 from a person excluded by AS 43.75.017 from liability for the tax, is  
9 liable for and shall pay to the department the entire tax imposed by  
10 this section. In determining this tax liability, the person may [NOT]  
11 deduct from the value of the fishery resources processed the value of  
12 fishery resources that are canned or processed for other fisheries  
13 businesses. A person taking the deduction authorized by this subsection  
14 shall report all information relating to the deduction in accordance  
15 with regulations issued by the department [, BUT SHALL INCLUDE THAT  
16 VALUE AS PART OF THE VALUE OF THE FISHERY RESOURCES PROCESSED].

17 \* Sec. 4. AS 43.75 is amended by adding a new section to read:

18 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. A person  
19 is not liable for the fisheries business tax under AS 43.75.015 when  
20 the fishery resource is frozen aboard a fishing vessel if

21 (1) the vessel is operated as a commercial fishing vessel  
22 under a valid commercial fishing license;

23 (2) the fishery resource is not processed beyond heading,  
24 gutting or cleaning, freezing and glazing;

25 (3) the fishery resource that is frozen was caught by the  
26 vessel; and

27 (4) the fishery resource is sold by the person claiming an  
28 exclusion from the tax to a fisheries business licensed under AS 43.75.

29 \* Sec. 5. AS 43.75.100(a) is amended to read:

1 (a) A person taking, purchasing, or otherwise acquiring a fishery  
2 resource covered by this chapter which has not been subject to the tax  
3 imposed in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on  
4 the value of the fishery resource [SOLD] if the person

5 (1) transports the fishery resource to a point outside the  
6 taxing jurisdiction of the state for subsequent processing or sale [TO  
7 A FISHERIES BUSINESS] outside the taxing jurisdiction of the state; or

8 (2) sells the fishery resource [TO A FISHERIES BUSINESS]  
9 outside the taxing jurisdiction of the state;

10 (3) has the fishery resource processed by a fisheries busi-  
11 ness inside the state.

12 \* Sec. 6. AS 43.75.100(b) is repealed and reenacted to read:

13 (b) The rate of tax that shall be paid by a person whose liability  
14 for the tax is established by this section is the rate of tax that  
15 would have been due under AS 43.75.015 if the fisheries business that  
16 first actually and physically processed the fish had been liable to pay  
17 the tax.

18 \* Sec. 7. AS 43.75.130 is amended to read:

19 Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of  
20 revenue shall pay

21 (1) to each municipality unified under AS 29.68.240 - 29.68.-  
22 440, and to each city located in the unorganized borough, 50 [20]  
23 percent of the amount of tax revenue collected in the municipality from  
24 taxes levied by AS 43.75;

25 (2) to each city located within a borough, 25 [10] percent  
26 of the amount of tax revenue collected in the city from taxes levied by  
27 AS 43.75; and

28 (3) to each borough

29 (A) 50 [20] percent of the amount of tax revenue

1 collected in the area of the borough outside cities from taxes  
2 levied by AS 43.75; and

3 (B) 25 [10] percent of the amount of tax revenue  
4 collected in cities located within the borough from taxes levied  
5 by AS 43.75.

6 \* Sec. 8. AS 43.75.140(7) is amended to read:

7 (7) "value" means the actual price paid for the fisheries  
8 resource by the fisheries business, including indirect consideration  
9 such as fuel, supplies, or gear, whether paid at the time of purchase  
10 of the fisheries resource or tendered as a deferred or delayed payment,  
11 except that "value" means the market value of the fishery resource if  
12 the taking of the fishery resource is done [PROCURED] in company-owned  
13 or company-subsidized boats operated by employees of the fisheries  
14 business or in boats which are operated under lease or other arrange-  
15 ment;

16 \* Sec. 9. AS 43.75.140 is amended by adding a new paragraph to read:

17 (9) "taking" means pursuing, fishing, capturing, or harvest-  
18 ing a fisheries resource in any manner.

19 \* Sec. 10. AS 43.76.010(a) is amended to read:

20 (a) A person holding a limited entry permit under AS 16.43 shall  
21 pay a salmon enhancement tax at the rate of three percent of the value  
22 of salmon, as defined in AS 43.75.140(7), that the person removes from  
23 the state or transfers to a buyer in the state. The buyer [SELLS TO A  
24 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
25 the salmon enhancement tax at the time [OF] the salmon is acquired by  
26 the buyer [SALE].

27 \* Sec. 11. AS 43.76.011(a) is amended to read:

28 (a) A person holding a limited entry permit under AS 16.43 shall  
29 pay a salmon enhancement tax at the rate of two percent of the value of

1 salmon, as defined in AS 43.75.140(7), that the person removes from the  
2 state or transfers to a buyer in the state. The buyer [SELLS TO A  
3 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
4 the salmon enhancement tax at the time [OF] the salmon is acquired by  
5 the buyer [SALE].

6 \* Sec. 12. AS 43.76.020(a) is amended to read:

7 (a) The salmon enhancement tax levied under AS 43.76.010 or 43.-  
8 76.011 may be terminated by the commissioner of revenue upon majority  
9 vote at an election held under AS 43.76.015 in the region in which the  
10 salmon enhancement tax is levied.

11 \* Sec. 13. AS 43.76.025(a) is amended to read:

12 (a) A buyer [PROCESSOR] who acquires [BUYS] fisheries resources  
13 which are subject to the salmon enhancement tax imposed by AS 43.76.010  
14 or 43.76.011 shall collect the salmon enhancement tax at the time of  
15 purchase, and shall remit the total salmon enhancement tax collected  
16 during each month to the Department of Revenue by the last day of the  
17 next month.

18 \* Sec. 14. AS 43.76.025(b) is amended to read:

19 (b) A buyer [PROCESSOR] who collects the salmon enhancement tax  
20 shall

21 (1) maintain records reflecting the region designated under  
22 AS 16.10.375 in which the fishery resource was caught; and

23 (2) report to the Department of Revenue by March 1 of each  
24 year the total value, as defined in AS 43.75.140(7), of the salmon  
25 caught in each region designated under AS 16.10.375 which the buyer  
26 [PROCESSOR] has acquired [PURCHASED] during the preceding year.

27 \* Sec. 15. AS 43.76 is amended by adding a new section to read:

28 Sec. 43.76.028. LIABILITY FOR TAX ON SALMON SHIPPED FROM STATE.

29 (a) The owner of salmon removed from the state is liable for payment

1 of the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 if,  
2 at the time the salmon are removed from the state, the tax payable on  
3 the salmon has not been collected by a buyer.

4 (b) If the owner of salmon is liable for payment of the salmon  
5 enhancement tax under (a) of this section, he shall comply with the  
6 requirement of AS 43.76.025(b) to report his liability for payment of  
7 the tax.

8 \* Sec. 16. AS 43.76 is amended by adding a new section to read:

9 Sec. 43.76.040. DEFINITION. In this chapter, unless the context  
10 otherwise requires, "buyer" means a person who acquires possession of  
11 salmon from the person who caught the salmon regardless of whether  
12 there is an actual sale of the salmon but excluding a transfer to a  
13 person engaged solely in interstate transportation of goods for hire.

14 \* Sec. 17. AS 43.75.136 is repealed.

15 \* Sec. 18. TRANSITIONAL REVENUE SHARING. Notwithstanding AS 43.75.130,  
16 during the fiscal year ending June 30, 1982, the commissioner of revenue  
17 shall pay

18 (1) to each municipality unified under AS 29.68.240 - 29.68.440,  
19 and to each city located in the unorganized borough, 30 percent of the  
20 amount of tax revenue collected in the municipality from taxes levied by  
21 AS 43.75;

22 (2) to each city located within a borough, 15 percent of the  
23 amount of tax revenue collected in the city from taxes levied by AS 43.75;  
24 and

25 (3) to each borough

26 (A) 30 percent of the amount of tax revenue collected in the  
27 area of the borough outside cities from taxes levied by AS 43.75; and

28 (B) 15 percent of the amount of tax revenue collected in  
29 cities inside the borough from taxes levied by AS 43.75.

1 \* Sec. 19. TRANSITION. The taxes paid for the 1980 calendar year under  
2 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130  
3 as that section read before its amendment by sec. 7 of this Act. The taxes  
4 paid for the 1981 calendar year shall be shared with municipalities in  
5 accordance with sec. 18 of this Act. The taxes paid for the 1982 calendar  
6 year and for each succeeding calendar year shall be shared with municipali-  
7 ties in accordance with AS 43.75.130 as amended by sec. 7 of this Act.

8 \* Sec. 20. Section 1 of this Act is retroactive to July 1, 1980, and  
9 applies to expenditures that qualify for the investment credits that are made  
10 on or after that date.

11 \* Sec. 21. Sections 3, 4, 8, and 9 of this Act are retroactive to Janu-  
12 ary 1, 1981, and apply to tax years beginning after December 31, 1980.

13 \* Sec. 22. Section 18 of this Act takes effect July 1, 1981.

14 \* Sec. 23. Section 7 of this Act takes effect July 1, 1982.

15 \* Sec. 24. Sections 1 - 4, 8, 17, 19, and 21 of this Act take effect  
16 immediately in accordance with AS 01.10.070(c).

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# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

Rec'd 6/22/81  
Bill already  
passed SFC.

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

June 22, 1981

**JUN 22 1981**

The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee  
Room 525 - Capitol Building  
Juneau, Alaska

Dear Senators Bennett and Dankworth:

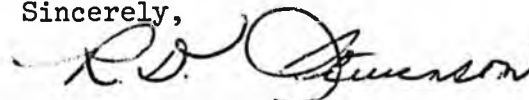
Re: Senate CS for CS for House Bill No. 460 (Resources)

Senate CS for CS for House Bill No. 460 (Resources), an Act relating to taxes, was referred in the Senate on June 18, 1981 by the Senate Resources Committee to the Senate Finance Committee.

For the consideration of the Senate Finance Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division and Mr. Phil Wall, Director, Administrative Services Division of the Department of Revenue concerning the Committee Substitute.

It is the understanding of this office that a further amendment to the Senate Resources Committee Substitute will be added in a Senate Finance Committee Substitute concerning property to be exempt from taxation under AS 43.56. The tax revenue effect is described in one of the two Fiscal Notes prepared by Mr. Gary L. Jenkins.

Sincerely,



R. D. Stevenson  
Special Assistant

RDS/rdh

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Gary L. Jenkins, Director  
Audit Division  
Department of Revenue

Phil Wall, Director  
Administrative Services Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS CS HB 460 (Fin)  
 Title An Act relating to taxes  
 Requested by Resources Committee Date June 22, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>						

FUNDING (Thousands of Dollars)

GENERAL FUND		(15,530.0)	(7,000)	(7,500.0)	(7,930.0)
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

NONE

FULL TIME					
PART TIME					
TEMPORARY					

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

This investment credit provisions of this bill will primarily benefit multistate/multinational corporations as well as larger domestic corporations. The estimated loss of revenue for the credit is 5 to 7 million dollars of corporate income tax per year. The effect is so large in FY 82 because of the retroactive provision back to 1/1/79.

The total includes what the state would have obtained if the property exempted under this bill is taxed under AS 43.56. The lost revenue constitutes 2% of assessed value of the property less that amount (about 16%) which is credited for municipal levies. Municipalities could tax the exempted property under local law.



IV. DATE June 22, 1981 PREPARED BY Gary L. Jenkins  
 AGENCY Department of Revenue  
 PHONE 465-2320

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S CSCSHB 460 (Resources)

Title An Act relating to fisheries and salmon enhancement taxes

Requested by Senate Finance Committee

Date 6/19/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection And Management

BRU, Program, or Subprogram(s) Affected Audit Division

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		111.0	62.2	62.2	62.2	62.2
200 TRAVEL		10.0	10.0	10.0	10.0	10.0
300 CONTRACTUAL		4.0	4.0	4.0	4.0	4.0
400 COMMODITIES		1.6	1.6	1.6	1.6	1.6
500 EQUIPMENT		3.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>129.8</b>	<b>77.8</b>	<b>77.8</b>	<b>77.8</b>	<b>77.8</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		129.8	77.8	77.8	77.8	77.8
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		4	3	3	3	3
PART TIME						
TEMPORARY						

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

The modifications to and new retroactive provisions of the Investment Tax Credit will result in additional increased workload in FY 82 as well as a continuing impact in subsequent fiscal years on our audit program. It is anticipated that we will receive 5,000 to 6,000 claims for refund during FY 82 because of the significant tax benefit which this represents. Also, because of the change whereby the credit will be applicable to property placed in service in Alaska only, our audits of the claims and of returns filed in subsequent years will be made much more difficult because of having to verify the location of the property for all multistate corporations. We now apportion the credit for all multistate corporations, which is very simple. The positions requested are two tax examiners and two revenue auditors. The tax examiners are for

IV. DATE June 22, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS CSHB 460(Res)  
 Title Relating to taxes  
 Requested by Senate Finance Committee Date 6/19/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_ Community Development \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected Shared Taxes - Fisheries Tax

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

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(1,969.0)	(5,907.0)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						


POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The bill provides for a 150% increase in the sharing of fisheries taxes with 50% of the increase beginning in FY82 and full increase beginning in FY83.

There is no additional administrative cost effect upon the General Government Administration and Support BRU.

IV. DATE June 22, 1981 PREPARED BY  Philip A. Wall  
 AGENCY Revenue  
 PHONE 465-2313  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Original sponsor: Resources Committee

Offered: 6/18/81  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 460 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to taxes; and providing for an effective date."

7

8

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

9

\* Section 1. AS 43.20.036(b) is amended to read:

10

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the [JOB DEVELOPMENT] investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the first \$20,000,000 [\$500,000] of qualified investment put into use in the state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation does not apply to the amounts invested in equipment which meets the definition of a certified pollution control facility as defined under Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975 [THE EFFECTIVE DATE OF THIS ACT] except that the date specified in Internal Revenue Code [THAT] section 169(d) as a condition of qualifying a certified pollution control facility for a deduction does not apply.

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\* Sec. 2. AS 43.75.015(b) is amended to read:

23

(b) Instead of the taxes levied by (a) of this section, a person who processes [ENGAGED IN A FISHERY BUSINESS WHICH INCLUDES PROCESSING] a developing commercial fish species is liable for and shall pay a tax equal to

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(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

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1 (2) three percent of the value of the developing commercial  
2 fish species processed by a floating fisheries business during the  
3 year.

4 \* Sec. 3. AS 43.75.015(c) is amended to read:

5 (c) A person engaging or attempting to engage in a fisheries  
6 business who first actually and physically processes the fishery re-  
7 source, or a person who purchases a fishery resource that is frozen  
8 from a person excluded by AS 43.75.017 from liability for the tax, is  
9 liable for and shall pay to the department the entire tax imposed by  
10 this section. In determining this tax liability, the person may [NOT]  
11 deduct from the value of the fishery resources processed the value of  
12 fishery resources that are canned or processed for other fisheries  
13 businesses. A person taking the deduction authorized by this subsection  
14 shall report all information relating to the deduction in accordance  
15 with regulations issued by the department [, BUT SHALL INCLUDE THAT  
16 VALUE AS PART OF THE VALUE OF THE FISHERY RESOURCES PROCESSED].

17 \* Sec. 4. AS 43.75 is amended by adding a new section to read:

18 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. A person  
19 is not liable for the fisheries business tax under AS 43.75.015 when  
20 the fishery resource is frozen aboard a fishing vessel if

21 (1) the vessel is operated as a commercial fishing vessel  
22 under a valid commercial fishing license;

23 (2) the fishery resource is not processed beyond heading,  
24 gutting or cleaning, freezing and glazing;

25 (3) the fishery resource that is frozen was caught by the  
26 vessel; and

27 (4) the fishery resource is sold by the person claiming an  
28 exclusion from the tax to a fisheries business licensed under AS 43.75.

29 \* Sec. 5. AS 43.75.100(a) is amended to read:

1 (a) A person taking, purchasing, or otherwise acquiring a fishery  
2 resource covered by this chapter which has not been subject to the tax  
3 imposed in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on  
4 the value of the fishery resource [SOLD] if the person

5 (1) transports the fishery resource to a point outside the  
6 taxing jurisdiction of the state for subsequent processing or sale [TO  
7 A FISHERIES BUSINESS] outside the taxing jurisdiction of the state; or

8 (2) sells the fishery resource [TO A FISHERIES BUSINESS]  
9 outside the taxing jurisdiction of the state;

10 (3) has the fishery resource processed by a fisheries busi-  
11 ness inside the state.

12 \* Sec. 6. AS 43.75.100(b) is repealed and reenacted to read:

13 (b) The rate of tax that shall be paid by a person whose liability  
14 for the tax is established by this section is the rate of tax that  
15 would have been due under AS 43.75.015 if the fisheries business that  
16 first actually and physically processed the fish had been liable to pay  
17 the tax.

18 \* Sec. 7. AS 43.75.130 is amended to read:

19 Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of  
20 revenue shall pay

21 (1) to each municipality unified under AS 29.68.240 - 29.68.-  
22 440, and to each city located in the unorganized borough, 50 [20]  
23 percent of the amount of tax revenue collected in the municipality from  
24 taxes levied by AS 43.75;

25 (2) to each city located within a borough, 25 [10] percent  
26 of the amount of tax revenue collected in the city from taxes levied by  
27 AS 43.75; and

28 (3) to each borough

29 (A) 50 [20] percent of the amount of tax revenue

1 collected in the area of the borough outside cities from taxes  
2 levied by AS 43.75; and

3 (B) 25 [10] percent of the amount of tax revenue  
4 collected in cities located within the borough from taxes levied  
5 by AS 43.75.

6 \* Sec. 8. AS 43.75.140(7) is amended to read:

7 (7) "value" means the actual price paid for the fisheries  
8 resource by the fisheries business, including indirect consideration  
9 such as fuel, supplies, or gear, whether paid at the time of purchase  
10 of the fisheries resource or tendered as a deferred or delayed payment,  
11 except that "value" means the market value of the fishery resource if  
12 the taking of the fishery resource is done [PROCURED] in company-owned  
13 or company-subsidized boats operated by employees of the fisheries  
14 business or in boats which are operated under lease or other arrange-  
15 ment;

16 \* Sec. 9. AS 43.75.140 is amended by adding a new paragraph to read:

17 (9) "taking" means pursuing, fishing, capturing, or harvest-  
18 ing a fisheries resource in any manner.

19 \* Sec. 10. AS 43.76.010(a) is amended to read:

20 (a) A person holding a limited entry permit under AS 16.43 shall  
21 pay a salmon enhancement tax at the rate of three percent of the value  
22 of salmon, as defined in AS 43.75.140(7), that the person removes from  
23 the state or transfers to a buyer in the state. The buyer [SELLS TO A  
24 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
25 the salmon enhancement tax at the time [OF] the salmon is acquired by  
26 the buyer [SALE].

27 \* Sec. 11. AS 43.76.011(a) is amended to read:

28 (a) A person holding a limited entry permit under AS 16.43 shall  
29 pay a salmon enhancement tax at the rate of two percent of the value of

1 salmon, as defined in AS 43.75.140(7), that the person removes from the  
2 state or transfers to a buyer in the state. The buyer [SELLS TO A  
3 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
4 the salmon enhancement tax at the time [OF] the salmon is acquired by  
5 the buyer [SALE].

6 \* Sec. 12. AS 43.76.020(a) is amended to read:

7 (a) The salmon enhancement tax levied under AS 43.76.010 or 43.-  
8 76.011 may be terminated by the commissioner of revenue upon majority  
9 vote at an election held under AS 43.76.015 in the region in which the  
10 salmon enhancement tax is levied.

11 \* Sec. 13. AS 43.76.025(a) is amended to read:

12 (a) A buyer [PROCESSOR] who acquires [BUYS] fisheries resources  
13 which are subject to the salmon enhancement tax imposed by AS 43.76.010  
14 or 43.76.011 shall collect the salmon enhancement tax at the time of  
15 purchase, and shall remit the total salmon enhancement tax collected  
16 during each month to the Department of Revenue by the last day of the  
17 next month.

18 \* Sec. 14. AS 43.76.025(b) is amended to read:

19 (b) A buyer [PROCESSOR] who collects the salmon enhancement tax  
20 shall

21 (1) maintain records reflecting the region designated under  
22 AS 16.10.375 in which the fishery resource was caught; and

23 (2) report to the Department of Revenue by March 1 of each  
24 year the total value, as defined in AS 43.75.140(7), of the salmon  
25 caught in each region designated under AS 16.10.375 which the buyer  
26 [PROCESSOR] has acquired [PURCHASED] during the preceding year.

27 \* Sec. 15. AS 43.76 is amended by adding a new section to read:

28 Sec. 43.76.028. LIABILITY FOR TAX ON SALMON SHIPPED FROM STATE.

29 (a) The owner of salmon removed from the state is liable for payment

1 of the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 if,  
2 at the time the salmon are removed from the state, the tax payable on  
3 the salmon has not been collected by a buyer.

4 (b) If the owner of salmon is liable for payment of the salmon  
5 enhancement tax under (a) of this section, he shall comply with the  
6 requirement of AS 43.76.025(b) to report his liability for payment of  
7 the tax.

8 \* Sec. 16. AS 43.76 is amended by adding a new section to read:

9 Sec. 43.76.040. DEFINITION. In this chapter, unless the context  
10 otherwise requires, "buyer" means a person who acquires possession of  
11 salmon from the person who caught the salmon regardless of whether  
12 there is an actual sale of the salmon but excluding a transfer to a  
13 person engaged solely in interstate transportation of goods for hire.

14 \* Sec. 17. AS 43.75.136 is repealed.

15 \* Sec. 18. TRANSITIONAL REVENUE SHARING. Notwithstanding AS 43.75.130,  
16 during the fiscal year ending June 30, 1982, the commissioner of revenue  
17 shall pay

18 (1) to each municipality unified under AS 29.68.240 - 29.68.400,  
19 and to each city located in the unorganized borough, 30 percent of the  
20 amount of tax revenue collected in the municipality from taxes levied by  
21 AS 43.75;

22 (2) to each city located within a borough, 15 percent of the  
23 amount of tax revenue collected in the city from taxes levied by AS 43.75;  
24 and

25 (3) to each borough

26 (A) 30 percent of the amount of tax revenue collected in the  
27 area of the borough outside cities from taxes levied by AS 43.75; and

28 (B) 15 percent of the amount of tax revenue collected in  
29 cities inside the borough from taxes levied by AS 43.75.

1 \* Sec. 19. TRANSITION. The taxes paid for the 1980 calendar year under  
2 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130  
3 as that section read before its amendment by sec. 7 of this Act. The taxes  
4 paid for the 1981 calendar year shall be shared with municipalities in  
5 accordance with sec. 18 of this Act. The taxes paid for the 1982 calendar  
6 year and for each succeeding calendar year shall be shared with municipali-  
7 ties in accordance with AS 43.75.130 as amended by sec. 7 of this Act.

8 \* Sec. 20. Section 1 of this Act is retroactive to July 1, 1980, and  
9 applies to expenditures that qualify for the investment credits that are made  
10 on or after that date.

11 \* Sec. 21. Sections 3, 4, 8, and 9 of this Act are retroactive to Janu-  
12 ary 1, 1981, and apply to tax years beginning after December 31, 1980.

13 \* Sec. 22. Section 18 of this Act takes effect July 1, 1981.

14 \* Sec. 23. Section 7 of this Act takes effect July 1, 1982.

15 \* Sec. 24. Sections 1 - 4, 8, 17, 19, and 21 of this Act take effect  
16 immediately in accordance with AS 01.10.070(c).

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COMMITTEE REPORT  
SENATE

FURTHER: None

6/18/81

Date: \_\_\_\_\_

Mr. President:

The Committee on FINANCE has had CSHB 460 (Fin) (efd failed)  
fisheries and salmon enhancement taxes

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 \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_  
CHAIRMAN

Original sponsor: Resources Committee

Offered: 6/18/81  
Referred: Finance

1 IN THE HOUSE

BY THE ~~RESOURCES COMMITTEE~~ <sup>Finance Committee</sup>

2 SENATE CS FOR CS FOR HOUSE BILL NO. 460 (<sup>Finance</sup> ~~Resources~~)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to taxes; and providing for an effective date."  
7

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

9 \* Section 1. AS 43.20.036(b) is amended to read:

10 (b) For purposes of calculating the income tax payable under this  
11 chapter, the taxpayer may apply as a credit against his tax liability  
12 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes  
13 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the  
14 first \$20,000,000 [\$500,000] of qualified investment put into use in the  
15 state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation does  
16 not apply to the amounts invested in equipment which meets the defini-  
17 tion of a certified pollution control facility as defined under Internal  
18 Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975  
19 [THE EFFECTIVE DATE OF THIS ACT] except that the date specified in In-  
20 ternal Revenue Code [THAT] section 169(d) as a condition of qualifying a  
21 certified pollution control facility for a deduction does not apply.

22 \* Sec. 2. AS 43.75.015(b) is amended to read:

23 (b) Instead of the taxes levied by (a) of this section, a person  
24 who processes [ENGAGED IN A FISHERY BUSINESS WHICH INCLUDES PROCESSING]  
25 a developing commercial fish species is liable for and shall pay a tax  
26 equal to

27 (1) one percent of the value of the developing commercial  
28 fish species processed by a shore-based fisheries business during the  
29 year; and

Insert #1

1 (2) three percent of the value of the developing commercial  
2 fish species processed by a floating fisheries business during the  
3 year.

4 \* Sec. 3. AS 43.75.015(c) is amended to read:

5 (c) A person engaging or attempting to engage in a fisheries  
6 business who first actually and physically processes the fishery re-  
7 source, or a person who purchases a fishery resource that is frozen  
8 from a person excluded by AS 43.75.017 from liability for the tax, is  
9 liable for and shall pay to the department the entire tax imposed by  
10 this section. In determining this tax liability, the person may [NOT]  
11 deduct from the value of the fishery resources processed the value of  
12 fishery resources that are canned or processed for other fisheries  
13 businesses. A person taking the deduction authorized by this subsection  
14 shall report all information relating to the deduction in accordance  
15 with regulations issued by the department [, BUT SHALL INCLUDE THAT  
16 VALUE AS PART OF THE VALUE OF THE FISHERY RESOURCES PROCESSED].

17 \* Sec. 4. AS 43.75 is amended by adding a new section to read:

18 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. A person  
19 is not liable for the fisheries business tax under AS 43.75.015 when  
20 the fishery resource is frozen aboard a fishing vessel if

21 (1) the vessel is operated as a commercial fishing vessel  
22 under a valid commercial fishing license;

23 (2) the fishery resource is not processed beyond heading,  
24 gutting or cleaning, freezing and glazing;

25 (3) the fishery resource that is frozen was caught by the  
26 vessel; and

27 (4) the fishery resource is sold by the person claiming an  
28 exclusion from the tax to a fisheries business licensed under AS 43.75.

29 \* Sec. 5. AS 43.75.100(a) is amended to read:

1 (a) A person taking, purchasing, or otherwise acquiring a fishery  
2 resource covered by this chapter which has not been subject to the tax  
3 imposed in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on  
4 the value of the fishery resource [SOLD] if the person

5 (1) transports the fishery resource to a point outside the  
6 taxing jurisdiction of the state for subsequent processing or sale [TO  
7 A FISHERIES BUSINESS] outside the taxing jurisdiction of the state; or

8 (2) sells the fishery resource [TO A FISHERIES BUSINESS]  
9 outside the taxing jurisdiction of the state;

10 (3) has the fishery resource processed by a fisheries busi-  
11 ness inside the state.

12 \* Sec. 6. AS 43.75.100(b) is repealed and reenacted to read:

13 (b) The rate of tax that shall be paid by a person whose liability  
14 for the tax is established by this section is the rate of tax that  
15 would have been due under AS 43.75.015 if the fisheries business that  
16 first actually and physically processed the fish had been liable to pay  
17 the tax.

18 \* Sec. 7. AS 43.75.130 is amended to read:

19 Sec. 43.75.130. REFUND TO LOCAL GOVERNMENTS. The commissioner of  
20 revenue shall pay

21 (1) to each municipality unified under AS 29.68.240 - 29.68.-  
22 440, and to each city located in the unorganized borough, 50 [20]  
23 percent of the amount of tax revenue collected in the municipality from  
24 taxes levied by AS 43.75;

25 (2) to each city located within a borough, 25 [10] percent  
26 of the amount of tax revenue collected in the city from taxes levied by  
27 AS 43.75; and

28 (3) to each borough.

29 (A) 50 [20] percent of the amount of tax revenue

1 collected in the area of the borough outside cities from taxes  
2 levied by AS 43.75; and

3 (B) 25 [10] percent of the amount of tax revenue  
4 collected in cities located within the borough from taxes levied  
5 by AS 43.75.

6 \* Sec. 8. AS 43.75.140(7) is amended to read:

7 (7) "value" means the actual price paid for the fisheries  
8 resource by the fisheries business, including indirect consideration  
9 such as fuel, supplies, or gear, whether paid at the time of purchase  
10 of the fisheries resource or tendered as a deferred or delayed payment,  
11 except that "value" means the market value of the fishery resource if  
12 the taking of the fishery resource is done [PROCURED] in company-owned  
13 or company-subsidized boats operated by employees of the fisheries  
14 business or in boats which are operated under lease or other arrange-  
15 ment;

16 \* Sec. 9. AS 43.75.140 is amended by adding a new paragraph to read:

17 (9) "taking" means pursuing, fishing, capturing, or harvest-  
18 ing a fisheries resource in any manner.

19 \* Sec. 10. AS 43.76.010(a) is amended to read:

20 (a) A person holding a limited entry permit under AS 16.43 shall  
21 pay a salmon enhancement tax at the rate of three percent of the value  
22 of salmon, as defined in AS 43.75.140(7), that the person removes from  
23 the state or transfers to a buyer in the state. The buyer [SELLS TO A  
24 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
25 the salmon enhancement tax at the time [OF] the salmon is acquired by  
26 the buyer [SALE].

27 \* Sec. 11. AS 43.76.011(a) is amended to read:

28 (a) A person holding a limited entry permit under AS 16.43 shall  
29 pay a salmon enhancement tax at the rate of two percent of the value of

1 salmon, as defined in AS 43.75.140(7), that the person removes from the  
2 state or transfers to a buyer in the state. The buyer [SELLS TO A  
3 PROCESSOR LICENSED UNDER AS 43.75.011. THE PROCESSOR] shall collect  
4 the salmon enhancement tax at the time [OF] the salmon is acquired by  
5 the buyer [SALE].

6 \* Sec. 12. AS 43.76.020(a) is amended to read:

7 (a) The salmon enhancement tax levied under AS 43.76.010 or 43.-  
8 76.011 may be terminated by the commissioner of revenue upon majority  
9 vote at an election held under AS 43.76.015 in the region in which the  
10 salmon enhancement tax is levied.

11 \* Sec. 13. AS 43.76.025(a) is amended to read:

12 (a) A buyer [PROCESSOR] who acquires [BUYS] fisheries resources  
13 which are subject to the salmon enhancement tax imposed by AS 43.76.010  
14 or 43.76.011 shall collect the salmon enhancement tax at the time of  
15 purchase, and shall remit the total salmon enhancement tax collected  
16 during each month to the Department of Revenue by the last day of the  
17 next month.

18 \* Sec. 14. AS 43.76.025(b) is amended to read:

19 (b) A buyer [PROCESSOR] who collects the salmon enhancement tax  
20 shall

21 (1) maintain records reflecting the region designated under  
22 AS 16.10.375 in which the fishery resource was caught; and

23 (2) report to the Department of Revenue by March 1 of each  
24 year the total value, as defined in AS 43.75.140(7), of the salmon  
25 caught in each region designated under AS 16.10.375 which the buyer  
26 [PROCESSOR] has acquired [PURCHASED] during the preceding year.

27 \* Sec. 15. AS 43.76 is amended by adding a new section to read:

28 Sec. 43.76.028. LIABILITY FOR TAX ON SALMON SHIPPED FROM STATE.

29 (a) The owner of salmon removed from the state is liable for payment

1 of the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 if,  
2 at the time the salmon are removed from the state, the tax payable on  
3 the salmon has not been collected by a buyer.

4 (b) If the owner of salmon is liable for payment of the salmon  
5 enhancement tax under (a) of this section, he shall comply with the  
6 requirement of AS 43.76.025(b) to report his liability for payment of  
7 the tax.

8 \* Sec. 16. AS 43.76 is amended by adding a new section to read:

9 Sec. 43.76.040. DEFINITION. In this chapter, unless the context  
10 otherwise requires, "buyer" means a person who acquires possession of  
11 salmon from the person who caught the salmon regardless of whether  
12 there is an actual sale of the salmon but excluding a transfer to a  
13 person engaged solely in interstate transportation of goods for hire.

14 \* Sec. 17. AS 43.75.136 is repealed.

15 \* Sec. 18. TRANSITIONAL REVENUE SHARING. Notwithstanding AS 43.75.130,  
16 during the fiscal year ending June 30, 1982, the commissioner of revenue  
17 shall pay

18 (1) to each municipality unified under AS 29.68.240 - 29.68.440,  
19 and to each city located in the unorganized borough, 30 percent of the  
20 amount of tax revenue collected in the municipality from taxes levied by  
21 AS 43.75;

22 (2) to each city located within a borough, 15 percent of the  
23 amount of tax revenue collected in the city from taxes levied by AS 43.75;  
24 and

25 (3) to each borough

26 (A) 30 percent of the amount of tax revenue collected in the  
27 area of the borough outside cities from taxes levied by AS 43.75; and

28 (B) 15 percent of the amount of tax revenue collected in  
29 cities inside the borough from taxes levied by AS 43.75.

1 \* Sec. 19. TRANSITION. The taxes paid for the 1980 calendar year under  
2 AS 43.75 shall be shared with municipalities in accordance with AS 43.75.130  
3 as that section read before its amendment by sec. 7 of this Act. The taxes  
4 paid for the 1981 calendar year shall be shared with municipalities in  
5 accordance with sec. 18 of this Act. The taxes paid for the 1982 calendar  
6 year and for each succeeding calendar year shall be shared with municipali-  
7 ties in accordance with AS 43.75.130 as amended by sec. 7 of this Act.

8 \* Sec. 20. Section 1 of this Act is retroactive to July 1, <sup>1979</sup>~~1980~~, and  
9 applies to expenditures that qualify for the investment credits that are made  
10 on or after that date.

11 \* Sec. 21. Sections 3, 4, 8, and 9 of this Act are retroactive to Janu-  
12 ary 1, 1981, and apply to tax years beginning after December 31, 1980.

13 \* Sec. 22. Section 18 of this Act takes effect July 1, 1981.

14 \* Sec. 23. Section 7 of this Act takes effect July 1, 1982.

15 \* Sec. 24. Sections 1 - 4, 8, 17, 19, and 21 of this Act take effect  
16 immediately in accordance with AS 01.10.070(c).

Insert #2  
→

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Introduced: 4/1/81  
Referred: Special Gas Pipeline  
Committee and Finance

1 IN THE HOUSE

BY HAYES, MEEKINS AND  
MONTGOMERY

2

HOUSE BILL NO. 454

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act exempting certain communications facilities  
7 from the oil and gas exploration, production and  
8 pipeline transportation property tax; and providing  
9 for an effective date."

9

10

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

11

\* Section 1. AS 43.56.210(6)(A)(iii) is amended to read:

12

(iii) roads, tank farms, tanker terminals, docks and  
13 other port facilities, and air strips [AND COMMUNICATION  
14 EQUIPMENT AND FACILITIES];

13

14

15

\* Sec. 2. AS 43.56.210(6)(A) is amended by adding a new subparagraph to  
16 read:

16

17

(vi) communications facilities owned by a person  
18 whose principal business in the state is the exploration for,  
19 production of, or pipeline transportation of gas or unrefined  
20 oil and whose operation of the communications facilities  
21 directly relates to the conduct of that business;

18

19

20

21

22

\* Sec. 3. AS 43.56.210(6)(B) is amended by adding a new subparagraph to  
23 read:

23

24

(v) communications facilities, except communica-  
25 tions facilities taxable under (A)(vi) of this paragraph;

25

26

\* Sec. 4. This Act is retroactive to January 1, 1974.

27

28

\* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

29

*Insert #1*

*Jan 1, 1981 effective date*

C.S. HB 460 (Fix.) (old fld) - Amend. offered by Eliason 6/20/81

6/20 Adopted

Insert #2

Sec. 01.10.030. Constitutionality and severability.

Any law heretofore or hereafter enacted by the Alaska legislature which lacks a severability clause shall be construed as though it contained the clause in the following language, "If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be effected thereby."

4/20 Adopted

4/21 — 4 1 Rescind Adoption (Failed)

Adopted

Proposed amendment to Senate CS for CS for House Bill No. 460 (Resources)

By: Senator Bennett

Page 7, line 8: Delete "1980"

Replace with "1979"

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SCS CSHB 460 (Finance)  
 Title An Act relating to taxes  
 Requested by Senate Finance Date 6-21-81

II. FISCAL DETAIL  
 Agency Affected Revenue  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.			1969.0	5907.0	5907.0	5907.0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	(4,586.0)	(6,500.0)	(12,402.0)	(12,902.0)	(13,330.0)
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

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

The above cost is made up of the following elements:

FY	Increase in Shared Fisheries Taxes Payments	Revenue Loss for Investment Tax Credit	Revenue Loss from Property Tax Exemption Communications Facilities
81	--	4,000.0	586.0
82	1969.0	4,000.0	531.0
83	5907.0	6,000.0	495.0
84	5907.0	6,500.0	495.0
85	5907.0	7,000.0	423.0

IV. DATE June 21, 1981 PREPARED BY Milt Barker MB  
 AGENCY Legislative Finance  
 PHONE 465-3795  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCS CS HB 460 (Finance)  
Title An Act relating to taxes  
Requested by Senate Finance Date 6-21-81

II. FISCAL DETAIL

Agency Affected Revenue  
Program Category Affected General Government  
BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1969.0	5907.0	5907.0	5907.0	

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND	(4586.0)	(6500.0)	(12402.0)	(12902.0)	(13330.0)	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The ~~total~~ above cost is made up of the following elements:

FY	Increase in Shared Fisheries Taxes Payments	Revenue Loss for Investment Tax Credit	Revenue Loss from Property Tax Exemption for Communications Facilities
81	—	4,000.0	586.0
82	1969.0	4,000.0	531.0
83	5907.0	6,000.0	495.0
84	5907.0	6,500.0	495.0
85	5907.0	7,000.0	423.0

IV. DATE 6-21-81 PREPARED BY Milt Barker

AGENCY Legislative Finance  
PHONE 465-3795

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)



# Alaska State Legislature

## House of Representatives

### Committee on Resources

Terry Gardiner, Co-Chairman  
Fred F. Zharoff, Co-Chairman  
465-3715

#### MEMORANDUM

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: House Finance Committee  
FROM: Rep. Terry Gardiner *TG*  
DATE: 11/May/1981  
RE: Sectional Analysis, CS HB 460

---

House Bill 460 relates to the fisheries salmon enhancement taxes.

Sec. 1. This section makes a change in the provision in the fisheries tax dealing with processing a developing commercial fish species and clarifies who is liable for the tax. Specifically, designating that the person who processes the species shall be liable for the tax.

Sec. 2. Amendment to AS 43.75.015(c). This section along with the next (Section 3) makes an amendment to the raw fish tax regarding the definition of who is a processor for purposes of liability of the raw fish tax. Under the present existing definition, a person who freezes a fish is defined as a processor. This has caused problems with those fishermen who are freezing fish on-board their vessels for the purposes of preserving the quality and are later just selling them to a processor on shore for further processing or delivery.

The amendment provided for under these two sections would exempt a person who freezes a fishery resource on-board a vessel from being declared as being a processor and subject to paying the raw fish tax provided that that person subsequently sells that fish to a licensed fish processor. If the person subsequently sells the resource directly on the retail market, than that person is treated as a fish processor and is liable for payment of the fisheries business tax.

Sec. 4. AS 43.75.130. Refund to local governments. This section increases the amount of the fisheries business tax which is subject to refund to local governments under Sec. 130. The provision for the refund for local governments has been in the statutes prior to statehood, although it was fixed at 20 percent. This increases it from 20 percent to 50 percent.

In terms of fiscal impact on the State, it makes no effect on the amount of money that is collected by the State, although it does increase the amount of revenue to be shared back to the municipalities

from approximately \$4 million per year to approximately \$9 million per year. This refund is obviously subject to annual appropriation by the legislature.

Sec. 5. Amends AS 43.76.020(a). This provision deals with the salmon enhancement tax and is a technical amendment due to an oversight in drafting of some legislation last year. The salmon enhancement tax is imposed based upon a vote of the limited entry permit holders in given region of the State. The provisions of the statute allow for the choice of either imposing a 2 percent assessment or a 3 percent assessment. The statute also provides, upon a given vote the assessment tax may be terminated and this provision (Sec. 020) deals with the termination. The way it is presently written and drafted last year, only those individuals or regions which imposed a 3 percent tax are allowed to terminate it and this amendment amends that Section to allow those regions which have imposed a 2 percent tax to also terminate that.

Sec. 6. AS 43.75.136 is a repealer. This is the provision that provides that up to 20 percent of the raw fish tax may be designated by the legislature for purposes of capitalization of the commercial fish and agriculture bank. Since that time, the bank has been fully capitalized with a stock purchase of \$32 million by the State and this Section is no longer needed.

Sec. 7. Transition. The transition provision provides direction on how the taxes which are collected for the purposes of refund to the local government shall be handled. The taxes paid for the 1980 calendar year are actually due to the State on April 1, 1981. This transition provides that those taxes shall be shared in accordance with the Section before it was amended. Taxes paid for the 1981 calendar year, which are actually collected April 1, 1982, shall be shared according to the provisions of this Section as it is amended.

<u>CITIES</u>	<u>FY 79</u> <u>Actual</u>	<u>FY 80</u> <u>Actual</u>	<u>FY 81</u> <u>Authorized</u>	<u>FY 82</u> <u>Request</u>
Akutan	-0-	106,198	438,547	173,507
Alakanuk	-0-	5	21	8
Aniak	-0-	10	41	17
Anvik	-0-	300	1,239	507
Bethel	-0-	6,449	26,634	10,899
Cordova	98,937	220,782	98,937	373,122
Craig	5,897	23,539	5,897	39,781
Dillingham	61,926	65,710	61,926	111,050
Elim	-0-	580	2,395	980
Emmonak	-0-	5,922	24,458	10,008
Fairbanks	10	20	10	34
Fortuna Ledge	636	3,085	636	5,214
Galena	-0-	719	2,969	1,215
Golovin	-0-	1,164	4,807	1,967
Goodnews Bay	-0-	5	21	8
Haines	3	-0-	-0-	-0-
Iomer	6,098	16,605	6,098	28,062
Ioonah	2,912	4,431	2,912	7,488
Hooper Bay	-0-	4,091	16,896	6,914
Hydaburg	2,043	3,604	2,043	6,091
Kachemak	-0-	3,327	13,741	5,623
Kake	12,652	4,842	12,652	8,183
Kenai	41,708	53,958	41,708	91,189
Ketchikan	20,077	10,145	20,077	17,145
King Cove	132,652	162,195	132,627	274,110
Klawock	21,605	4,211	21,605	7,117
Kodiak	134,603	167,240	134,578	282,636
Kotzebue	-0-	1,803	7,446	3,047
Mountain Village	-0-	8,699	35,927	14,701
Nenana	162	229	157	387

AGENCY REVENUE

PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

COMPONENT FISHERIES TAX  
Page 2 of 4

REVISED DATE \_\_\_\_\_

23 18 CONTINUED

**FY82**

00138

<u>CITIES</u>	<u>FY 79</u> <u>Actual</u>	<u>FY 80</u> <u>Actual</u>	<u>FY 81</u> <u>Authorized</u>	<u>FY 82</u> <u>Request</u>
Nome	-0-	305	1,260	515
Pellenn	21,438	60,523	21,438	102,284
Petersburg	107,327	11,520	106,327	19,469
Platinum	-0-	305	1,260	515
Port Alexander	-0-	4,014	16,578	6,784
Port Heiden	-0-	2,245	9,272	3,794
Quinnagak	-0-	5	21	8
Saint Mary's	946	917	810	1,780
Saint Paul	-0-	5	21	8
Sand Point	11,648	21,876	11,648	36,970
Seldovia	1,765	3,686	1,765	6,229
Seward	28,668	46,323	28,669	78,286
Shaktolik	-0-	305	1,260	515
Togiak	-0-	10,472	43,249	17,698
Unalakleet	-0-	2,380	9,829	4,022
Unalaska	229,897	449,272	229,897	759,270
Valdez	-0-	20	83	34
Wrangell	10,278	18,110	10,278	30,606
Yakutat	1,437	2,945	1,437	4,977
<b>Total Cities</b>	<b><u>955,189</u></b>	<b><u>1,515,232</u></b>	<b><u>1,612,107</u></b>	<b><u>2,550,294</u></b>

BOROUGHIS

Municipality of Anchorage	48,201	9,556	48,201	16,150
City and Borough of Juneau	10,901	35,763	10,901	60,439
City and Borough of Sitka	16,252	11,626	16,252	19,648
Bristol Bay Borough	167,722	338,132	167,722	571,443
North Star Borough	10	527	10	891
Haines Borough	27,318	37,575	27,315	63,502

AGENCY \_\_\_\_\_ REVENUE \_\_\_\_\_

PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

23 18 CONTINUED

COMPONENT FISHERIES TAX  
Page 3 of 4

REVISED \_\_\_\_\_  
DATE \_\_\_\_\_

**FY82**

**00139**

<u>BOROUGHS</u>	<u>FY 79 Actual</u>	<u>FY 80 Actual</u>	<u>FY 81 Authorized</u>	<u>FY 82 Request</u>
Kenai Peninsula Borough	112,101	134,991	212,101	228,135
Ketchikan Gateway Borough	70,225	26,474	70,225	44,741
Kodiak Island Borough	<u>335,185</u>	<u>226,957</u>	<u>335,185</u>	<u>383,557</u>
Total Boroughs	<u>787,915</u>	<u>821,601</u>	<u>887,912</u>	<u>1,388,506</u>
Total Cities and Boroughs	<u>1,743,240</u>	<u>2,336,697</u>	<u>2,500,019</u>	<u>3,938,800</u>

AGENCY \_\_\_\_\_ REVENUE \_\_\_\_\_ PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

COMPONENT FISHERIES TAX

Page 4 of 4

REVISED \_\_\_\_\_  
DATE \_\_\_\_\_

**23** 18 **CONTINUED**

**FY 82**  
**00140**

F180

	Dus. Lic. 3rd Qtr.	Dus. Lic. 4th Qtr.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals	
Anchorage, Munc. of	2453959	8510734	171485	2503915	121562-	209112-	215394-	3315-	6211-	491892369	357722-	610786555	
Juneau, City & Borough	1053010	111511	1516 <sup>00</sup>	4209289	19620-	4738-	28650-	18577-	17166-	37235678	4461795-	66100041	
Sitka City & Borough	287336	178713	504 <sup>00</sup>	1206351			17700-	6018-	5578-	13163986	16959-	1755536	
Bristol Bay Borough	6131		144 <sup>00</sup>		13155-	6479-	5400-	175761-	162268-	1398576	3252-	38061707	
North Star Borough	702891	341816	1042 <sup>00</sup>		173289-	85351-		229-	278-	56672732	55277-	29327069	
Haines Borough	0-	27215	28 <sup>00</sup>					19539-	18036-	727497	1071-	4624712	
Kenai Peninsula Borough	1125711	163093	1222 <sup>00</sup>		68501-	33742-		26206-	98785-	34721133	24888-	62512977	
Ketchikan Gateway Borough	22610	310527	432 <sup>00</sup>	2804656				13750-	12724-	360726	8973-	7786651	
Kodiak Island Borough	6777	56077	168 <sup>00</sup>		18232-	8780-		117617-	107340-	2081451	4777-	21974675	
Matanuska Susitna Borough	383216	16871	1140 <sup>00</sup>		113269-	55787-				9081773	35099-	26712580	
North Slope Borough	117322	3862733			11783-	6804-				122092037	7527-	12583492	
Akhtik										42682	234-	67082	
Akiachak										44691	183-	113774	
Akiak	8711	6600								13713	417-	70724	
Akolmiut										31377	1237-	155027	
Akutan									106198-	23770	156-	10659190	
Alakanuk		72660			1474-	726-			5-	227709	1017-	922517	
Aleknagik					502-	131-				45958	428-	183328	
Allakaket										12666	917-	55246	
Ambler	7324				1213-	271-				63153	419-	273677	
Anaktuvok Pass										10500	331-	43906	
Anderson	573		96 <sup>00</sup>		2231-	1101-				125643	907-	570016	
Angoon										230410	1047-	400440	
Aniak			116 <sup>00</sup>							10-	327716	685-	405846
Anvik					1771-	391-				300-	10125	197-	178135
Atmautluak										17907	386-	46507	
Barrow		3795677								2403947	5240-	6763576	
Bethel	101571	1509	1146 <sup>00</sup>							6449-	6601155	7436-	8207328
Drevig Mission										17174	281-	45811	
Buckland	6671									40393	328-	77821	
Chefornak										53471	378-	95541	
Chevak	6389		90 <sup>00</sup>		2377-	1180-				21204	903-	48757	
Chauthbaluk										32705	245-	27105	
Clarks Point										3000	189-	2190	
Cordova	7272		192 <sup>00</sup>		14139-	6764-	10750-	114804-	109718-	4525600	5245-	3287772	
Craig			206 <sup>00</sup>				2100-	12210-	11299-	200496	1133-	2378276	
Deering	1627									46125	227-	77109	
Delta Junction	31511		168 <sup>00</sup>							272712	1722-	3152273	
Dillingham	116396		120 <sup>00</sup>		11656-	11750-	2350-	33381-	32327-	2718324	3196-	1237792	
	164891.18	177516.93	18247.83	107242.11	861,826-	433,138-	324,774-	551,220-	643,014-	7731,201.07	578,015.95	11875544.07	

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals
Dionede										9000	211-	39100
Eagle			120 <sup>00</sup>							83378	271-	122778
Eek					858-	423-				28433	593-	215833
Ekwok					913-	479-			580-	7800	214-	2927
Elim					2631-	1297-			5922-	36120	421-	281420
Emmonak					60749-	29821-	68657-	7-	11-	369176	1052-	1397674
Fairbanks	1806788	575900	2472 <sup>00</sup>				600-			104779414	58812-	129341702
Fort Yukon	3250		24 <sup>00</sup>		1219-	630-			3085-	671417	1227-	857547
Fortuna Ledge			72 <sup>00</sup>				1100-		719-	52243	508-	604863
Galena	3085				2583-	1272-				674610	1348-	1071595
Gambell										113279	863-	615029
Golovin					1018-	501-			1164-	44422	208-	223622
Goodnews Bay					880-	434-			5-	6495	479-	204795
Grayling										40429	219-	206729
Haines	102012		108 <sup>00</sup>				5100-			2006387	2637-	2872727
Holy Cross					1331-	659-				88378	583-	216278
Homer	51577	28069	600 <sup>00</sup>		13169-	6781-	14200-	219-	16386-	6271420	4200-	11901591
Hoonah			192 <sup>00</sup>				1600-	4431-	4091-	700584	2110-	
Hooper Bay	900				3531-	1739-				216251	1178-	
Houston			48 <sup>00</sup>		718-	368-				0-	5187-	635100
Hughes										8053	189-	26953
Huslia					878-	413-				65152	409-	240152
Hydaburg								3001-	3327-	190139	735-	
Kachemak			48 <sup>00</sup>		914-	450-				49103	523-	
Kake		5106					600-	3-	4821-	215705	1311-	922111
Kaktovik										108473	371-	142573
Kaltag					1150-	567-				0-	0-	171700
Kassaa										2000	89-	11900
Kenai	461550	305015	636 <sup>00</sup>	1753933	17178-	18461-	18400-	28056-	25902-	1429486	85-	2185374
Ketchikan	1013167	356675	1686 <sup>00</sup>				2500-	5275-	4870-	2897931	16442-	34404676
Kiana	14018				2511-	1267-				135925	664-	597743
King Cove							1100-	81311-	77854-	184441	1916-	16455341
Kivalina					1197-	589-				45979	610-	245279
Klawock								2190-	2021-	153951	740-	652051
Kobuk										3578	118-	15378
Kodiak	462631	54418	408 <sup>00</sup>	483485	68171-	33571-	19400-	86264-	80676-	16251119	11109-	41202461
Kotlik										107606	589-	168506
Kotzebue	83218	702287	72 <sup>00</sup>		26529-	13072-	3900-			3394464	4877-	8706266
Koyuk					862-	426-				25477	344-	188977
	10063034	1747025	6486 <sup>00</sup>	2231418	207812	163354	166725	214692	233255	172605018	132228	272336895

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish Munc. Ass <sup>t</sup> 5/16-6/30 Base Amt.	Munc. Asst. Excess	Totals	
Koyukuk									4450	231-	68350	
Kupreanof									-0-	-0-	-0-	
Kwethluk									141575	851	227275	
Larsen Bay									-0-	-0-	-0-	
Lower Kalskag					1905-	445-			20836	421-	197936	
Manokotak									31920	483-	80220	
McGrath			24 <sup>00</sup>				4500-		324964	737-	861064	
Mekoryuk					1115-	579-			23475	336-	232175	
Mountain Village	773		24 <sup>00</sup>		3818-	1880-		8699-	231313	1049-	177886	
Napaklak			24 <sup>00</sup>						154680	604-	217480	
Napaskiak									1500	463-	41800	
Nenana		15951		135755	2136-	1351-	2700-	119-	125346	971-	221642	
New Stuyahok					1272-	621-			37928	573-	285128	
Newhalen									21132	203-	41432	
Newtok									9720	227-	37420	
Nightmute									1995	261-	28095	
Nikolai									1500	273-	308	
Nome	80577	32872	336 <sup>00</sup>				10425-	205-	520410	2584-	7084873	
Nondalton	41201				2825-	1391-			42719	436-	127520	
Noorvik			24 <sup>00</sup>						140351	1015-	665151	
North Pole	23371		60 <sup>00</sup>		14597-	7189-	2100-		3131230	1588-	5710979	
Nulqsut									2000	351-	381	
Nulato					2038-	1004-			64921	641-	433221	
Old Harbor					1315-	677-			35308	666-	298148	
Ouzinkie									33133	342-	67333	
Palmer		8221	830 <sup>00</sup>	64610	21312-	13452-	7800-		5403861	3949-	11012401	
Pelican			182 <sup>00</sup>					31472-	29051-	427-	4403741	
Petersburg	338568	95144	326 <sup>00</sup>				9400-	5770-	5530-	6172-	7460428	
Pilot Station					1235-	608-			21635	581-	270635	
Platinum									305-	112-	92251	
Point Ilope									315585	896-	435185	
Port Alexander									4014-	178-	450201	
Port Heiden									2215-	172-	265796	
Port Lions					1207-	595-			33241	441-	258341	
Quinhagak	9304				1322-	651-			5-	865-	362865	
Ruby									16679	425-	119179	
Russian Mission			8 <sup>00</sup>		4426-	2180-		474-	4500	322-	2671	
Saint Marys					1312-	646-			61745	241-	912545	
Saint Michael									410723	542-	460923	
	443512	162244	2038 <sup>00</sup>	179445	67515 <sup>00</sup>	33251 <sup>00</sup>	38025 <sup>00</sup>	38197 <sup>00</sup>	50704 <sup>00</sup>	22239711	24383 <sup>00</sup>	49526532

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop.	Elect. & Tel. Coop.	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals
Saint Paul	9386						1100-			50138	1091	279721
Sand Point	15366		198 <sup>00</sup>					11376-	10500-	444195	1492-	2816461
Savoonga			162 <sup>00</sup>		2115-	1450-				234074	789-	768674
Saxman										70-	70-	0-
Scammon Bay			40 <sup>00</sup>		957-	411-				55191	418-	246791
Selawik					2651-	1305-				105221	975-	598321
Seldovia			408 <sup>00</sup>		2301-	1131-	3600-	1917-	1761-	515673	1019-	1760473
Seward	61809	97125	1072 <sup>00</sup>				12500-	283-	46010-	4563366	3133-	11010095
Shageluk					823-	405-				16897	430-	182677
Shaktolik					870-	429-			305-	10805	309-	202165
Sheldon Point										11375	276-	28775
Shishmaref	13280		60 <sup>00</sup>		1623-	800-				96956	720-	430536
Shungnak	2470				1498-	738-				123571	382-	387867
Skagway	25463		278 <sup>00</sup>				4675-			2158035	1673-	2848077
Soldotna	139920	1557	312 <sup>00</sup>	166084	9739-	4895-	6500-			10302106	4566-	13261162
Stebbins					929-	458-				31711	576-	230011
Tanana							600-			221737	963-	381237
Teller										17191	498-	66971
Tenakee Springs							1250-			137724	272-	291624
Togiak	13471				2831-	1398-			10172-	301819	915-	1815910
Tooksook Bay	31112	32422			1430-	701-				90325	618-	435019
Tuluksak										15037	498-	64837
Tununak					1045-	515-				17577	577-	235277
Unalakleet	12552				4538-	2235-			2280-	40943	1220-	1460075
Unalaska			120 <sup>00</sup>				3100-	233621-	215651-	117573	18266-	47825373
Upper Kalskag					671-	331-				127183	320-	259753
Valdez	281088	133588	410 <sup>00</sup>		21880-	22553-	13100-	6-	71-	36821652	7820-	47127628
Wainwright										39676	828-	122476
Wales					541-	280-				131	251-	110121
Wasilla	132811	12054	96 <sup>00</sup>		13170-	7777-				5153506	4217-	8176371
White Mountain	86									3000	222-	25286
Whittier					286-	1175-	2100-			163435	524-	785935
Wrangell	23211	517858	312 <sup>00</sup>				9000-	4417-	8193-	3883598	6419-	7388767
Yakutat			532 <sup>00</sup>				1100-	1531-	1114-	1269091	853-	1812077
Unorganized (containing 11)	211											271
TOTAL	21819105	20035266	3076813	13327678	1214865	621778	588667	1062121	1274276	1051171065	80522975	1483771332
	767041	311104	4700 <sup>00</sup>	166084	115687	53051	58125	136	217213	68181127	63603	13376537

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

June 3, 1981

The Honorable Bettye Fahrenkamp  
Chairperson  
Senate Resources Committee  
Room 211 - Capitol Building  
Juneau, Alaska

*CSHB 460 (fin) efd*

Dear Senator Fahrenkamp:

Re: CS for House Bill No. 460 (Finance) (efd failed)

CS for House Bill No. 460 (Finance) (efd failed), an Act relating to the fisheries and salmon enhancement taxes, upon first reading in the Senate on May 27, 1981 was referred to the Senate Resources and Finance Committees.

For the consideration of the Senate Resources Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Ervin B. Jones, Audit Division; Mr. Philip A. Wall, Director, Administrative Services Division and Mr. Robert W. Elliott, Research Section of the Department of Revenue Concerning the proposed legislation.

Sincerely,

R. D. Stevenson  
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee

Philip A. Wall, Director  
Administrative Services Division  
Department of Revenue

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Robert W. Elliott  
Research Section  
Department of Revenue

Ervin B. Jones  
Audit Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 460 (Finance) (efd failed)  
 Title An Act relating to the fisheries and salmon enhancement taxes  
 Requested by Senate Resources Committee Date 6/2/81

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection And Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (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) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

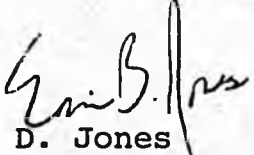
See attached memorandum to R. D. Stevenson dated June 2, 1981.

IV. DATE June 2, 1981 PREPARED BY Ervin B. Jones  
 AGENCY Audit Division  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

# MEMORANDUM

TO: R.D. Stevenson  
Legislative Assistant

DATE: June 2, 1981

FROM:   
Ervin D. Jones  
Acting Director,  
Audit Division

FILE NO:

SUBJECT: CSHB460 (Finance)

We strongly urge the committee to reconsider Section 2, which is designed to relieve custom processors from paying the Fisheries Business Tax. This would create problems for both the administration and for the taxpayers, since the myriad owners of the fishery resources will now fall under the provisions of AS 43.75.100 upon shipment of the resources out of Alaska. The custom processor, who if that is his only activity, will not even be required to license as a fisheries business would still be required to file reports with the department. Gary strongly suggests leaving in the prohibition against deducting the value of the resources that are processed for others.

As suggested in Gary's memo dated April 22, 1981, Sec. 3 needs revision. The fourth condition suggested in that memo was adopted in part but should be further amended to read:

- (4) the fishery resource is sold by the person who claims an exclusion under this section to a fisheries business licensed under AS 43.75.

This change is particularly important if the intent is to pass the tax liability on to the next person who purchases the fishery resource. As Gary pointed out in the referenced memo, this change is necessary to insure our ability to reasonably enforce the law because then the tax would be reportable by taxpayers with whom we are already dealing and we will not be required to go out and try to find other persons who might buy the fishery resource and who would then be required to pay the tax. Gary believes this was merely a transcription error, since he verbally read the ammendment into the record at the committee's request.

Finally, it is important that sections 5 and 6 of this Act also be made retroactive to January 1, 1981, and that they apply to tax years beginning after December 31, 1980. Otherwise the resulting "split-year" situation would be cumbersome to administer and would work an extra hardship on the taxpayers that the bill attempts to assist.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 460 (Finance) (efd failed)

Title The Fisheries & Salmon Enhancement Taxes

Requested by Senate Resources Committee Date 5-28-81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_

Program Category Affected \_\_\_\_\_ Community Development \_\_\_\_\_

BRU, Program, or Subprogram(s) Affected Shared Taxes - Fisheries Tax

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
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	0	(1,969.0)	(5,907.0)			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The bill provides for a two-step increase in the sharing of fisheries taxes to boroughs and cities.

There is no additional administrative cost effect upon the General Government Administration and Support BRU.

IV. DATE 6-1-81

PREPARED BY \_\_\_\_\_

  
Philip A. Wall

AGENCY \_\_\_\_\_

Revenue

PHONE \_\_\_\_\_

465-2313

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 460 (Finance) (efd failed)  
 Title An Act Relating to the Fisheries and Salmon Enhancement Taxes  
 Requested by Senate Resources Committee Date June 2, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE June 2, 1981 PREPARED BY Robert W. Elliott  
 AGENCY Revenue  
 PHONE 465-2309  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHB 460 (Resources)  
 Title An Act relating to the fisheries and salmon enhancement taxes.  
 Requested by House Resources Committee Date April 22, 1981

II. FISCAL DETAIL  
 Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (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) NONE :

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R.D. Stevenson dated April 22, 1981.

IV. DATE April 22, 1981 PREPARED BY Gary I. Jenkins  
 AGENCY Audit Division  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Legislative Assistant

DATE: April 22, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: CSHB 460 (Resources)

The committee substitute for HB 460 is basically the same language as that in the original bill except that several sections have been deleted. Those deleted sections would have solved some serious problems which exist in the present fisheries enhancement tax regarding who is responsible for the collection of the tax.

As recommended in my comments on the initial draft of the bill, I would suggest the legislature give consideration to clarifying a few of the proposed provisions. First, Sec. 3 of the bill establishes an exclusion from the Fisheries Business Tax provided certain conditions are met. For purposes of effective administration, I recommend one additional condition be added to AS 43.75.017(a), which is:

(4) the fishery resource is sold by the person claiming the exclusion from tax to a fisheries business licensed under AS 43.75.

This provision will insure our ability to reasonably enforce the law because the tax will be reportable by taxpayers with whom we are already dealing and we will not be required to go out and try to find other persons who might buy the fishery resource and who would then be required to pay the tax.

When the need for the provisions of this bill were discussed previously with some members of the House Resources Committee, it was suggested that the Salmon Enhancement Tax law be clarified regarding whether the taxable event was the act of catching salmon in one of the established regions or was the act of selling salmon in the region regardless of where caught. It was our original understanding that the taxable event was the act of catching salmon in a region, however, during the course of discussions with various legislators, it has become clear that there is a divergence of opinion as to which event is the taxable event. I would strongly urge the legislature to clarify that point by amending AS 43.76.010 and AS 43.76.011.

Finally, I would also recommend that if this bill is amended to require any buyer to collect the tax, an additional section be added to the bill for the purpose of defining the term "buyer". The following language is suggested for the Legislature's consideration:

"Buyer" means any person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding any transfer to a person engaged solely in interstate transportation of goods for hire.

This broad language is being proposed to insure that deliveries of salmon to a cooperative would be included. This would preclude an argument that a delivery to a cooperative was not an actual sale upon which the tax would not apply.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

(CORRECTED)

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHE 460 (Resources)  
 Title Fisheries & Salmon Enhancement Taxes  
 Requested by House Resources Date April 3, 1981

II. FISCAL DETAIL  
 Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_ General Government \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected Administration & Support, Management Services  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND	(5,907.0)				
FEDERAL FUNDS					
OTHER (Specify Fund Source)					


POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

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

CSHB 460 (Resources) increases the percentage of refund to local governments by 150 percent or 5,907.0. This is in addition to the 3,938.0 requested in the FY 82 budget.

There is no additional administrative cost associated with this bill.

IV. DATE May 8, 1981 PREPARED BY  Philip A. Wall  
 AGENCY Revenue  
 Original: Legislative Finance PHONE 465-2313  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 460 (Resources)  
 Title Relating to the fisheries and salmon enhancement taxes  
 Requested by House Finance Committee Date 4/22/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_

BRU, Program, or Subprogram(s) Affected \_\_\_\_\_

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

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No change in revenues.

*Robert W. Elliott*  
Robert W. Elliott

IV. DATE 4/22/81 PREPARED BY Revenue  
 AGENCY Revenue  
 PHONE 465-2309

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)



# Alaska State Legislature

## House of Representatives

### Committee on Resources

Terry Gardiner, Co-Chairman  
Fred F. Zharoff, Co-Chairman  
465-3715

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

TO: House Finance Committee  
FROM: Rep. Terry Gardiner *TG*  
DATE: 11/May/1981  
RE: Sectional Analysis, CS HB 460

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House Bill 460 relates to the fisheries salmon enhancement taxes.

Sec. 1. This section makes a change in the provision in the fisheries tax dealing with processing a developing commercial fish species and clarifies who is liable for the tax. Specifically, designating that the person who processes the species shall be liable for the tax.

Sec. 2. Amendment to AS 43.75.015(c). This section along with the next (Section 3) makes an amendment to the raw fish tax regarding the definition of who is a processor for purposes of liability of the raw fish tax. Under the present existing definition, a person who freezes a fish is defined as a processor. This has caused problems with those fishermen who are freezing fish on-board their vessels for the purposes of preserving the quality and are later just selling them to a processor on shore for further processing or delivery.

The amendment provided for under these two sections would exempt a person who freezes a fishery resource on-board a vessel from being declared as being a processor and subject to paying the raw fish tax provided that that person subsequently sells that fish to a licensed fish processor. If the person subsequently sells the resource directly on the retail market, than that person is treated as a fish processor and is liable for payment of the fisheries business tax.

Sec. 4. AS 43.75.130. Refund to local governments. This section increases the amount of the fisheries business tax which is subject to refund to local governments under Sec. 130. The provision for the refund for local governments has been in the statutes prior to statehood, although it was fixed at 20 percent. This increases it from 20 percent to 50 percent.

In terms of fiscal impact on the State, it makes no effect on the amount of money that is collected by the State, although it does increase the amount of revenue to be shared back to the municipalities

from approximately \$4 million per year to approximately \$9 million per year. This refund is obviously subject to annual appropriation by the legislature.

Sec. 5. Amends AS 43.76.020(a). This provision deals with the salmon enhancement tax and is a technical amendment due to an oversight in drafting of some legislation last year. The salmon enhancement tax is imposed based upon a vote of the limited entry permit holders in given region of the State. The provisions of the statute allow for the choice of either imposing a 2 percent assessment or a 3 percent assessment. The statute also provides, upon a given vote the assessment tax may be terminated and this provision (Sec. 020) deals with the termination. The way it is presently written and drafted last year, only those individuals or regions which imposed a 3 percent tax are allowed to terminate it and this amendment amends that Section to allow those regions which have imposed a 2 percent tax to also terminate that.

Sec. 6. AS 43.75.136 is a repealer. This is the provision that provides that up to 20 percent of the raw fish tax may be designated by the legislature for purposes of capitalization of the commercial fish and agriculture bank. Since that time, the bank has been fully capitalized with a stock purchase of \$32 million by the State and this Section is no longer needed.

Sec. 7. Transition. The transition provision provides direction on how the taxes which are collected for the purposes of refund to the local government shall be handled. The taxes paid for the 1980 calendar year are actually due to the State on April 1, 1981. This transition provides that those taxes shall be shared in accordance with the Section before it was amended. Taxes paid for the 1981 calendar year, which are actually collected April 1, 1982, shall be shared according to the provisions of this Section as it is amended.

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

HB 460

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 460

Title An Act relating to the fisheries and salmon enhancement taxes

Requested by House Resources Committee

Date April 13, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program or Subprogram(s) Affected Audit Division

(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) NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

GENERAL FUND	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
PART TIME						
TEMPORARY						

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

See attached memo to R.D. Stevenson dated April 13, 1981.

IV. DATE April 13, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Legislative Assistant

DATE: April 13, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: HB 460

This bill would make some much needed clarifications to the Fisheries Business Tax Act and the Salmon Enhancement Tax Act, along with a change in the revenue sharing provisions of the Fisheries Business Tax.

With regard to the specific provisions of the bill, I would suggest the legislature give consideration to clarifying a few of the proposed provisions. First, Sec. 3 of the bill establishes an exclusion from the Fisheries Business Tax provided certain conditions are met. For purposes of effective administration, I recommend one additional condition be added, which is:

(4) the fishery resource is sold by the person claiming the exclusion from tax to a fisheries business licensed under AS 43.75.

This provision will insure our ability to reasonably enforce the law because the tax will be reportable by taxpayers with whom we are already dealing and we will not be required to go out and try to find other persons who might buy the fishery resource and who would then be required to pay the tax.

When the need for the provisions of this bill were discussed previously with some members of the House Resources Committee, it was suggested that the Salmon Enhancement Tax law be clarified regarding whether the taxable event was the act of catching salmon in one of the established regions or was the act of selling salmon in the region regardless of where caught. It was our original understanding that the taxable event was the act of catching salmon in a region, however, during the course of discussions with various legislators, it has become clear that there is a divergence of opinion as to which event is the taxable event. I would strongly urge the legislature to clarify that point by amending AS 43.76.010 and AS 43.76.011. The issue is further confused by the fact that sections 5, 6 and 10 of the bill include provisions that are predicated on the catching of salmon as being the taxable event. Those provisions refer to the imposition of the tax on the person catching the salmon when the salmon are removed from the state by that person without the tax being paid. These concepts were originally suggested when we were still thinking the legislature meant the taxable event to be the catching of

the salmon. Those provisions should be deleted if the legislature intends to keep the tax on a sales basis only.

With regard to section 14 of the bill, which is the effective date clause for the changes in the revenue sharing section in the fisheries business tax, I would suggest that consideration be given to changing the effective date to either January 1, 1982 or July 1, 1982. Either date would seem to be more consistent with the provisions of section 12 of the bill.

Finally, I would also recommend an additional section be added to the bill for the purpose of defining the term "buyer" as it applies in the proposed revisions to the Salmon Enhancement Tax. Please consider the following:

"Buyer" means any person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding any transfer to a person engaged solely in interstate transportation of goods for hire.

This broad language is being proposed to insure that deliveries of salmon to a cooperative would be included. This would preclude an argument that a delivery to a cooperative was not an actual sale upon which the tax would not apply.

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 460  
 Title Relating to the Fisheries and Salmon Enhancement Taxes  
 Requested by House Resources Date April 3, 1981

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected Administration and Support, Management Services  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

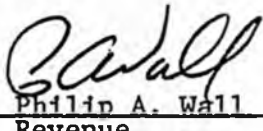
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

HB 460 increases the percentage of tax paid. The Bill will also cause a small increase in Returns which report the tax paid on certain frozen fishery resources and upon salmon removed from the State. The Bill will cause a substantial increase in the amount refunded to Local governments. However, it appears that the additional cost can be handled within the present and requested budgets.

IV. DATE April 7, 1981 PREPARED BY  Philip A. Wall  
 AGENCY Revenue  
 PHONE 465-2313  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 460  
 Title Relating to the fisheries and salmon enhancement taxes  
 Requested by House Resources Committee Date 4/13/81

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No change in revenues.

IV. DATE 4/13/81 PREPARED BY Robert W. Elliott  
 AGENCY Revenue  
 PHONE 465-2309  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHB 460 (Resources)  
 Title An Act relating to the fisheries and salmon enhancement taxes.  
 Requested by House Resources Committee Date April 22, 1981

II. FISCAL DETAIL  
 Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (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) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

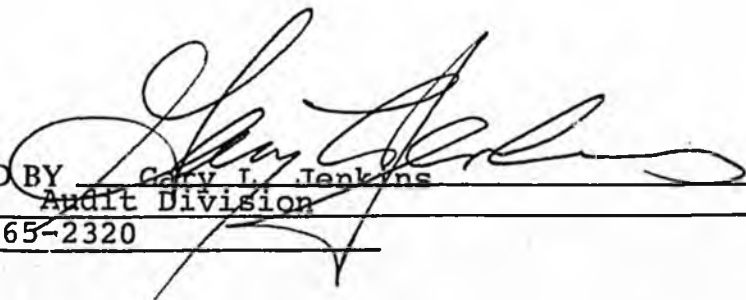
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R.D. Stevenson dated April 22, 1981.

IV. DATE April 22, 1981 PREPARED BY   
 AGENCY Audit Division  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Legislative Assistant

DATE: April 22, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: CSHB 460 (Resources)

The committee substitute for HB 460 is basically the same language as that in the original bill except that several sections have been deleted. Those deleted sections would have solved some serious problems which exist in the present fisheries enhancement tax regarding who is responsible for the collection of the tax.

As recommended in my comments on the initial draft of the bill, I would suggest the legislature give consideration to clarifying a few of the proposed provisions. First, Sec. 3 of the bill establishes an exclusion from the Fisheries Business Tax provided certain conditions are met. For purposes of effective administration, I recommend one additional condition be added to AS 43.75.017(a), which is:

(4) the fishery resource is sold by the person claiming the exclusion from tax to a fisheries business licensed under AS 43.75.

This provision will insure our ability to reasonably enforce the law because the tax will be reportable by taxpayers with whom we are already dealing and we will not be required to go out and try to find other persons who might buy the fishery resource and who would then be required to pay the tax.

When the need for the provisions of this bill were discussed previously with some members of the House Resources Committee, it was suggested that the Salmon Enhancement Tax law be clarified regarding whether the taxable event was the act of catching salmon in one of the established regions or was the act of selling salmon in the region regardless of where caught. It was our original understanding that the taxable event was the act of catching salmon in a region, however, during the course of discussions with various legislators, it has become clear that there is a divergence of opinion as to which event is the taxable event. I would strongly urge the legislature to clarify that point by amending AS 43.76.010 and AS 43.76.011.

Finally, I would also recommend that if this bill is amended to require any buyer to collect the tax, an additional section be added to the bill for the purpose of defining the term "buyer". The following language is suggested for the Legislature's consideration:

"Buyer" means any person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding any transfer to a person engaged solely in interstate transportation of goods for hire.

This broad language is being proposed to insure that deliveries of salmon to a cooperative would be included. This would preclude an argument that a delivery to a cooperative was not an actual sale upon which the tax would not apply.

<u>CITIES</u>	<u>FY 79</u> <u>Actual</u>	<u>FY 80</u> <u>Actual</u>	<u>FY 81</u> <u>Authorized</u>	<u>FY 82</u> <u>Request</u>
Akutan	-0-	106,198	438,547	173,507
Alakanuk	-0-	5	21	8
Aniak	-0-	10	41	17
Anvik	-0-	300	1,239	507
Bethel	-0-	6,449	26,634	10,899
Cordova	98,937	220,782	98,937	373,122
Craig	5,897	23,539	5,897	39,781
Dillingham	61,926	65,710	61,926	111,050
Elim	-0-	580	2,395	980
Enmonak	-0-	5,922	24,458	10,008
Fairbanks	10	20	10	34
Fortuna Ledge	636	3,085	636	5,214
Galena	-0-	719	2,969	1,215
Colcvin	-0-	1,164	4,807	1,967
Goodnews Bay	-0-	5	21	8
Haines	3	-0-	-0-	-0-
Iomer	6,098	16,605	6,098	28,062
Hoonah	2,912	4,431	2,912	7,488
Hooper Bay	-0-	4,091	16,896	6,914
Ilydaburg	2,043	3,604	2,043	6,091
Kachemak	-0-	3,327	13,741	5,623
Kake	12,652	4,842	12,652	8,183
Kenai	41,708	53,958	41,708	91,189
Ketchikan	20,077	10,145	20,077	17,145
King Cove	132,652	162,195	132,627	274,110
Klawock	21,605	4,211	21,605	7,117
Kodiak	134,603	167,240	134,578	282,636
Kotzebue	-0-	1,803	7,446	3,047
Mountain Village	-0-	8,699	35,927	14,701
Nenana	162	229	157	387

AGENCY REVENUE

PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

COMPONENT FISHERIES TAX  
Page 2 of 4

REVISED  
DATE

**23** 18 **CONTINUED**

**FY82**

**00138**

<u>CITIES</u>	<u>FY 79</u> <u>Actual</u>	<u>FY 80</u> <u>Actual</u>	<u>FY 81</u> <u>Authorized</u>	<u>FY 82</u> <u>Request</u>
Nome	-0-	305	1,260	515
Pelican	21,438	60,523	21,438	102,284
Petersburg	107,327	11,520	106,327	19,469
Platinum	-0-	305	1,260	515
Port Alexander	-0-	4,014	16,578	6,784
Port Heiden	-0-	2,245	9,272	3,794
Quinhagak	-0-	5	21	8
Saint Mary's	946	917	810	1,780
Saint Paul	-0-	5	21	8
Sand Point	11,648	21,876	11,648	36,970
Seldovia	1,765	3,686	1,765	6,229
Seward	28,668	46,323	28,669	78,286
Shaktoolik	-0-	305	1,260	515
Togiak	-0-	10,472	43,249	17,698
Unalakleet	-0-	2,380	9,829	4,022
Unalaska	229,897	449,272	229,897	759,270
Valdez	-0-	20	83	34
Wrangell	10,278	18,110	10,278	30,606
Yakutat	1,437	2,945	1,437	4,977
<b>Total Cities</b>	<b><u>955,189</u></b>	<b><u>1,515,232</u></b>	<b><u>1,612,107</u></b>	<b><u>2,550,294</u></b>

BOROUGHES

Municipality of Anchorage	48,201	9,556	48,201	16,150
City and Borough of Juneau	10,901	35,763	10,901	60,439
City and Borough of Sitka	16,252	11,626	16,252	19,648
Bristol Bay Borough	167,722	338,132	167,722	571,443
North Star Borough	10	527	10	891
Haines Borough	27,318	37,575	27,315	63,502

AGENCY REVENUE PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

COMPONENT FISHERIES TAX  
Page 3 of 4

REVISED  
DATE

**23** 18 **CONTINUED**

**FY82**

**00139**

<u>BOROUGH</u> s	FY 79 <u>Actual</u>	FY 80 <u>Actual</u>	FY 81 <u>Authorized</u>	FY 82 <u>Request</u>
Kenai Peninsula Borough	112,101	134,991	212,101	228,135
Ketchikan Gateway Borough	70,225	26,474	70,225	44,741
Kodiak Island Borough	<u>335,185</u>	<u>226,957</u>	<u>335,185</u>	<u>383,557</u>
Total Boroughs	<u>787,915</u>	<u>821,601</u>	<u>887,912</u>	<u>1,388,506</u>
Total Cities and Boroughs	<u>1,743,240</u>	<u>2,336,697</u>	<u>2,500,019</u>	<u>3,938,800</u>

AGENCY REVENUE

PROGRAM COMMUNITY DEVELOPMENT

BRU SHARED TAXES

COMPONENT FISHERIES TAX  
Page 4 of 4

REVISED  
DATE \_\_\_\_\_

**23** 18 **CONTINUED**

**FY82**  
**00140**

FY80

	Bus. Lic. 3rd Qt.	Bus. Lic. 4th Qtr.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals
Anchorage, Munc. of	12453454	8510734	991483	2505916	424562-	209112-	245394-	3345-	6211-	491892369	357122-	610986555
Juneau, City & Borough	1053010	11154	1516 <sup>00</sup>	4209289	19620-	4738-	38650-	18597-	17166-	37235698	4461795-	66400041
Sitka City & Borough	287336	178713	504 <sup>00</sup>	1206351			17900-	6018-	5578-	13163986	16959-	1955534
Bristol Bay Borough	6131		144 <sup>00</sup>		13155-	6479-	5100-	175761-	162361-	1398576	3252-	38061701
North Star Borough	702891	344846	1042 <sup>00</sup>		113289-	85351-		229-	298-	56672132	55877-	89321014
Haines Borough	- 0 -	29215	28 <sup>00</sup>				19539-	18036-	727497		1071-	4624712
Kenai Peninsula Borough	1125741	163093	1222 <sup>00</sup>		68507-	83142-	36206-	98785-	34721133		26868-	62542917
Ketchikan Gateway Borough	22610	310529	432 <sup>00</sup>	2804656			13750-	12724-	320956		8973-	9986451
Kodiak Island Borough	6777	35097	168 <sup>00</sup>		18232-	8980-	117617-	109340-		2081451	4177-	27974675
Matanuska Susitna Borough	383216	16871	1140 <sup>00</sup>		113264-	55781-				9081793	35649-	30071580
North Slope Borough	117322	3862733			11783-	6804-				122092037	7527-	128593492
Akkoik										43682	234-	67012
Akiachak										44691	883-	112991
Akiak	8711	660								13713	417-	70724
Akolmiut										31327	1237-	155027
Akutan								106198-		23790	156-	10659190
Alakanuk		72660			1474-	726-		5-		527909	1017-	922569
Ateknagik					502-	431-				45958	438-	183358
Allakaket										12646	417-	55366
Ambler	7324				1213-	591-				62453	419-	293477
Anaktuvok Pass										10500	334-	43900
Anderson	573		96 <sup>00</sup>		2231-	1101-				135613	907-	510016
Angoon										296010	1044-	400440
Aniak			116 <sup>00</sup>						10-	321716	685-	405116
Anvik					1776-	391-			300-	10435	197-	118635
Atmautluak										17907	386-	46509
Barrow		3795649								2403947	5240-	6723574
Bethel	101571	1504	1146 <sup>00</sup>						6449-	601135	7436-	8207338
Brevig Mission										17114	284-	45811
Buckland	6671									40393	328-	79831
Chefornak										55741	398-	95541
Chevak	6339		90 <sup>00</sup>		2377-	1189-				21201	903-	487573
Chauthbaluk										32905	245-	57405
Clarks Point										3000	189-	2190
Cordova	7272		192 <sup>00</sup>		14139-	6764-	10750-	114804-	105978-	4525600	5245-	3087777
Craig			206 <sup>00</sup>				3100-	12210-	11299-	50496	1133-	2378276
Deering	4659									46725	221-	77109
Delta Junction	34511		168 <sup>00</sup>							2928712	1722-	3152203
Dillingham	116376		120 <sup>00</sup>		11656-	11750-	2820-	33381-	32329-	2718324	3196-	10237920
<b>TOTALS</b>	<b>164891.18</b>	<b>177516.93</b>	<b>18247.83</b>	<b>107242.11</b>	<b>844,826-</b>	<b>433,138-</b>	<b>304,774-</b>	<b>551,320-</b>	<b>62,014-</b>	<b>7731,201.07</b>	<b>578,015.95</b>	<b>11879344.09</b>

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals
Diomedea										9000	241-	33100
Eagle			120 <sup>00</sup>							83378	274-	122798
Eek					858-	423-				28433	593-	215833
Ekwok										7800	244-	292 <sup>00</sup>
Elim					973-	479-			580-	36120	421-	281420
Emmonak					2634-	1297-			5922-	309176	1052-	1397674
Fairbanks	1806988	575900	2472 <sup>00</sup>		60749-	29221-	62625-	7-	11-	104779414	58812-	129241702
Fort Yukon	3250						600-			671417	1227-	857547
Fortuna Ledge			24 <sup>00</sup>		1279-	630-			3085-	52263	508-	604863
Galena	3085		72 <sup>00</sup>				1100-		719-	694610	1848-	1071595
Gambell					2583-	1222-				143229	863-	615029
Golovin								1164-		64422	228-	203422
Goodnews Bay					1018-	501-			5-	6495	479-	204795
Grayling					880-	434-				40129	349-	206729
Haines	102012		107 <sup>00</sup>				5100-			2006327	2637-	2872927
Holy Cross					1337-	659-				88378	583-	216278
Homer	51577	28069	600 <sup>00</sup>		13169-	6781-	14200-	219-	16386-	620430	4300-	11909571
Hoonah			192 <sup>00</sup>				1600-	4431-	4091-	700584	2110-	
Hooper Bay	900				3531-	1739-				246251	1178-	
Houston			49 <sup>00</sup>		748-	368-				0-	5187-	635100
Hughes										8053	189-	26953
Huslia					898-	443-				65152	409-	240152
Hydaburg			48 <sup>00</sup>					3001-	3327-	190439	735-	
Kachemak					914-	450-				49103	523-	
Kake		5106					620-	3-	4834-	245705	1371-	922111
Kaktovik										108473	371-	145573
Kaltag					1150-	567-				0-	0-	171700
Kassaaan										3000	89-	11900
Kenai	461550	305075	636 <sup>00</sup>	1753933	17178-	18441-	18100-	28056-	25902-	14576486	8536-	27853944
Ketchikan	7613167	356675	1686 <sup>00</sup>				22500-	5275-	4870-	22891934	16492-	34404676
Kiana	19018				2571-	1267-				135525	664-	599743
King Cove							1100-	84341-	77854-	184441	1416-	16455541
Kivalina					1197-	589-				15979	510-	245079
Klawock								2190-	2221-	153951	780-	452051
Kobuk	462631	54418	408 <sup>00</sup>	483485	68171-	53577-	19000-	86504-	80676-	16251419	11109-	41202161
Kodiak										109606	589-	168506
Kotlik	83218	402287	72 <sup>00</sup>		26539-	13072-	3900-		1803-	3394461	4877-	8106264
Kotzebue					865-	426-				25477	344-	188977
Koyuk												
	10063034	1747025	6486 <sup>00</sup>	2237418	209842 <sup>00</sup>	163356 <sup>00</sup>	166725 <sup>00</sup>	214692 <sup>00</sup>	233255 <sup>00</sup>	172605018	132228 <sup>00</sup>	203330895

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop. Initial	Elect. & Tel. Coop. Final	Liquor	Raw Fish July-5/15	Raw Fish Munc. 5/16-6/30 Base Amt.	Asst. Munc. Asst. Excess	Totals	
Koyukuk									44450	231-	68350	
Kupreanof									-0-	-0-	-0-	
Kwethluk									141575	857-	227275	
Larsen Bay									-0-	-0-	-0-	
Lower Kalskag					905-	445-			20836	421-	197936	
Manokotak									31920	483-	80220	
McGrath			24 <sup>00</sup>				4500-		33494	737-	86104	
Mekoryuk					1175-	579-			23475	336-	232175	
Mountain Village	993		24 <sup>00</sup>		3818-	1880-		8699-	231313	1049-	177880	
Napakiak			24 <sup>00</sup>						154680	604-	217480	
Napaskiak									1500	463-	47800	
Nenana		15951		135755	2750-	1397-	2800-	119-	1253466	971-	2216472	
New Stuyahok					1272-	627-			37928	573-	285128	
Newhalen									21132	203-	41432	
Newtok									9720	277-	39420	
Nightmute									1995	261-	28095	
Nikolai									1500	273-	308 <sup>00</sup>	
Rome	80597	32872	336 <sup>00</sup>				10425-		305-	530640	5584-	7084873
Nondalton	91201								42719	436-	127520	
Noorvik			24 <sup>00</sup>		25-	1391-			140351	1015-	665851	
North Pole	23397		60 <sup>00</sup>		14597-	7189-	2100-		3124230	1588-	5710979	
Nuiqsut									3000	351-	381 <sup>00</sup>	
Nulato					2038-	1001-			64921	641-	433221	
Old Harbor					1315-	647-			35308	666-	278148	
Ouzinkie									33133	342-	67333	
Palmer		8227	830 <sup>00</sup>	64610	27312-	13152-	9800-		5403867	3969-	1101264	
Pelican			182 <sup>00</sup>					31472-	29051-	427-	6103741	
Petersburg	338568	95194	526 <sup>00</sup>				9400-	5970-	5530-	4364864	6172-	7460428
Pilot Station					1235-	608-			27635	581-	270035	
Platinum									805-	51551	112-	92251
Point Hope									315585	890-	435185	
Port Alexander									4014-	29301	195-	450201
Port Heiden									2215-	23790	176-	265796
Port Lions					1207-	595-			33344	441-	258344	
Quinhagak	9304				1322-	657-			5-	69261	865-	362865
Ruby									76679	425-	119179	
Russian Mission									4500	322-	361 <sup>00</sup>	
Saint Marys			8 <sup>00</sup>		4126-	2180-		437-	440-	61745	841-	912545
Saint Michael					1312-	646-			410723	544-	660923	
	493512	152244	2038 <sup>00</sup>	199765	41515 <sup>00</sup>	33251 <sup>00</sup>	38025 <sup>00</sup>	38194 <sup>00</sup>	50704 <sup>00</sup>	2223911	34383 <sup>00</sup>	49520632

	Bus. Lic. 3rd Qrt.	Bus. Lic. 4th Qrt.	Amusement & Gaming	Aviation Fuel	Elect. & Tel. Coop.	Elect. & Tel. Coop.	Liquor	Raw Fish July-5/15	Raw Fish 5/16-6/30	Munc. Asst. Base Amt.	Munc. Asst. Excess	Totals	
Saint Paul	9386						1100 -		5 -	50438	1091 -	279721	
Sand Point	15366		198 <sup>00</sup>					11376 -	10300 -	444195	1492 -	2816461	
Savoonga			162 <sup>00</sup>		2115 -	1450 -				234071	789 -	768674	
Saxman										0 -	0 -	0 -	
Scammon Bay			40 <sup>00</sup>		957 -	471 -				55194	448 -	246794	
Selawik					2651 -	1305 -				105221	975 -	598321	
Seldovia			408 <sup>00</sup>		2301 -	1134 -	3600 -	1917 -	1769 -	545673	1019 -	1760473	
Seward	61809	9115	1072 <sup>00</sup>				16500 -	283 -	46040 -	4563366	3433 -	11010095	
Shageluk					823 -	405 -				16897	430 -		
Shaktoolik					870 -	429 -			305 -	10805	309 -	202105	
Sheldon Point										11375	276 -	38775	
Shishmaref	13280		60 <sup>00</sup>		1623 -	800 -				96956	720 -	430526	
Shungnak	2470				1498 -	738 -				123577	382 -	387867	
Skagway	25463		278 <sup>00</sup>				4675 -			2158035	1693 -	2848078	
Soldotna	139920	1557	312 <sup>00</sup>	166084	9939 -	4895 -	6600 -			10302406	4566 -	13261161	
Stebbins					929 -	458 -				31711	596 -	230011	
Tanana							600 -			224937	963 -	381237	
Teller										17191	498 -	66971	
Tenakee Springs							1250 -			139424	272 -	291624	
Togiak	13991				2831 -	1398 -			10472 -	309819	915 -	1885960	
Tooksook Bay	31372	32422			1430 -	701 -				90325	618 -	435017	
Tuluksak										15037	498 -	64837	
Tununak					1045 -	515 -				19577	577 -	233277	
Unalakleet	12852				4538 -	2235 -			2380 -	409943	1220 -	1460075	
Unalaska			120 <sup>00</sup>				3100 -	233621 -	215651 -	717593	18266 -	47825373	
Upper Kalskag					671 -	331 -				47783	320 -	257783	
Valdez	281088	183588	410 <sup>00</sup>		51880 -	25553 -	13100 -	6 -	74 -	36821652	7850 -	47137628	
Wainwright										39676	828 -	122476	
Wales					569 -	280 -				131	251 -	110131	
Wasilla	132811	42054	96 <sup>00</sup>		15790 -	71771 -				5453506	4217 -	8416371	
White Mountain	86									3000	222 -	25286	
Whittier					2386 -	1175 -	8100 -			163435	504 -	785935	
Wrangell	23211	97858	312 <sup>00</sup>				9000 -	9417 -	8693 -	3883598	6419 -	7388767	
Yakutat			532 <sup>00</sup>				1100 -	1531 -	1414 -	1269091	853 -	1812091	
Nunapuk Inc. (unincorporated)	271											271	
TOTAL	27819705	20035506	3076813	13327678	1219865	621798	588669	136	1062421	1274276	1057171005	82822775	1683971332
	761041	376604	4100 <sup>00</sup>	166014	103682 <sup>00</sup>	5305 <sup>00</sup>	58925 <sup>00</sup>	151 <sup>00</sup>	277213 <sup>00</sup>	68487467	63603 <sup>00</sup>	103765571	

AMENDMENTS TO CSHB 460 (Res)  
ACCEPTED BY HOUSE FINANCE COMMITTEE  
at 5/14/81 Meeting

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malone Page 1, line 23. After the word "frozen" add ",or other goods  
or services")

malone Page 2, between lines 11 and 12, add a new subsection:

<sup>processor</sup>  
(b) a person is not liable for the fisheries business tax  
when the processor does not own, sell or buy  
~~if~~ the fisheries resource he is processing ~~was purchased~~  
~~and is owned by another person.~~

UFA Page 2, line 29. Add new sections 5 & 6:

\* Sec. 5. AS 43.75.140 (7) is amended to read:

"value" means the compensation actually received from a  
fisheries business or other person purchasing fisheries resources  
[actual price paid] for a [the] fisheries resource by the person  
taking the fisheries resource [the fisheries business], including  
indirect consideration such as fuel, supplies, or gear, whether  
paid at the time of purchase of the fisheries resource or  
tendered as a deferred or delayed payment, except that "value"  
means the market value of the fishery resource if the taking of  
the fishery resource is undertaken [procures] in company owned or  
company-subsidized boats operated by employees of the fisheries  
business or in boats which are operated under lease or other  
arrangement;

\* Sec. 6. AS 43.75.140 is amended by adding a new paragraph  
to read:

(9) "taking" means in any manner pursuing, fishing, capturing,  
or killing fisheries resources.

RENUMBER REMAINING SECTIONS ACCORDINGLY.