SCOMM

87:9

WALTER J. HICKEL
GOVERNOR

P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 8, 1993

The Honorable Carl Moses
Alaska State Representative
Chair, Special Committee on Fisheries
716 West Fourth Street
Anchorage, AK 99501

Dear Carl,

I am pleased to inform you that the legislation sponsored by the Special Committee on Fisheries, House Bill No. 133, relating to the definition of value for fisheries tax, was signed into law on June 1, 1993. The chapter reference is Chapter 44, SLA 1993, and the effective date is January 1, 1994.

With best regards.

Sincerely,

Wally

Walter J. Hickel
Governor

House Comm on Fisheries

SENATE FINANCE COMMITTEE REPORT

DATE: 4/21/93

FURTHER:

DATE TURNED INTO OFFICE: 5-3-93

The Finance Committee considered HOUSE BILL NO. 133

"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."

and recommends:

[ ] replace with ______ CS ______________________(FINANCE)

or [ ] adopt previous______ CS ______________________(________)

[ ] attaches amendment(s)

[ ] same title
[ ] **new** title
[ ] technical title change (HB only)

[ ] adopts ______________________________Letter of Intent

[ ] further referral to the ______________________________

[✓] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOR	2/16/93	-0-	

10.0 Rev.

[ ] Appropriation No Fiscal Note

DO PASS:

Steve Frank
George Jacko
Bert Sharp

1. Do pass
Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

2. Drue Pearce · 10/2/93
Co-Chair: Signature/Recommendation

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
FISH AND GAME
PUBLIC SAFETY

SESSION:
CAPITOL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4451
FAX: (907) 465-3445

INTERIM:
P.O. BOX 109
UNALASKA, ALASKA 99685
PHONE: (907) 581-1234
FAX: (907) 581-2875

MEMORANDUM

TO: Senator Steve Frank, Co-chair
Senator Drue Pearce, Co-chair
Senate Finance Committee

FROM: Representative Carl Moses CEM

DATE: April 22, 1993

RE: Request for scheduling

I would respectfully request that you either waive from your committee or schedule for a hearing as soon as possible House Bill 133, relating to the definition of "value" for purposes of fisheries taxes. HB 133 is substantially similar to existing law [AS 43.75.290(11)], but restructures the definition of "value" used in administering fisheries taxes in order to clarify what costs and payments are used to determine the value of a fish.

The legislation has not received any opposition, and passed the House unanimously. HB 133 would take effect on January 1, 1994 and generate more than $550,000 in raw fisheries tax paid to the State.

Thank you for your consideration of this request.

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
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HB 133

The Definition of "Value" for Purposes of Fisheries Taxes

House Bill 133 is substantially similar to existing law [AS 43.75.290(11)], but restructures the definition of "value" used in administering fisheries taxes in order to enhance clarity.

The bill is identical to Resources CSHB 448, introduced by Representative Gail Phillips last session, with some further clarification recommended by the Division of Legal Services. The legislation has not received any known opposition.

In the past, processors and fishermen have disputed the definition of value in paying the raw fisheries tax and salmon enhancement tax. The argument is that bonuses and delivery costs are not part of the actual amount paid fishermen for their fish. This interpretation leaves an opening for processors to pay lower prices for the fish, and make up for this low price by giving bonuses for services such as delivery or handling. HB 133 clarifies exactly what services and forms of payment are subject to these taxes.

HB 133 would take effect on January 1, 1994.

HB 133 - by Representative Moses

The Definition of "Value" for Purposes of Fisheries Taxes

Departmental and Administration Contact: Paul Dick, Income and Excise Audit Division, Department of Revenue - 465-3691

Supported by	Department of Revenue All the aquaculture associations United Fishermen of Alaska is neutral

BASIS Journal Text

03/12/93 HOUSE JOURNAL PAGE 0623

Sitton, Toohey, Ulmer, Vezey, Williams

03/12/93 HOUSE JOURNAL PAGE 0624

ÚHB 133Â

Excused: Carney, Mulder, Willis

Absent: Hoffman, Therriault

And so, HB 133 passed the House.

Representative Phillips moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 133 was referred to the Chief Clerk for engrossment.

Selection=> B005-LAST PAGE

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

HOUSE COMMITTEE REPORT

2/17

(5)
Date Referred: February 5, 1993 FURTHER REFERRALS: Resources ~~Finance~~

Date of Committee Action: 2/17/93

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered: HB 133

HOUSE BILL NO. 133 DEFINITION OF VALUE FOR FISHERIES TAX

"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."

RECOMMENDATIONS: [ ] the same title
be replaced with ______ [ ] a new title

[ ] have attached amendments(s)
[X] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the ______ Committee

ADOPTS: ______ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[X] fiscal impact Revenue DOR Revenue [ ] fiscal note(s) ______

[ ] zero fiscal note ______ [ ] zero fiscal note(s) ______

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Paul E. Moses — Moses					
Gail Phillips — Phillips	—				
Irene Nicholia — Nicholia	✓				
Harley Olberg — Olberg	✓				

Paul E. Moses — Moses
CHAIRMAN'S SIGNATURE

2/25

HOUSE COMMITTEE REPORT

(9)
Date Referred: February 17, 1993

FURTHER REFERRALS: Finance

Date of Committee Action: 2/24/93

The RESOURCES Committee considered: HB 133

HOUSE BILL NO. 133 — DEFINITION OF VALUE FOR FISHERIES TAX

"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."

RECOMMENDATIONS:
be replaced with ______ [ ] the same title [ ] a new title

[ ] have attached amendments(s)
[✓] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the ______ Committee

ADOPTS: ______ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

[ ] fiscal impact ______

[ ] zero fiscal note ______

APPROVES PREVIOUS: (Dept/Date)

[✓] fiscal note(s) Dept. of Revenue / 2-17-93

[ ] zero fiscal note(s) ______

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Hudson	✓				
Carney	✓				
James	✓	Greer		✓	
Finkelstein	✓				
Davies	✓				
Bunde	✓				
Williams	✓				

Williams
CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

3/10
Rules

(11)
Date Referred: February 25, 1993 FURTHER REFERRALS:

Date of Committee Action: 3/9/93

The FINANCE Committee considered: HB 133

HOUSE BILL NO. 133 DEFINITION OF VALUE FOR FISHERIES TAX

"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."

RECOMMENDATIONS: [✓] the same title
be replaced with ______ [ ] a new title

[ ] have attached amendments(s)
[✓] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the ______ Committee

ADOPTS: ______ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: 2/12/93 (Dept/Date)

[ ] fiscal impact ______ [✓] fiscal note(s) Revenue Revenue 2/16/93

[ ] zero fiscal note ______ [ ] zero fiscal note(s) ______

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. MacLean MacLean	✓				
Ronald T. Larson Larson	X	Hoffman		✓	
Mark Hanley Hanley	X	Ray Brown Brown		✓	
Martin Martin	X				
Sean R. Parnell Parnell	X				
Grussendorf	X				
Therriault	X				
Richard Foster Foster	X				

Ronald T. Larson Larson E. P. MacLean
CO-CHAIRMAN'S SIGNATURE MacLean

FISCAL NOTE

STATE OF ALASKA **BILL NO.** HB 133

1993 LEGISLATIVE SESSION

Revision Date:	February 16, 1993	Dept. Affected:	Revenue
Title:	Amending the definition of "value" for purposes of administration of fisheries taxes	BRU:	Revenue Operations
		Component:	Income and Excise Audit
Sponsor:	House Special Committee on Fisheries		
Requestor:	House Special Committee on Fisheries	**COMPONENT SERIAL NO.**	113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	**FY95**	**FY96**	**FY97**	**FY98**	**FY99**
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE: General Fund	10.0	550.0	550.0	550.0	550.0	550.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: $

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by:	Larry E. Meyers, Director	Phone:	465-2320
Division:	Income and Excise Audit Division	Date:	February 16, 1993
Approved by Commissioner:	Darrel J. Rexwinkel	Date:	February 16, 1993
Agency:	Department of Revenue		

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(Rev 11/92) 93fisno.xls/OBR

Analysis

HB 133 clarifies the definition of "value" which is used as the basis for calculating fisheries business and salmon enhancement taxes under AS 43.75 and AS 43.76, respectively. This bill amends the current definition of value under AS 43.75.290 to specify that amounts paid for delivery are included as part of the value of fisheries resources. The department has noted through its audit efforts that some taxpayers deduct actual or imputed costs of delivery when determining value for tax computations. This bill strengthens the department's position that amounts paid for delivery are part of the value of fisheries resources. Inclusion of delivery costs will eliminate understatements of value by fisheries businesses thereby increasing fisheries business and salmon enhancement taxes collected by the State.

DEPARTMENT OF FISH AND GAME
POSITION PAPER

Bill No:	HB 133
Sponsor:	House Fisheries Committee
Division:	Commercial Fisheries
Bill Title:	"An Act amending the definition of 'value' for purposes of administration of fisheries taxes; and providing for an effective date."
Department Position:	Neutral

This legislation would plug some loopholes in the administration of the fisheries business tax. This legislation has no fiscal impact upon the department. The department has no position for or against this legislation.

Commissioner's Signature Don Somerville for **Date** 2/16/93

Ray Gillespie
Gillespie & Associates
Lobbying & Governmental Affairs

Mailing Address:
9478 Riverbend Court
Juneau, Alaska 99801

Telephone: (907) 463-3375
Fax: (907) 463-5522

Office Address:
318 Fourth Street
Juneau, Alaska 99801

February 16, 1993

Representative Carl Moses
Chairman, House Special Committee on Fisheries
Alaska State Capitol
Juneau, Alaska 99801

Re: House Bill 133

Dear Representative Moses:

On behalf of Cook Inlet Aquaculture Association, Prince William Sound Aquaculture Corporation, Northern Southeast Regional Aquaculture Association, and Southern Southeast Regional Aquaculture Association, I would like to express our complete support for House Bill 133.

This legislation will close loop-holes in the definition of "fisheries value." By closing the loop-holes, the incidents of tax avoidance or evasion in the collection of enhancement taxes will be minimized. This legislation is needed to give the Department of Revenue complete tools in its efforts to fully collect taxes derived from the self-imposed enhancement taxes used to support regional aquaculture programs.

Sincerely,

Ray Gillespie

Ray Gillespie

fej

Sec. 43.75.290. Definitions. In this chapter

(1) *[Repealed, § 7 ch 79 SLA 1986.]*

(2) *[Repealed, § 38 ch 168 SLA 1990.]*

(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, § 7 ch 79 SLA 1986.]*

(8) *[Repealed, § 7 ch 79 SLA 1986.]*

(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; am § 38 ch 168 SLA 1990)

Effect of amendments. — The 1986 amendment, effective July 1, 1986, added paragraphs (1), (7) and (8), and, effective January 1, 1992, repealed those paragraphs.

Definition of "value" for raw fish tax.

(1) a petition is presented to the commissioner of commerce and economic development requesting termination of the salmon enhancement tax which is signed by at least 25 percent of the number of persons who voted under AS 43.76.015 in the election approving the salmon enhancement tax in the region;

(2) the commissioner of commerce and economic development determines that there are no outstanding loans to the qualified regional association under AS 16.10.510 that are secured by the tax;

(3) an election is held in accordance with AS 43.76.015; the ballot must ask the question whether the salmon enhancement tax for the region shall be terminated; the ballot must be worded so that a "yes" vote is for continuation of the salmon enhancement tax and a "no" vote is for termination of the salmon enhancement tax;

(4) a majority of the eligible interim-use permit and entry permit holders who vote in the election cast a ballot for the termination of the salmon enhancement tax; and

(5) the qualified regional association provides notice of the election in accordance with AS 43.76.015 within two months after receiving notice from the commissioner of commerce and economic development that a valid petition under (1) of this subsection has been received. (§ 2 ch 154 SLA 1980; am § 15 ch 117 SLA 1981; am §§ 4, 5 ch 33 SLA 1989)

Effect of amendments. — The 1989 amendment inserted the reference to "43.76.012" in subsection (a) and, in subsection (b), added present paragraph (2) and redesignated paragraphs (2) — (4) as paragraphs (3) — (5).

Sec. 43.76.025. Collection of tax and disposition of proceeds. (a) A buyer who acquires fisheries resources that are subject to a salmon enhancement tax imposed by AS 43.76.010, 43.76.011, or 43.76.012 shall collect the salmon enhancement tax at the time of purchase, and shall remit the total salmon enhancement tax collected during each month to the department by the last day of the next month.

(b) A buyer who collects the salmon enhancement tax shall

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

(2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.140, of the salmon caught in each region designated under AS 16.10.375 which the buyer has acquired during the preceding year.

(c) The salmon enhancement tax collected under AS 43.76.010 — 43.76.030 shall be deposited in the general fund. The legislature may make appropriations based on this revenue to the Department of Commerce and Economic Development for the purpose of providing financing for qualified regional associations. The legislature may base an appropriation for a qualified regional association operating within a

Definition of "value" for salmon enhancement tax.
43.75.140 is now renumbered 43.75.290.

House
HB 133 - Resources 2/24/93

Rep. Phillips testified for bill.

Hudson - guarantee that treasury collect taxes on all prices & services paid to fishermen.

Paul Dick - Revenue
strengthens our position. clarifies the definition.

Hudson - how do you follow bonus prices? & get the info. for value?

Dick - processors & fishermen - file return voluntarily - have an audit process - look at costs in accting. records - 1 month.

Ray Gillespie - 4 regional aqua. assoc.
unanimous support.

Bunde - fishermen encourage this reporting?

Ray bulk of fishermen & processors comply.
small grp. attempt to evade these taxes.

Passed Out.

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
FISH AND GAME
PUBLIC SAFETY

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MEMORANDUM

TO: Representative Eileen MacLean, Co-Chairman
Representative Ron Larson, Co-Chairman
House Finance Committee

FROM: Representative Carl Moses

DATE: February 24, 1993

RE: Request for scheduling

I would respectfully request that you schedule for a hearing in your committee House Bill 133, relating to the definition of "value" for purposes of fisheries taxes. HB 133 is substantially similar to existing law [AS 43.75.290(11)], but restructures the definition of "value" used in administering fisheries taxes in order to enhance clarity.

The bill is identical to Resources CSHB 448, introduced by Representative Gail Phillips last session, with some further clarification recommended by the Division of Legal Services. The legislation has not received any known opposition. HB 133 would take effect on January 1, 1994, and would generate more than $550,000 in raw fisheries tax paid to the State.

This bill has passed through both the House Fisheries and House Resources Committees with no opposition.

Thank you for your consideration of this request.

HB 133 - Definition of value for administering fisheries taxes.

Read sponsor statement.

Tell committee members what is in their packet:

- copy of bill
- fiscal note
- copy of existing statutes
- letter of support from aquaculture associations (Ray Gillespie will hand deliver morning of hearing).

Department of Revenue is here to testify: **Paul Dick,** Income Excise Audit Division

A representative of the aquaculture associations is also here to testify in support of the bill: **Ray Gillespie**

Carl - the only question I've heard is whether to extend this new definition of value for the ASMI assessment also. ASMI now uses a similar definition of value, and it would make sense to have all of them be consistent. However, Kim Elton would rather not see their statutes opened up unless it has been opened up for other things - like the marketing tax, so, best not to even bring it up.

Do you want to hold or move bill out? If move out, need a motion, second, all in favor, etc. Also need to move out accompanying fiscal note.

HB 133

- fiscal note & dept position papers – requested of Commerce.
- sponsor statement in draft
- letters of support – call Ray G.
  from aqua. assoc.
  UFA-?
  Municipal League -?
- ~~copies~~ of statutes
- Who to testify ?

Southern Southeast Regional Aquaculture Association, Inc.
2721 Tongass Avenue
Ketchikan, Alaska 99901
Phone: (907) 225-9605
Fax: (907) 225-1348

A regional non-profit organization for the enhancement of salmon.

MEMORANDUM

TO: Senator Lloyd Jones

FROM: Don Amend, General Manager

DATE: April 27, 1992

SUBJECT: HB448

I understand that HB448 is going to be heard on Monday, April 27, by the Senate Resources Committee. This legislation is needed to close a loophole where individuals can avoid paying certain taxes. Please support passage of this bill.

Don

To: Ray Gillespie	From: Don Amend
Co: Lobbyist	SSRAA, Inc.
Fax #: 463-5522	Fax # (907) 225-1348
# of Pages 1	Phone # (907) 225-9605

Prince William Sound Aquaculture Corporation

P.O. Box 1110 Cordova, Alaska 99574-1110 Phone (907) 424-7511 FAX (907) 424-7514
821 N St. #101B Anchorage, Alaska 99501-3285 Phone (907) 274-6066 FAX (907) 274-1959

February 14, 1992

Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Members of the Legislature:

Prince William Sound Aquaculture Corporation (PWSAC) is pleased to support House Bill No. 448, which amends the definition of "value" in AS 43.75.290(11), for purposes of administration of fisheries taxes; and provides for an effective date.

Representative Gail Phillips has introduced HB448 to facilitate the collection of fisheries taxes in a fair and timely manner. With fisheries practices changing rapidly in all parts of the state, the language of the statute needs to be brought up to date to ensure that the original legislative intent will continue to be carried out.

We encourage your active support of Representative Phillips' House Bill No. 448.

Best regards,

John McMullen
President

COOK INLET
AQUACULTURE ASSOCIATION

HC 2, BOX 849
SOLDOTNA, AK 99669-9707
(907) 283-5761

February 5, 1992

Rep. Gail Phillips
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Phillips and other members of the Alaska Legislaature:

I have reviewed "An Act amending the definition of 'value' for purposes of administration of fisheries taxes" and support passage. The bill addresses a growing problem with revenue implications for Regional Aquaculture Associations and several levels of government.

Department of Revenue interprets the existing definition of "value" to mean any type of compensation a buyer gives to a fishermen as part of a fish sale transaction. As you know, the problem under existing law is that some processors and certain fishermen dispute this interpretation and seek to avoid proper taxation.

People seeking to avoid raw fish and salmon enhancement taxes argue that "value" is only what is paid fishermen for the fish; "bonus" amounts paid for icing, using RSW systems, delivery, prompt delivery, exclusivity (selling all fish to a single buyer), loyalty (selling to the same processor over several years) and others, do not count as "value" for tax purposes.

People seeking to avoid tax simply establish a low price for the fish and dream up a series of "bonuses" which can comprise as much as 50% of the amount paid to fishermen. This bill, by expanding the list of examples of things which are to be included as "value" makes clear that the original Department of Revenue interpretation is correct.

I am greatly interested in the progress of this bill and am available to answer questions or provide additional information.

Sincerely,

Thomas E Mears

Thomas E. Mears,
Executive Director

cc: Senator Fischer
Representative Navarre

329-333 Katlian Street
SITKA SOUND SEAFOODS
Sitka, Alaska 99835

Fax Message:

To: Senator Eliason
Representative Grussendorf

From: Harold Thompson
Date: 3/27/92

Re: H.B. 448

You may have seen a copy of my letter to Rep. Phillips regarding my concern with the bill relative to our practice of giving ice to the fishermen that sell to us to encourage liberal use of ice.

Mr. Paul Dick of the Dept. of Revenue phoned me today and assured me that our practice would not be interpreted by their department in a way that would result in any action by them, relative to H.B. 448. That being the case, I no longer have any reservations about this legislation.

Thank you,

(907) 747-6662
TELEFAX (907) 747-6268
Telex 090-45-301 SSSEAFOOD SIKA
FRESH AND FROZEN SALMON, COD, BLACK COD, HALIBUT, ROCK FISH, CRAB, HERRING

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
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FAX: (907) 581-2875

MEMORANDUM

TO: Representative Bill Williams, Chairman
House Resources Committee

FROM: Representative Carl Moses CEM

DATE: February 17, 1993

RE: Request for scheduling

I would respectfully request that you schedule for a hearing in your committee House Bill 133, relating to the definition of "value" for purposes of fisheries taxes. HB 133 is substantially similar to existing law [AS 43.75.290(11)], but restructures the definition of "value" used in administering fisheries taxes in order to enhance clarity.

The bill is identical to Resources CSHB 448, introduced by Representative Gail Phillips last session, with some further clarification recommended by the Division of Legal Services. The legislation has not received any known opposition. HB 133 would take effect on January 1, 1994, and would generate more than $550,000.

Thank you for your consideration of this request.

Alaska State Legislature

House of Representatives

Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

THE DEFINITION OF "VALUE" for PURPOSES OF FISHERIES TAXES

The bill before you is a reintroduction of the Resource Committee Substitute for House Bill 448. I introduced the original version of this bill last year. It is titled "An Act amending the definition of 'value' for purposes of administration of fisheries taxes, and providing for an effective date."

In the last session, CSHB 448 moved quickly through both houses. It received unanimous support in the House; and it looked as if it was headed for easy passage in the Senate. However, the Senate ran out of time when this bill was scheduled for a floor vote on the second calendar of the last night of the session.

It seems an appropriate bill to be introduced by this Special Committee on Fisheries. Originally, I introduced it to clarify the amounts to be covered by fisheries taxes because, in the past, processors and fishermen have disputed the definition of value in an attempt to avoid paying the full amount of taxes due.

One argument used by those attempting to avoid paying the full tax due is that "bonuses" are not part of the actual amount paid fishermen for the fish. This interpretation leaves an opening for processors to pay lower prices for the fish, and make up for this lower amount to the fishermen by giving bonuses for services such as delivery or handling. This bill would make the point about whether bonuses are covered completely indisputable.

In addition, this bill sets out more specifically those services provided by the fishermen that are to be taxed. Previous language in the statute used the term "such as" and left the services to be covered up to differing interpretations. The change proposed by this bill tightens up the language, again to leave no doubt as to which services are to be covered by fisheries taxes.

If passed, this bill will go into effect on January 1, 1994.

In addition, I would like to mention that the bill is supported by several levels of government and by several aquaculture associations as well. Several letters of support are attached.

Post-it™ brand fax transmittal memo 7671 | # of pages ▸ 1

To Ray Gillespie	From Paul Dick
Co.	Co.
Dept.	Phone # 465-2320
Fax # 465-5322	Fax #

AL NOTE

BILL NO. HB 448

Revision Date: March 5, 1992
Title: Amending the definition of 'value' ..., fisheries taxes
Sponsor: G. Phillips
Requestor:

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	10.0	550.0	550.0	550.0	550.0	550.0
FUND SOURCE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS:

This bill clarifies the definition of taxable value for fisheries business tax, salmon enhancement taxes and seafood marketing assessment. This bill will not take effect until January 1, 1993. Revenues in FY93 will not be substantial because most 1993 returns are not due until FY94.

Prepared By: Paul E. Dick PED LEN 3-5-92 Phone:
Division: Income and Excise Audit Date: March 5, 1992

Approved by Commissioner: Darrel J. Rexwinkel
Agency: Department of Revenue Date: March 5, 1992

Distribution Requested: Leg. File, Legislative Sponsor, Requestor, OMB/DPB, Gov. Leg. Ofc., & Impacted Agency(ies)

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MEMORANDUM February 15, 1991

SUBJECT: Enforcement of collection of and penalties for failure to pay the fisheries business tax, AS 43.75 (Work order 7LS-0774)

TO: Representative Gail Phillips
ATTN: Judi Jordan

FROM: Jack Chenoweth
Legislative Counsel

You have asked me to review the penalties that may attach to a taxpayer who fails to pay the fisheries business tax imposed by AS 43.75. In addition, you question whether there is provision in current law for the suspension or loss of any fisheries-related license or permit as a result of failure to remit that tax.

In summary, the penalties that attach to non-payment of the fisheries business tax imposed by AS 43.75 are those set out in that chapter. These are enumerated and discussed in more detail below.

Failure to pay the fisheries business tax <u>does not</u>, under current law, result in suspension or forfeiture of any other license. Notably, it does not authorize suspension or forfeiture of the taxpayer's limited entry permit issued under AS 16.43 while the tax remains unpaid.

*

The fisheries business license and fisheries business tax provisions are administered by the Department of Revenue.

<u>Necessity of obtaining a fisheries business license; application for license</u>:

A person who engages in or who attempts to engage in a fisheries business, or in the transportation, sale, or (in some instances) processing of a fisheries resource, must first obtain a fisheries business license [AS 43.75.011(a)]. The license application fee is $25 [AS 43.75.020(a)] and is payable annually. The license application process requires the person making application for the fisheries business license to agree to make the tax return required to pay the tax imposed under AS 43.75 [AS 43.75.-020(a)] and, unless waived because of the availability of other acceptable collateral, to meet the statutory tax collection security requirements [AS 43.75.055].

If a person fails to obtain a fisheries business license when required by law, the person

-- is subject to a civil penalty, imposable by the commissioner of revenue, of not to exceed $5,000 for the first violation, increasing in amount to a penalty of not to exceed $25,000 for the fifth and any subsequent violations [AS 43.75.011(b)];

-- may be criminally charged under a misdemeanor provision; if the person is convicted of wilful failure to obtain the license, the person may be fined not more than $2,000, imprisoned for not more than six months, or both [AS 43.05.290(h)].

Tax due under the fisheries business license for fisheries business activities:

A tax is due on activities under the fisheries business license. The tax rate differs by species and nature of fishing activity [AS 43.75.015]. The statute imposes a duty on the person subject to tax to make a tax return and pay the tax when due [AS 43.75-.030 for fishery product taken within Alaska; AS 43.75.100 - 43.75.110 for fishery product taken in and transported, sold, or processed outside the state, or taken outside but processed within the state].

If a taxpayer fails to file a tax return due under the fisheries business license statutes, or makes a false or fraudulent return, the Department of Revenue "shall make the return from the information that it can obtain" [AS 43.75.030(f)].

AS 43.75 does not set out separate penalties for failure to pay a tax when due. If a taxpayer fails to pay the tax due under the fisheries business license statutes, the department may

-- affirm suspension of the taxpayer's fisheries business license under AS 43.10.045; suspension of the license would prevent the taxpayer from conducting the business, that is, it would stop the taxpayer's activities involving the processing, transporting, and sale of fishery resources;

and the department may request the attorney general

-- to enforce the statutory tax collection security requirements of AS 43.75.055, either by forfeiture of the taxpayer's surety bond (if a bond has been required) or through the lien foreclosure process set out in AS 43.10.032-43.10.042;

-- to commence recovery of civil penalties as authorized by AS 43.05.220-43.05.225 and AS 43.05.270: the array of weapons includes requiring the taxpayer to pay the statutory penalty and interest; and

-- to charge the taxpayer criminally under AS 43.05.290: as a thumbnail summary, wilful violations by the taxpayer are treated more stringently than negligent violations.

*

I trust this is sufficient for your purposes.

JBC:lmb:pl
91-043.lmb

DIVISION OF LEGAL SERVICES

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Juneau, Alaska 99801-2105

M E M O R A N D U M January 26, 1993

SUBJECT: Definition of "value" for purposes of fisheries business tax (Work Order No. 8-LS0490\A)

TO: Representative Gail Phillips
ATTN: Judy Jordan

FROM: George Utermohle GU
Legislative Counsel

Enclosed is a draft bill relating to the definition of "value" for purposes of the fisheries business tax. As per your request, this bill is a duplicate of CSHB 448 (Resources), 17th Legislature.

This bill is substantially similar to existing law (AS 43.75.290(11)), but restructures the definition of "value" to enhance clarity.

Subparagraph (A) of the definition, as contained in the bill is substantially the same as existing law and carries forward the ambiguities of the existing law. In particular, it is unclear whether subparagraph (A) applies only when a company boat delivers fish to the company. It is proposed that subparagraph (A) be rewritten as follows (new language is underlined):

> (A) the market value of the fisheries resource if the taking of the fisheries resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats that operated under lease <u>to or from the company</u> or other arrangement <u>with the company and if the fisheries resource is delivered to the company</u>;

The bill (as well as existing law) does not explain to which companies this provision of the bill is intended to apply. A definition of "company" should be included in subparagraph (A). A possible definition of "company" is:

> "company" means a fisheries business, a subsidiary of a fisheries business, or a subsidiary of a parent company of a fisheries business.

If I may be of further assistance, please advise.

GU:pl:gc
93-041.plm

Value-added bill
origine fish tax bill -
problem of tendering
issue of bonuses -
dockside bonuses
RSW - ice
services

company - does bonuses on individual basis -
canneries may be reluctant to give bonuses -
being they h

little added payments + incentives to buy loyalty -

Market value - Not wholesale value
but may be unclear.

actual price paid including -

committee schedule
David Benton.

king salmon
$10 #20
non-residents.
$5 10 #20

AK Trollers
6-9400
Sen Shelton -