

S B

74

Bill/Resolution History 12:59 PM 05/16/90
BILL: SB 74
NAME: 2D CSSB 74(FIN)
TITLE: "An Act establishing a fisheries business tax credit;
and providing for an effective date."

Page 1

PRIME SPONSOR: ZHAROFF
CO-SPONSOR: STURGULEWSKI, KERTTULA

CURRENT STATUS: (H) FIN STATUS DATE: 05/05/90

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

02/26/90 SENATE JOURNAL PAGE 2586

SB 74

The Resources Committee considered SENATE BILL NO. 74 (An Act amending and extending the fisheries business tax credit; relating to fisheries business tax refunds to municipalities; and providing for an effective date) and recommended it be replaced with

CS FOR SENATE BILL NO. 74 (Resources)

Senator Fahrenkamp, Chair, and Senators Kerttula and Eliason signed "no recommendation." Senator Zharoff signed "do pass." Senator Frank signed "do not pass."

Fiscal note for the Committee Substitute published today from Department of Revenue.

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

02/26/90 SENATE JOURNAL PAGE 2586

SENATE BILL NO. 74 was referred to the Finance Committee.

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

B005-LAST PAGE

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 74 (Res) REVISED

PUBLISH DATE: 4/6/90

FISCAL NOTE

MAR 7 1990

REQUEST:

Revision Date: _____
Title: Fisheries Business Tax Credit
Refunds to Municipalities
Sponsor: Zharoff, Et al.
Requestor: Finance

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
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	<15,000>	<16,000>	<16,000>	<16,000>	<16,000>	<16,000>

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: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 5, 1990

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 5, 1990

Distribution (by preparer):

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

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a dual fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 6 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation for the following reasons.

1. This legislation will have a significant impact on general fund revenues. The department estimated that general fund revenues will decrease by as much as \$64 million over the additional four year period the fisheries tax credit program is extended under this legislation.

The expansion of the scope of expenditures coupled with the deletion of the provision to require approval by the department prior to expenditures will increase the total amount of credits to be applied and carried forward against fisheries taxes that would otherwise be collected.

2. The department believes that the current fisheries credit program has fully served its purpose to benefit the industry by allowing them to establish new shore based processing plants and improve existing facilities. Now that the industry has made significant investment to increase production and efficiency, it is capable of successfully competing in the marketplace without additional fisheries tax credits provided by this legislation.

The department also contends that with the growing market for Alaska fisheries products, many of the expenditures incurred to date would have been made regardless of the current tax credit program. The department believes that extension of the fisheries tax credit program will not induce additional capital expenditures which otherwise may be made.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Adending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff et
 Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel *Steve Kettel* Phone: (907) 465-2320
 Division: Income and Excise Audit Date: _____
 Approved by Commissioner: Hugh Malone *Hugh Malone* Date: 2/23/90
 Agency: Department of Revenue

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

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a triple fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

3. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff etc.
Requestor: CRA, Res. and Finance

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
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	(6700)	(13000)	(13700)	(13700)	(13700)	(13700)

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: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 14, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 14, 1989

Distribution (by preparer):

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

SECTIONAL ANALYSIS

Section 1 extends the maximum period for which a fisheries business may receive a credit against their fish tax liability from three to five years.

Section 2 also extends the maximum period of time from 3 to 5 years the amount a municipality may increase the fish tax credit by foregoing up to one-half of their share of fish tax collections.

Section 3 extends the unused credit carryover to correspond to the 5 year election period in Section 1.

Section 4 increases the maximum amount of credit that may be claimed to 75% of the taxpayers total tax liability if a municipality participates in the credit program. Current law provides a 50% maximum whether or not a municipality participates.

Section 5 makes a technical change to adopt the five year credit period.

Section 6-8 provides a sunset provision on the fish tax credit of December 31, 1995.

Section 9 provides transition rules allowing municipalities to adopt an ordinance conforming to the change in this bill.

SB 74/CURRENT LAW COMPARATIVE ANALYSIS

	<u>SB 74</u>	<u>CURRENT LAW</u>
1. AUTHORIZED PERIOD FOR EXPENDITURE	1987-1991	1987-1989
2. PERIOD CREDIT AVAILABLE	1987-1995	1987-1991
3. CARRY-OVER PROVISION	5 year	3 year
4. POTENTIAL FISCAL IMPACT	\$74.5 Million	\$35.2 Million
5. MAXIMUM CREDIT AVAILABILITY *	75 % tax liability	50% tax liability

* requires municipal approval and participation

BILL ANALYSIS

The present fish tax credit program has been widely utilized by the shorebased fisheries processing industry. Nearly \$136 million in shorebased investment has been proposed since 1986 and the Department continues to approve additional millions in proposed expenditures each month.

Actual tax credits taken to date total \$6.7 million. This represents credits for expenditures made in 1987 only. 1988 expenditures and the corresponding credits will be claimed by the end of March 1989. Due to higher than expected returns in some salmon fisheries, and higher prices for many species, we anticipate both an increase in fish tax collections for 1988 and a corresponding increase in fish tax credits claimed.

FISCAL IMPACT OF HB 74

We project that fish processors will continue to take advantage of this program into the 1990's. The attached schedule anticipates that by expanding the number of years that capital expenditures will create tax credits, an estimated \$74.5 million in general funds may be lost. To calculate this impact we have made several broad assumptions.

- 1) Expenditures will level out to \$40 million per year for each additional year of the program.
- 2) The fish tax collections will increase 10% in FY89 and 5% thereafter based upon increased product capacity and productivity through capital expansion.
- 3) We assume that the last tax year for which credits will be granted is 1995.

DEPARTMENT POSITION STATEMENT

The Department of Revenue opposes this legislation for the following reasons:

- 1) As the fiscal note reports, this legislation has substantial impact on general fund revenues.
- 2) This legislation does not mandate municipal participation. The Department favors an amendment requiring cities and boroughs which benefit from the capital expansion to give up a portion of their revenues.
- 3) The Department believes that many of the expenditures have been made and will be made in the future regardless of whether a credit is offered.
- 4) Shorebased fisheries businesses already fully constructed are put at a competitive disadvantage against those new entries to the market.

PROJECTED REVENUE IMPACT
FISHERIES BUSINESS TAX CREDIT (AS 43.75.032)

INCOME & EXCISE AUDIT
MARCH 14, 1989

\$ in millions	EXISTING CREDIT PROGRAM				PROGRAM UNDER SB74					PROGRAM TOTALS	SB74 TOTALS	
	TAX YEAR FISCAL YEAR	1987 1988	1988 1989	1989 1990(a)	1990 1991	1991 1992	1992 1993	1993 1994	1994 1995			1995 1996
APPROVED EXPENDITURES		55.5	62.4	38.4	40.0	40.0	N/A	N/A	N/A	N/A	236.3	100
CREDIT APPROVED		27.7	31.2	19.2	20.0	20.0	N/A	N/A	N/A	N/A	118.1	
CREDIT APPLIED (REVENUE LOSS)		6.7	11.0	11.8	12.4	13.0	13.7	13.7	13.7	13.7	109.7	74.5
CREDIT AVAILABLE FOR CARRYFORWARD		21.0	41.2	48.6	56.2	63.2	49.5	35.8	22.1	8.4		

SUMMARY

FISHERIES TAX LIABILITY BEFORE CREDIT APPLIED	29.2	(b)32.1	33.7	35.4	37.2	39.0	39.0	39.0	39.0	323.6	
CREDIT APPLIED	(6.7)	(11.0)	(11.8)	(12.4)	(13.0)	(13.7)	(13.7)	(13.7)	(13.7)	(109.7)	
MUNICIPAL SHARE	<u>(14.6)</u>	<u>(16.0)</u>	<u>(16.8)</u>	<u>(17.7)</u>	<u>(18.6)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(161.7)</u>	
GENERAL FUND SHARE	7.9	5.1	5.1	5.3	5.6	5.8	5.8	5.8	5.8	52.2	

(a) TY 1989 expenditures to 3/10/89 amount to 18.4 million. Balance of calendar year expenditures at 20 million. TY 1991 through 1992 annual expenditures estimated at 20 million per year.

(b) Tax liability is an estimate based on an increase in resource value and production. Fisheries Business tax returns are due March 31 of the following year. The rate of increase is estimated at 5% to FY 1993 and remained constant through FY 1996.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Adending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff et.
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BR#: Income & Excise Audit
 Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
 Division: Income and Excise Audit Date: _____
 Approved by Commissioner: Hugh Malone *Hugh Malone* Date: 2/23/90
 Agency: Department of Revenue

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

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a triple fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

3. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit
 Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Phone: (907) 465-2320
 Date: _____
 Date: 2/23/90

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

BILL ANALYSIS

This bill amends the current fisheries tax credit statute keeping intact the basic provisions for claiming credits. This bill would have a dual fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by four years through tax year 1995.

2. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff etc
Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
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REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	
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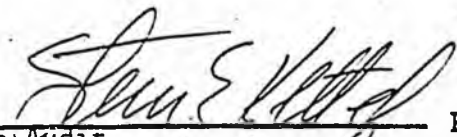
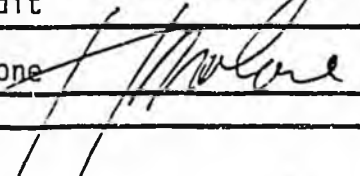
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel  Phone: (907) 465-2320
Division: Income and Excise Audit Date: _____
Approved by Commissioner: Hugh Malone  Date: 2/23/90
Agency: Department of Revenue

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

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which would be similar to the current fisheries tax credit statute (AS 43.75.032). This bill would have a dual fiscal impact to the State as follows:

1. Adds a new fisheries tax credit program to expire with tax year 1994.

This bill essentially establishes a new three year tax credit program similar to the current tax credit program. The bill would extend the credit program by three years by allowing credits to be claimed through tax year 1994 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years from December 31, 1989 to December 31, 1994.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit

Phone: (907) 465-2320
 Date: _____

Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Date: 2/23/90

Distribution (by preparer):

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

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which essentially is patterned after the current fisheries tax credit statute (AS 43.75.032). This bill would have a fiscal impact to the State as follows:

Adds a new fisheries tax credit program to expire with tax year 1994.
This bill essentially establishes a new three year tax credit program similar to the current tax credit program. The bill would extend the credit program for three years by allowing credits to be claimed through tax year 1994 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years to December 31, 1994.

The Department opposes this draft legislation.

0335K
PED/ƒed

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit

Phone: (907) 465-2320
 Date: _____

Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Date: 2/23/90

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff, etc
Requestor: CRA, Res. and Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99			
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
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REVENUE	(18,000)	(18,000)	(18,000)			
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel Phone: (907) 465-2320
Division: Income and Excise Audit Date: _____

Approved by Commissioner: Hugh Malone Date: _____
Agency: Department of Revenue

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

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which would substantially extend the period for claiming fisheries tax credits. This bill would have a dual fiscal impact to the State as follows:

1. Adds a new fisheries tax credit program to expire with tax year 1998.

This bill establishes a new 5 year tax credit program similar to the current tax credit program. The bill would extend the credit program by 7 years by allowing credits to be claimed through tax year 1998 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years to December 31, 1994.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

The Department opposes this draft legislation.

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Chapter 75. Fisheries Taxes.

Article

1. Taxes and Licenses (§§ 43.75.010, 43.75.015, 43.75.018, 43.75.032, 43.75.034)
3. General Provisions (§§ 43.75.130, 43.75.133, 43.75.140)

Article 1. Taxes and Licenses.

Section

10. [Repealed]
15. Fisheries business tax
18. Fisheries business education credit

Section

32. Fisheries business tax credits
34. Tax credit report

Editor's notes. — The citation to the case at this location in the main pamphlet is erroneous. The correct citation is *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (1978).

Sec. 43.75.010. Fisheries business licenses. [Repealed, § 13 ch 79 SLA 1979. For current law, see AS 43.75.011.]

Editor's notes. — The citation to the case at this location in the main pamphlet is erroneous. The correct citation is *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (1978).

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business — four and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three percent;

(3) fisheries resources processed by a floating fisheries business — five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

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

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

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for

and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981; am § 1 ch 79 SLA 1986)

Effect of amendments. — The 1986 amendment substituted "fisheries business" for "cannery" in paragraph (1) of subsection (a).

Sec. 43.75.018. Fisheries business education credit. (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) Contributions accepted for endowment purposes are not eligible for the credit under (a) of this section.

(c) By September 30 of each year, the Department of Revenue shall report to the Legislative Budget and Audit Committee on the credits taken under this section. Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used. (§ 7 ch 58 SLA 1987)

Cross references. — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 of the Temporary and Special Acts.

Sec. 43.75.032. Fisheries business tax credits [Effective until January 1, 1992]. (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to the development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more

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than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

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(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

(1) "cooperative" has the meaning given in AS 10.15.595.

(2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Editor's notes. — Effective January 1, 1992, this section will read: "Sec. 43.75.032. Tax credit for scholarship contributions. (a) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 47.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A tax credit under this section may not be approved for more than 100 percent of a scholarship contribution.

"(b) The department may not approve a tax credit under this section if the fisher-

ies business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

"(c) The department shall prepare an application form for a credit under this section.

"(d) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application."

Sec. 43.75.034. Tax credit report [Repealed effective February 15, 1992]. Not later than the 15th legislative day of each regular legislative session the Department of Revenue, in conjunction with the Department of Commerce and Economic Development, shall submit to the legislature a report on the fisheries business tax credit program under AS 43.75.032. The report shall describe the expenditures for which a credit was approved during the previous tax year and, if possible, the increase in employment and processing capacity by the fisheries business for which the credit was approved. (§ 2 ch 79 SLA 1986; r . . . LA 1986)

Postponed repeal. — Section 8, ch. 79, SLA 1986 repeals this section, effective February 15, 1992.

Article 3. General Provisions.

Section

130. Refund to local governments

133. Provision of information to municipalities

Section

140. Definitions

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Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner of revenue shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) [Repealed effective January 1, 1992] Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay

(1) to each city that is located in a borough incorporated after June 16, 1987 the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987 the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4,7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2 ch 80 SLA 1987)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals subsection (c), effective January 1, 1992.

Revisor's notes. — Subsection (f) enacted as (d). Renumbered in 1987.

Effect of amendments. — The 1985 amendment in paragraph (1) substituted "unified municipality" for "municipality unified under AS 29.68.240 — 29.68.440."

The 1986 amendment added subsections (b) and (c).

The first 1987 amendment added subsection (f).

The second 1987 amendment in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the section and substituted "under" for "by" throughout the subsection and added subsections (d) and (e).

Sec. 43.75.133. Provision of information to municipalities.

(a) If the mayor, manager, or administrator of a municipality makes a written request, the department shall furnish the mayor, manager, or administrator of the municipality the names of all fisheries businesses that have filed tax returns under this chapter in which the fisheries business listed the municipality as the location in which the fisheries business processed a fisheries resource subject to the tax imposed under this chapter.

(b) If the mayor, manager, or administrator of a municipality makes a written request, the department shall verify that, as to a tax levied and collected by the municipality that is based on the value of fisheries resource processed in or transported to or within the municipality, the value of the fisheries resources reported by a fisheries business to the municipality and the value of the fisheries resources reported by the fisheries business to the department under this chapter are substantially the same. If the values are not substantially the same, the department shall permit the mayor, manager, or administrator of the municipality to inspect tax returns filed by the fisheries business with the department under this chapter, or shall furnish to the municipal officer a copy of the tax returns, if the department determines that the municipality provides adequate safeguards for the confidentiality of the returns and that the returns will be used by the municipality only for purposes of collection of its tax levied and collected on fisheries resources. In this subsection, the value of the

fisheries resources reported by the fisheries business to the department and the value reported to the municipality are substantially the same if the values are equal or the variance between them does not exceed one percent of the greater value. (§ 1 ch 128 SLA 1988)

Editor's notes. — Section 2, ch. 128, applies to tax returns filed after December 31, 1986. SLA 1988 provides that this section ap-

Sec. 43.75.140. Definitions. In this chapter

(1) [Repealed effective January 1, 1992] "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the commissioner of commerce and economic development;

(2) "department" means the Department of Revenue;

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(11);

(4) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(5) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) [Repealed effective January 1, 1992] "product diversity" means the processing of nontraditional fish or other seafood species or products;

(8) [Repealed effective January 1, 1992] "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

(9) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(10) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(11) "value" means the actual price paid for the fisheries resource by 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 done 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. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals paragraphs (1), (7) and (8), effective January 1, 1992.

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Effect of amendments. — The 1986 amendment added paragraphs (1), (7) and (8).

Chapter 76. Salmon Enhancement Act.

Section	Section
10. Three percent salmon enhancement tax	20. Termination of salmon enhancement tax
11. Two percent salmon enhancement tax	25. Collection of tax and disposition of proceeds
12. One percent salmon enhancement tax	28. Liability for tax on salmon shipped from state
15. Election to approve or terminate salmon enhancement tax	35. Exemption

Sec. 43.76.010. Three percent salmon enhancement tax. (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of three percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A three percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the three percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 13 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the inter-nal reference because of section reorganization.

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15 AAC 75.060. EXPENDITURES ELIGIBLE FOR TAX CREDIT. The following equipment and depreciable property are capital expenditures eligible for fisheries business tax credits under AS 43.75.032:

(1) refrigeration equipment, or new plant construction or improvements made to depreciable property which are integrally related to the original installation of refrigeration equipment, if the equipment, construction, or improvements are dedicated to and necessary for the performance of the following functions at a shore-based seafood processing facility in Alaska:

(A) manufacturing, storing, and delivering of ice;

(B) refrigerated holding or storing of processed seafood products, raw fish, or shellfish before processing or shipment; or

(C) seafood product freezing;

(2) fish processing equipment, or new plant construction or improvements made to depreciable property which are integrally related to the original installation of fish processing equipment, if the equipment, construction, or improvements are necessary for the manufacturing of the following products at a shore-based seafood processing facility in Alaska:

(A) round or dressed frozen fish or shellfish products;

(B) fresh or frozen cut or formed boneless portions;

(C) fresh or frozen fillet products;

(D) comminuted or minced fish products or products that are based on the use of comminuted or minced fish;

(E) surimi or products that are based on the use of surimi;

(F) fish or shellfish meal, oil, solubles, protein derivatives, pharmaceuticals, or biochemicals;

(G) canned salmon;

(H) smoked or cured seafood products;

(I) fish or shellfish products preserved by new or nontraditional methods, including aseptic handling, irradiation, controlled atmosphere storage, or the application of chemicals;

(3) to be eligible under (2) of this section, the equipment, construction, or improvements must be dedicated to and necessary for appropriate processing functions, such as vessel unloading, raw material or finished product storage, weighing, roe separation, cutting, skinning, bone separation, can filling, forming, washing, mixing, grinding, pumping, concentrating, can seaming, cooking, retorting, drying, pressing, can washing, packaging, labeling, or the addition of chemicals, colors, or flavoring. (Eff. 12/16/86, Register 101)

Authority: AS 43.75.032
AS 43.75.140

15 AAC 75.070. APPLICATION FOR FISHERIES BUSINESS TAX CREDIT. To qualify for the fisheries business tax credit for eligible expenditures, as defined in 15 AAC 75.060, made between July 1, 1986 and December 31, 1989, a fisheries business must apply for the credit in advance of the capital expenditure on forms prescribed by the department. On the form, the fisheries business shall provide the following information:

(1) the name of fisheries business;

(2) the fisheries business license number of each processing facility owned by the fisheries business;

(3) the mailing address for the fisheries business;

(4) telephone number for the fisheries business;

(5) the location of the processing facility for which eligible expenditures will be made;

(6) a list of all equipment and improvements to depreciable property to be purchased or constructed and a description of their functions related to the processing of fish;

(7) the approximate cost of each piece of equipment or improvement to depreciable property to be purchased or constructed;

(8) the estimated date that the equipment or improvement to depreciable property is to be purchased or constructed, and the date it first will be placed into service;

(9) if used equipment or a used improvement to depreciable property is to be purchased, a list of the names of the previous owners of the equipment or improvement, and the dates of their ownership. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

15 AAC 75.080. PLACED IN SERVICE RULE. (a) In order for a credit to be applied against a fisheries business tax liability, the equipment or improvement to depreciable property that is the subject of the credit must be effectively placed in service in the state.

(b) Equipment or improvements to depreciable property will be considered to have been placed in service in the earlier of the following tax years:

(1) the tax year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such improvements or equipment begins; or

(2) the tax year in which the equipment or improvement to depreciable property is placed in a condition or state of readiness and availability for a specifically assigned function integrally related to the manufacture of seafood products or fish processing functions described in 15 AAC 75.060.

(c) If otherwise qualifying as an eligible expenditure, the following property will be considered in a state of readiness and availability:

(1) parts acquired and set aside during the tax year for use as replacements for a particular machine in order to avoid operational time loss;

(2) operational fish processing equipment acquired during a tax year, where it is not practicable to use the equipment for its specifically assigned function in the fisheries business until the following year; and

(3) equipment acquired for a specifically assigned function which is operational but which is undergoing testing to eliminate defects.

(d) If the department has determined that certain expenditures are eligible for tax credit, but the expenditures do not reflect the full cost of the equipment or improvement to depreciable property because the total amount to be paid or incurred by the taxpayer is indeterminate, credit will be allowed to the taxpayer for the first tax year with respect to so much of the cost as has been paid or incurred as of the close of that year, and additional credit will be allowed to the taxpayer for subsequent eligible tax years with respect to additional expenditures made during each subsequent year.

(e) Notwithstanding (a) — (d) of this section and for fisheries business tax credit computation purposes only, equipment or improvements to depreciable property placed in service from July 1, 1986 through December 31, 1986 will be considered to have been first placed in service in tax year 1987. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

15 AAC 75.090. LIMITATION ON CREDIT. (a) If a taxpayer is operating both shore-based and floating fish processor facilities in the same tax year that eligible capital expenditures are made, the total credit that may be claimed in that tax year may not exceed 50 percent of the taxpayer's combined fisheries business tax liability incurred at all of the taxpayer's fish processing facilities. However, in no event will the fisheries business tax credit generated at a processing facility in one tax year be applied to the fisheries business tax liability incurred at another processing facility in a subsequent year if the other facility was not owned by the taxpayer in the tax year the capital expenditure was made. The following are illustrative examples:

(1) Company F solely owns and operates a shore-based processing facility in Alaska and a floating freezer ship. In 1987, the company spent \$1,000,000 in adding new refrigeration equipment and capacity to its shore-based plant. The company's 1987 fisheries business tax liability at its shore-based plant is \$200,000 and at its floating

facility is \$50,000. The 1987 fish tax credit is limited to \$125,000, one-half of the combined liabilities of both facilities. The remaining \$375,000 credit is available to offset taxes incurred in tax year 1988.

(2) Assume the same facts as in (1), except that in 1988 Company F acquires a second floating freezer ship and makes no additional eligible capital expenditures to its shore-based facility. For tax year 1988, the new company has a fish tax liability at its shore-based facility of \$200,000, at the original floating facility of \$50,000 and at the acquired facility of \$150,000. The 1988 fisheries business tax credit is again limited to \$125,000. The unused credit cannot be used to offset fisheries business tax incurred at the new facility, which was not owned in the year the relevant capital expenditure was made.

(b) A fisheries business tax credit will not be approved if the fisheries business has any arrears or outstanding liability to the state under AS 43.75 which could result in a lien under AS 43.10.035(a), irrespective of whether the arrears or outstanding liability arose out of the business activity of the facility for which the expenditure was made. An amount properly and timely disputed under the provisions of AS 43.05.240, and regarding which the appeal process under AS 43.05.240 is not concluded, does not constitute an amount in arrears or an outstanding liability.

(c) No credit will be approved for otherwise eligible expenditures made to acquire equipment or an improvement to depreciable property from another fisheries business in which there exists substantial common ownership. For purposes of this subsection, "substantial common ownership" means a 50 percent or greater direct or constructive ownership interest; constructive ownership will be determined according to the provisions of 26 U.S.C. 318 (Internal Revenue Code § 318) in effect on August 12, 1987. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

Article 2. Tax Imposed on Acquisition of Fisheries Resources

Section

100. Tax imposed on acquisition of fisheries resources

15 AAC 75.100. TAX IMPOSED ON ACQUISITION OF FISHERIES RESOURCES. (a) A person who takes, purchases or otherwise acquires a fisheries resource, and who transports the fisheries resource to a point outside the taxing jurisdiction of the state, before

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STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
P.O. BOX 5A
JUNEAU, ALASKA 99811-0400

April 27, 1990

The Honorable Jan Faiks
Box V, Room 101
Juneau, AK 99811

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JAN FAIKS
SENATE OFFICE

Dear Senator Faiks:

At your request I have reviewed our March 5, 1990 fiscal note analysis on CSSB 74 (Resources). Except for the error which you noted to me on the phone (the CS does require prior approval by the Department) the fiscal note represents our analysis of the legislation.

The department opposes this legislation for the reasons stated in the fiscal note analysis; principally it has a substantial impact upon general fund revenues and it provides a tax shelter to processors for capital expenditures they would make regardless of whether a tax credit is available. The administration took the risk in 1986, compromised with the legislature and industry and supported a short three-year credit program. The state has already forgone \$32 million in revenues due to the credit program, primarily benefitting foreign or Seattle owned and controlled companies. The bill increases our dependence on oil revenues, for at least the next four years, and does not target projects which may need state support. I trust this answers your questions please call if I can provide further information.

Sincerely yours,

Steven E. Kettel
by *Leah K. Roberts*
Steven E. Kettel
Director
Income and Excise Audit Division

90-100

Courtesy of

Jan Faiks

Alaska State Senate



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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SECTIONAL ANALYSIS

2d CS For Senate Bill No. 74 (Finance)

"An Act establishing a fisheries business tax credit; and providing for an effective date."

SECTION 1

- (a) Establishes a new fisheries business tax credit program to run in the years 1991 and 1992. Same criteria for credits as the existing program.
- (b) Prohibition on carrying back tax credit to prior tax years, but credit allowed to be carried forward within the two years available. Same provision in the existing program.
- (c) Allows tax credit for contributions to the A.W. "Winn" Brindle memorial scholarship account. Same language as existing program.
- (d) Total tax credit that may be claimed is capped at fifty percent of the taxpayer's business tax liability. Same language as existing program.
- (e) Prohibitions on granting tax credits. Same language as existing program.
- (f) Provides for application form. Same language as existing program.
- (g) Provides for timely consideration of application. Same language as existing program.
- (h) Definitions. Same language as existing program.

TAX CREDIT REPORT

Requires preparation of an annual report. Same language as existing program.

SECTION 2

Establishes tax credit for A.W. "Winn" Brindle memorial scholarship account, to take effect when fisheries business tax credit program sunsets. Language in paragraphs (a) through (d) copied from previous section.

SECTION 3

- (b) Allows municipalities to receive their 50 percent share of fisheries business taxes collected within municipal boundaries. Includes reference to the statute created by this bill.

SECTION 4

Technical amendment for consistency between existing tax credit program and program created in this bill.

SECTION 5

Repeals the requirements for the tax credit report (43.75.039), the definition of "capital expenditure" (43.75.140(1)), the definition of "product diversity" (43.75.140(7)), the definition of "product quality" (43.75.140(8)), and the effective date for Brindle scholarship contributions in the existing law (sec. 10, ch. 79, SLA 1986) upon the sunset date of the new tax credit program, January 1, 1994.

SECTION 6

FISHERIES BUSINESS TAX CREDIT CLAIM IN TAX YEAR 1993.

Makes clear that fisheries businesses that have applied and received approval for two year tax credit projects in 1992 may claim the tax credit in 1993.

SECTION 7

Implements the credit for Brindle Scholarship contributions in Section 2 and the repeal of unneeded statutes when the program sunsets in Section 5.

SECTION 8

Effective date of January 1, 1991 for remaining sections.