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**276**

6-1216E✓  
Chenoweth  
4/21/89

*OW*

Original sponsors: Fischer, Kelly,  
Zharoff, and Jones

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 276 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to refunds to local governments of  
7 proceeds of the fisheries business tax during fiscal  
8 year 1990; and providing for an effective date."

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

10 \* Section 1. PURPOSE. (a) The administration has indicated its desire  
11 and this legislature has expressed its wholehearted support of efforts to  
12 pursue the recovery of all costs incurred in responding to the Exxon Valdez  
13 oil spill, and to make every attempt to identify and recover all losses  
14 attributable to that disaster. This Act is enacted consistent with those  
15 objectives.

16 (b) To hold harmless municipalities whose tax receipts would be  
17 affected by reduction of payments of the fisheries business tax, it is the  
18 purpose of this Act to assure that refunds payable to municipalities from  
19 the proceeds of the fisheries business tax during fiscal year 1990 are not  
20 substantially reduced because of the Valdez oil discharge disaster.

21 \* Sec. 2. ALTERNATE COMPUTATION OF REFUND. (a) Instead of the amount  
22 payable as a fisheries business tax refund under AS 43.75.130, a municipal-  
23 ity entitled to that payment may receive a payment computed for the munic-  
24 ipality that is the average of the amounts the municipality received under  
25 AS 43.75.130 during the fiscal years ending June 30, 1987, June 30, 1988,  
26 and June 30, 1989, if

27 (1) the payment computed under AS 43.75.130 for fiscal year 1990  
28 is less than the amount the municipality received under AS 43.75.130 for  
29 fiscal year 1989;

1 (2) the average exceeds the amount the municipality would re-  
2 ceive under AS 43.75.130 during fiscal year 1990; and

3 (3) the reduction in the payment computed under AS 43.75.130 for  
4 fiscal year 1990 is attributable to the Valdez oil discharge disaster.

5 (b) For purposes of (a) of this section, a reduction in payments  
6 under AS 43.75.130 is attributable to the Valdez oil discharge disaster if

7 (1) as a result of the disaster,

8 (A) the Department of Fish and Game orders a reduction or  
9 closure of a fishing season and the reduction or closure affects  
10 persons who would normally deliver the resource of the fishery for  
11 processing in the municipality;

12 (B) fishing activities are curtailed because of crude oil  
13 in areas open to fishing activities by persons who would normally  
14 deliver the resource of the fishery for processing in the municipal-  
15 ity;

16 (C) substantial numbers of persons who would have lawfully  
17 participated in fishing activities are engaged in containment and  
18 cleanup of the crude oil spilled from the Exxon Valdez and do not take  
19 advantage of fishing activities to deliver the resource of the fishery  
20 for processing in the municipality; or

21 (D) the price paid for the fisheries resources delivered  
22 for processing in the municipality is reduced, and that price reduc-  
23 tion is due to a diminishment in the quality of or market demand for  
24 the fishery resource because of the Valdez oil discharge disaster; or

25 (2) the municipality demonstrates, to the satisfaction of the  
26 commissioner of revenue, that the reduction in payments made to the munici-  
27 pality is otherwise attributable to the Valdez oil discharge disaster.

28 (c) A city incorporated after June 16, 1987, is eligible for the  
29 alternate refund payable under this Act. For purposes of computing the

1 alternate refund under this section, the commissioner of revenue shall  
2 consider under (a)(2) of this section the sequential reduction of revenue  
3 required by AS 43.75.130(d)(1) for a city incorporated after June 16, 1987.  
4 In making the computation under this subsection, the commissioner may  
5 average the number of years of refunds actually made to a new city but, if  
6 a refund has not been made under AS 43.75.130(d)(1), the commissioner may  
7 not apply this subsection.

8 \* Sec. 3. SUPPLEMENTAL APPROPRIATION REQUEST AUTHORIZED. If the amount  
9 appropriated to provide payment under AS 43.75 and sec. 2 of this Act is  
10 insufficient to pay the full amount of all refunds required, the governor  
11 shall submit a request for a supplemental appropriation for fiscal year  
12 1990 to the Second Session of the Sixteenth Alaska State Legislature.

13 \* Sec. 4. DEFINITION. In this Act "Valdez oil discharge disaster"  
14 means the incident involving the discharge of crude oil after the grounding  
15 of the Exxon Valdez at Bligh Reef on March 24, 1989, the discharge of  
16 ballast water from another tanker on the subsequent weekend in order to  
17 accommodate the transfer of crude oil from the Exxon Valdez to the second  
18 tanker, and attendant containment and cleanup actions.

19 \* Sec. 5. This Act is repealed June 30, 1990.

20 \* Sec. 6. This Act takes effect July 1, 1989.

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STATE OF ALASKA  
THE LEGISLATURE

APR 11 1989

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1989

SUBJECT: Fisheries business tax refunds, FY 1990  
(Work Order 6-1216A)

TO: Senator Paul Fischer

FROM: Jack Chenoweth  
Legislative Counsel

In the bill draft accompanying this memorandum, I provide an alternate method of computing the fisheries business license refunds payable to municipalities during FY 1990. That method is dependent on computing the average of payments received by the municipality during the three preceding fiscal years (FY 87 - 89, inclusive). The alternative method applies if (1) there is an actual decrease in the refund payment due a municipality between FY 89 and FY 90; (2) the average of the payments made to the municipality for FY 87 - 89 proves to be greater than the amount payable under AS 43.75.130 for FY 90; and (3) the decrease is attributable to the Exxon Valdez oil spill. This last requirement may be met by meeting any one of the conditions identified in subsection (b) of bill section 3, all of which I perceived as having to do with reducing the delivery of the value or volume of the fishery resource to the municipality for processing (on which the computation of the refund is based):

- ← (1) reduction or closure of a fishery as a result of the spill;
- ← (2) curtailment of fishing activity by commercial fishermen because of the presence of crude oil;
- ← (3) deployment of commercial fishermen in clean-up activities;
- (4) price reductions due to diminishment of quality of the resource or of market demand for the resource; or

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Senator Paul Fischer  
Page 2  
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(5) any other reason that satisfies the commissioner of revenue.

I included a provision so that new cities that are subject to the legislated declining refund formula of AS 43.75.-130(d)(1) would not see that offset by the application of this provision.

As we briefly discussed, since the commissioner cannot know now with any certainty the amount that would be required for all payments made under AS 43.75.130 and under this Act, the governor is directed to submit a supplemental if necessary.

The bill has a one year life; it is repealed June 30, 1990.

JC:gc  
WKG9/045

Enclosure

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 276  
PUBLISH DATE: 4/22/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Refunds to local governments -  
fisheries business tax during FY 90  
Sponsor: Fischer, et al  
Requestor: CRA & Res. & Fin

Agency Affected: Revenue  
BRU: Income & Excise Audit  
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	-	(4341.0)	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320  
Division: Income and Excise Audit Date: April 22, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 22, 1989  
Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

SB 276

Prepared by:

Steven E. Kettel, Director  
Income and Excise Audit Division  
April 21, 1989

## BILL ANALYSIS

### Section 2

Presently communities receive 50% of the fisheries business tax paid on fish processed in that community. The tax is a percentage of the ex-vessel value (price paid fishermen) of the processed fish.

Due to the catastrophic oil spill in Prince William Sound, the amount of the tax revenues which are available to share to communities may drop drastically for several reasons:

- 1) fisheries may be closed by the Department of Fish and Game;
- 2) fish may be intercepted before they reach the areas affected by the spill and processed in alternative communities;
- 3) market values worldwide for Alaska seafood products may drop; affecting the ex-vessel value price paid to fishermen
- 4) toxic properties of the oil may kill either returning fish or fry as they leave the streams and swim into affected waters, impacting future year's salmon returns.

To mitigate the affect on communities that a drop in tax revenues would have, SB 276 will provide a new formula for determining state revenues payable to communities in lieu of the current statutory shared revenue formula. To be eligible for increased share a community must pass a three-pronged test:

- 1) FY90 share computed under existing law is less than FY89 actual share;
- 2) The average actual share for FY87, FY88 and FY89 must exceed FY90 share under existing law.
- 3) The reduction is attributable to the Valdez oil discharge disaster.

The third prong of this test will be met if any one of four conditions are met. Of these conditions, one has the potential to entitle every fishing community in the State of Alaska to receive a larger revenue share computed under this bill. This condition links the reduction in shared revenue payment to the drop in price paid for fisheries resources delivered to any municipality in the state. Conceivably, the price paid for all fisheries resources harvested throughout Alaska will be lower following the spill merely because of the adverse publicity the discharge has caused worldwide.

For purposes of this fiscal note we have estimated the impact the discharge would have on communities directly in the spills path as of April 19, 1989. The estimate assumes that all fisheries in the oil spill area will be closed in 1989. No projection can be made for 1990 and beyond at this time.

SB 276  
 Prepared by:  
 Steven E. Kettel, Director  
 Income and Excise Audit Division  
 April 21, 1989

Cities and Boroughs directly in path of oil spill which receive shared fish taxes have received payments for the past two years as follows:.

	<u>FY 87</u>	<u>FY 88</u>	<u>Average</u>
Valdez	64,993	166,311	115,652
Cordova	382,413	815,106	598,760
Seldovia	11,854	12,570	12,212
Kodiak Island Borough	871,500	1,156,269	1,013,885
Old Harbor	3,901	0	1,950
Larsen Bay	13,179	4,927	9,053
Kenai Borough	656,525	1,482,779	1,069,652
Kodiak	617,960	885,584	751,772
Homer	89,036	170,726	129,881
Kenai	174,530	364,879	269,704
Seward	151,656	221,921	186,789
Whittier	9,128	24,664	16,896
Municipality of Anchorage	<u>90,923</u>	<u>239,337</u>	<u>165,130</u>
Total	3,137,598	5,545,073	4,341,336

DEPARTMENT POSITION

The Department has no objection to this legislation. It is certainly a legitimate response to a potentially devastating situation. Obviously, should "hold harmless" funds be made available, they will come from General Funds

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# Alaska State Legislature

Al Adams  
District L



Official Business

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(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622

TO: Senator Bettye Fahrenkamp, Chair  
Senate Resources Committee

FROM: Senator Al Adams *APA*

RE: SB 276, "An Act relating to refunds to local governments of  
proceeds of the fisheries business tax during fiscal year 1990;  
and providing for an effective date."

DATE: April 29, 1989

*THIS WENT PMS*

Enclosed is the referral file on the aforementioned legislation which was waived from the Community and Regional Affairs Committee today.

In your packet is a proposed committee substitute which was not formally moved out by the committee, but which you may wish to consider for adoption during Resource Committee hearings on this bill. The proposed substitute added a new section one regarding "Conditions that necessitate this legislation." This was added to make a statement supportive of recovering costs lost to the State of Alaska due to the oil discharge in Valdez.

Also changed is section six of the bill which repeals all sections except section one and sections five through seven on June 30, 1990. This was changed so that the provisions in section one could not be interpreted in future court cases as an intention of the Legislature not to recover costs past June 30, 1990.

A new fiscal note for the committee substitute was solicited and is enclosed for your consideration.

The bill's sponsor, Senator Fischer, was supportive of the proposed substitute.

Thank you.

cc: Senator Paul Fischer  
Senator Mike Szymanski

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 276 (C&RA)

PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Refunds to local governments - fisheries business tax during FY 90  
Sponsor: Fischer, et al  
Requestor: CRA & Res. & Fin.

Agency Affected: Revenue  
BRU: Income & Excise Audit

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTS	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	(4341.0)	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320  
Division: Income and Excise Audit *Income and Excise Audit* Date: April 4, 1990

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 4, 1990  
Agency: Department of Revenue

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

CSSB 276  
Prepared by:  
Steven E. Kettel, Director  
Income and Excise Audit Division  
April 4, 1990

### Bill Analysis

#### Section 2

Presently communities receive 50% of the business tax paid on fish processed in that community. The tax is a percentage of the ex-vessel value (price paid fishermen) of the processed fish.

Due to the catastrophic oil spill in Prince William Sound, the amount of the tax revenues which are available to share to communities may drop drastically for several reasons:

- 1) fisheries may be closed by the Department of Fish and Game;
- 2) fish may be intercepted before they reach the areas affected by the spill and processed in alternative communities;
- 3) market values worldwide for Alaska seafood products may drop; affecting the ex-vessel value price paid to fishermen
- 4) toxic properties of the oil may kill either returning fish or fry as they leave the streams and swim into affected waters, impacting future year's salmon returns.

To mitigate the affect on communities that a drop in tax revenues would have, SB 276 will provide a new formula for determining state revenue payable to communities in lieu of the current statutory shared revenue formula. To be eligible for increased share a community must pass a three-pronged test:

- 1) FY90 share computed under existing law is less than FY89 actual share;
- 2) The average actual share for FY87, FY88 and FY89 must exceed FY90 share under existing law.
- 3) The reduction is attributable to the Valdez oil discharge disaster.

The third prong of this test will be met if any one of four conditions are met. Of these conditions, one has the potential to entitle every fishing community in the State of Alaska to receive a larger revenue share computed under this bill. This condition links the reduction in shared revenue payment to the drop in price paid for fisheries resources delivered to any municipality in the state. Conceivably, the price paid for all fisheries resources harvested throughout Alaska will be lower following the spill merely because of the adverse publicity the discharge has caused worldwide.

CSSE 276

Prepared by:

Steven E. Kettel, Director

Income and Excise Audit Division

April 4, 1990

For purposes of this fiscal note we have estimated the impact the discharge would have on communities in the spill's path as of April 19, 1989. The estimate assumes that all fisheries in the oil spill area will be closed in 1989. No projection can be made for 1990 and beyond at this time.

Cities and Boroughs directly in path of oil spill which receive shared fish taxes have received payments for the past two years as follows:

	FY87	FY88	FY89
Kenai Peninsula	\$656,525	\$1,037,945	\$1,975,001
Kodiak Island	871,500	809,388	2,044,869
Chignik	164,267	202,825	472,467
Cordova	382,413	570,574	1,294,703
Homer	89,036	119,508	240,153
Kenai	174,530	255,415	583,068
Kodiak	617,960	619,909	1,167,693
Old Harbor	3,901	0	0
Port Lyons	0	0	296
Seldovia	11,854	8,799	45,116
Seward	151,656	155,345	270,699
Soldotna	0	0	1,806
Valdez	64,993	116,418	294,381
Whittier	9,128	17,265	55,864
TOTAL:	\$3,044,069	\$3,662,957	\$8,445,524

#### Department Position

The Department has no objection to this legislation. It is certainly a legitimate response to a potentially devastating situation. Obviously, should "hold harmless" funds be made available, they will come from General Funds.