

SB

240

AMENDMENT

OFFERED IN THE SENATE

TO: SB 240

BY: Sen. Hoffman

Page 3, line 5, insert new subsection (f) as follows:

“(f) The department shall not assess nor collect administrative charges under this section from CDQ groups, representing communities not eligible for the CDQ program as of the effective date established in section 6 of this Act, for a period of two years from the actual award of fishery quota to that newly formed CDQ group.”

Re-letter subsequent subsections accordingly.

- CSSB 240 CRA Out of Comm.

CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

P.O. Box 288
St. Paul Island, Alaska 99660
(907) 546-2597 • Fax (907) 546-2450

March 1, 2000

Bryce Edgmon, CDQ Manager
Department of Community and Economic Development
P.O. Box 110800
Juneau, Alaska 99811-0800

Dear Mr. Edgmon:

Legislation concerning Community Development Quota (CDQ) Program fees, H.B. 334, is making its way through the committee process. This letter is to inform you that, the Central Bering Sea Fishermen's Association (CBSFA) **supports** the passage of this bill and grants you the authority to lobby for our support. This bill allows for administrative costs of the CDQ Program to be charged to the six CDQ groups, which includes CBSFA.

This is a justifiable case of "user pay" fees. I believe that with such "user pay" fee systems goes a commitment on the part of government to make the administrative system responsive to the users' needs and to allow the user greater say in how administrative oversight is conducted.

CBSFA supports H.B. 334 with the belief that the user pays system will enhance the CDQ Groups relationship with the State of Alaska CDQ Program oversight administration.

Sincerely,



Phillip Lestenkof
President

TONY KNOWLES
GOVERNOR
governor@alaska.gov

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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February 1, 2000

W-240

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

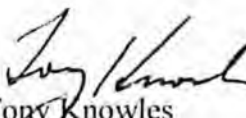
The community development quota (CDQ) program has created jobs and expanded economic opportunity in western Alaska. It is essential to this region of the state that we ensure the continuance of this federal fisheries resource program. This bill I transmit today meets that challenge by partnering with the CDQ participants to cover the state's administrative cost of the program.

Under this bill, community development groups that participate in the CDQ program will pay assessment fees to the state. The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation.

The Department of Community and Economic Development would administer the cost charge, which is added to the statutory list of program receipts subject to separate accounting procedures.

Participants of the CDQ program recognize their future success hinges on the ability of the state to continue to administer the program. To that end, the groups proposed the funding plan forwarded in this bill and are ready to give it their full support. To protect this vital program and improve the efficiency and operation of the state's role in it, I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

Tony Knowles, Governor

Alaska

**Department of Community
and Economic Development**

Office of the Commissioner

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MEMORANDUM

February 16, 2000

TO: Senator Tim Kelly, Chair
Community & Regional Affairs Committee

FROM: *JR* Jeffrey Bush, Deputy Commissioner
JE Department of Community & Economic Development

RE: Scheduling request for House Bill 334

“An act relating to the establishment of and accounting for an administrative cost charge for the state's role in the Community Development Quota program and to the appropriation of receipts from the charge; and providing for an effective date.”

This letter is to request a bill hearing for House Bill 334, by the Rules Committee by request of the Governor, and relating to administrative charges associated with the funding of the Community Development Quota Program (CDQ).

Under House Bill 334 Community Development Quota groups that participate in the CDQ program will pay assessment fees to the state. The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation.

The Department of Community and Economic Development would administer the cost charge, which is added to the statutory list of program receipts subject to separate accounting procedures.

Participants of the CDQ program recognize their future success hinges on the ability of the state to continue to administer the program. To that end, the groups proposed the funding plan forwarded in this bill and are in agreement with the contents of House Bill 334.

For further information please contact Jeffrey Bush at 465-2500 or Bryce Edgmon, CDQ Manager, at 465-5536. Thank for you considering this request.

Cc: Pat Pourchot, Legislative Liaison

“Promoting a healthy economy and strong communities”



Tony Knowles, Governor

**Department of Community
and Economic Development**

Municipal & Regional Assistance Division

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MEMORANDUM

February 16, 2000

TO: Senator Tim Kelly, Chair
Community & Regional Affairs Committee

FROM: Bryce Edgmon, CDQ Manager
Department of Community & Economic Development

RE: Sectional analysis of Senate Bill 240

“ An Act relating to the establishment of an accounting for an administrative cost charge for the state’s role in the community development quota program and to the appropriation of receipts from the charge; and providing for an effective date.”

Section One:

Creates a new subparagraph (X) to 37.05.146 adding the “CDQ administrative cost charge” to the list of program receipts that exist in statute. Other examples of program receipts include International Airport Fund, Fish and Game fund, Alaska Children’s Trust, Highway Working Capital Fund, etc.

Section Two:

AS 44.33 is amended to give the Department of Community and Economic Development the authority to determine and assess the annual administrative cost fee to the CDQ groups. It provides the department the authority to provide regulations in accordance with this section.

(b) The department must determine the administrative costs no later than June 30 before the start of the applicable fiscal year. Upon being notified, a CDQ group has 45 days to pay the department their share of the administrative cost charge.

(c) The total cost of the administrative cost charge cannot exceed \$400,000. This “ceiling” is higher than the cost of currently managing the program, which is approximately \$250,000.

The rationale is that future legislation will not be needed if a higher amount of program receipt authority is deemed necessary. The CDQ groups agreed to this provision with the understanding that any upward adjustment in the administrative cost charge would involve a mutual decision-making process with the state.

Page two
Sectional analysis – SB 240
February 16, 2000

This section also addresses any adjustments to the administrative cost charge from “carryover funds” and reappropriations.

(d) The administrative cost charge is broken down into two categories; a pro rata share, which is by definition the standard portion, and represents 50% of the total administrative cost charge.

The second category is the variable portion, which is assessed through a formula to the CDQ groups. The formula comes from royalties derived by multiplying the remaining 50% administrative cost charge by the ratio of the value of quota allocated to each group to the total value of the CDQ quota for the applicable year.

Variable portion = One half of administrative cost charge * the ratio of value of CDQ group's quota relative to the value of all CDQ quota (for the applicable year).

(e) The department may adjust the fee for a fiscal year for the CDQ groups if an inequitable result occurs. This will be the department and the groups to use different specie's in relation to fluctuating harvest returns and prices. The aggregate amount assessed to the CDQ groups must be enough to compensate the state for the management costs in (c).

(f) The department will collect and enforce the fee, which will be deposited in the Community Development Quota Program Account in the state treasury.

(g) The Department of Administration shall identify the amount of the appropriation that lapses into the general fund each year. The legislature may appropriate an amount equal to operating costs of the CDQ program for the next fiscal year.

(h) Technical section.

Section Three:

Applicability section, which authorizes the administrative cost charge to begin on or after July 1, 2000.

Section Four:

Authorizes the Department of Community and Economic Development to adopt necessary regulations.

Section Five:

Grants the department the authority to adopt regulations.

Section Six:

Effective date -- This act takes effect June 30, 2000.



Tony Knowles, Governor

Department of Community and Economic Development

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Sponsor Statement

SB 240

“An act relating to the establishment of and accounting for an administrative cost charge for the state's role in the Community Development Quota program and to the appropriation of receipts from the charge; and providing for an effective date.”

In 1996 the Magnuson/Stevens Fisheries Conservation and Management Act authorized the Secretary of Commerce (Secretary) to collect and recover the costs associated with the management and enforcement of the CDQ program. The National Marine Fisheries Service, under the Secretary, has not taken any action yet on initiating a Community Development Quota (CDQ) fee program.

In view of an eventual CDQ fee program and in recognition of state budget reductions, the CDQ groups and the Department of Community & Economic Development (department) have decided to pursue a statutory fee program in advance of the implementation of a federal fee program.

HB 334 will switch the funding source for the CDQ program from the General Fund to Statutory Designated Program Receipts authority. The CDQ groups and the department support the fee as a method of making the CDQ program self-supporting. The total cost of state management is approximately \$250,000.

The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation. The department would administer the cost charge.

The fee would be effective at the beginning of the new fiscal year, July 1, 2000.

Cc: Pat Pourchot, Governor's office

SENATE BILL NO. 240

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/2/00

Referred: CRA, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment of and accounting for an administrative cost
2 charge for the state's role in the community development quota program and to
3 the appropriation of receipts from the charge; and providing for an effective
4 date."

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

6 * Section 1. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

7 (X) the administrative cost charge under AS 44.33.113 for the
8 state's role in the federal community development quota program;

9 * Sec. 2. AS 44.33 is amended by adding a new section to read:

10 **Sec. 44.33.113. Charges for community development quota program.** (a)
11 If the governor delegates duties as described in AS 44.33.020(11) to the department,
12 the department shall determine and assess an annual administrative cost charge for the
13 administration of the state's role in the federal community development quota program.
14 The department shall by regulation establish the method for implementing the charge

1 in accordance with the provisions of this section. The department shall assess the
2 charges on community development groups with approved community development
3 plans for the fiscal year for which the charge is applicable. The community
4 development quota group shall pay the charge.

5 (b) The administrative cost charge under this section for a CDQ group shall
6 be determined by the department no later than the June 30 immediately preceding the
7 start of the applicable fiscal year. The department shall promptly notify the CDQ
8 group of the amount of the charge. The CDQ group shall pay the charge no later than
9 45 days after the department provides notice to the CDQ group of the amount of the
10 charge.

11 (c) The aggregate total of administrative cost charges to all CDQ groups for
12 a fiscal year

13 (1) shall approximately equal, but may not exceed, the appropriations
14 authorized for that fiscal year for the state's role under AS 44.33.020(11), less

15 (A) appropriations from sources of program receipts under
16 AS 37.05.146(b) not collected under this section; and

17 (B) any reappropriations of charges collected under this section;

18 and

19 (2) may not exceed \$400,000.

20 (d) Fifty percent of the aggregate total of administrative cost charges assessed
21 on all CDQ groups for a fiscal year shall be recovered through the standard portion of
22 the charges and 50 percent of the aggregate total shall be recovered through the
23 variable portion of the charges. The administrative cost charge assessed on a CDQ
24 group for a fiscal year shall consist of a standard portion and a variable portion. The
25 CDQ group's standard portion is calculated by dividing the aggregate total amount to
26 be recovered through this portion by the number of CDQ groups to be assessed a
27 charge. The CDQ group's variable portion is calculated by multiplying the aggregate
28 total amount to be recovered through this portion by a percentage that represents the
29 ratio of the value of the CDQ group's fisheries resource quota allocation to the total
30 value of fisheries resources allocated under the CDQ program for the applicable year.

31 (e) Notwithstanding any contrary provision of this section, the department may

1 adjust the administrative cost charge for a fiscal year to one or more CDQ groups if
 2 the department finds that an inequitable result will occur absent the adjustment, but the
 3 aggregate total of the charges to be paid by all CDQ groups after the adjustment must
 4 equal the amount originally calculated for that fiscal year under (c) of this section.

5 (f) The department shall collect and enforce the administrative cost charge
 6 assessed under this section. The receipts from the charge assessed under this section
 7 shall be deposited in the community development quota program account in the state
 8 treasury. Under AS 37.05.146(b), receipts from charges collected under this section
 9 shall be accounted for separately and appropriations from the account are not made
 10 from the unrestricted general fund. The legislature may appropriate money from the
 11 community development quota program account for expenditures by the department
 12 for necessary costs incurred by the department in implementing any assigned role
 13 under AS 44.33.020(11) or for any other public purpose.

14 (g) The Department of Administration shall identify the amount of the
 15 appropriations for the state's role under AS 44.33.020(11) that lapses into the general
 16 fund each year. The legislature may appropriate an amount equal to the lapsed amount
 17 to the community development quota program for its operating costs for the next fiscal
 18 year.

19 (h) The department may adopt regulations under AS 44.62 (Administrative
 20 Procedure Act) to interpret or implement its duties under this section.

21 (i) In this section,

22 (1) "CDQ group" or "community development quota group" means an
 23 applicant under 16 U.S.C. 1855(i), or a successor program, with an approved
 24 community development plan;

25 (2) "CDQ program" or "community development quota program" means
 26 the federal community development quota program established under 16 U.S.C.
 27 1855(i), or a successor federal program approved by the United States Secretary of
 28 Commerce;

29 (3) "fiscal year" has the meaning given in AS 37.05.920;

30 (4) "value" has the meaning given in AS 43.75.290.

31 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 **APPLICABILITY.** This Act applies to administrative cost charges under
3 AS 44.33.113, enacted by sec. 2 of this Act, applicable for state fiscal years beginning on or
4 after July 1, 2000.

5 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **TRANSITION: REGULATIONS.** The Department of Community and Economic
8 Development may proceed to adopt regulations necessary to interpret or implement this Act.
9 Regulations to interpret or implement a provision of this Act take effect under AS 44.62
10 (Administrative Procedure Act), but not before the effective date of sec. 2 of this Act.

11 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

12 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect June 30, 2000.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. _____

Revision Date/Time (Note if correction) _____ Dept. Affected Community and Economic
 Title Administrative charge for the state's role in the CDQ BRU Community and Economic Development
 Component Community and Economic Development
 Sponsor Rules
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 EXPENDITURES						
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CHANGE IN REVENUES ()	250.0	250.0	250.0	250.0	250.0	250.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(250.0)	(250.0)	(250.0)	(250.0)	(250.0)	(250.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Statutory Designated P/R	250.0	250.0	250.0	250.0	250.0	250.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

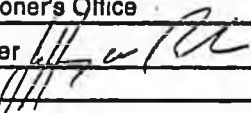
Estimate of any current year (FY2000) cost: 250.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will switch the funding source for the Community Development Quota (CDQ) program from the general fund to statutory designated program receipts, through the implementation of a fee structure on the groups benefiting under the program. This fee structure is supported by the CDQ groups and the department as a method of making this successful and lucrative program self-supporting.

Prepared by: Jeffrey W. Bush
 Division Commissioner's Office
 Approved by Commissioner 
 Agency _____

Phone _____
 Date/Time 2/1/00 2:56 PM
 Date 2/1/00

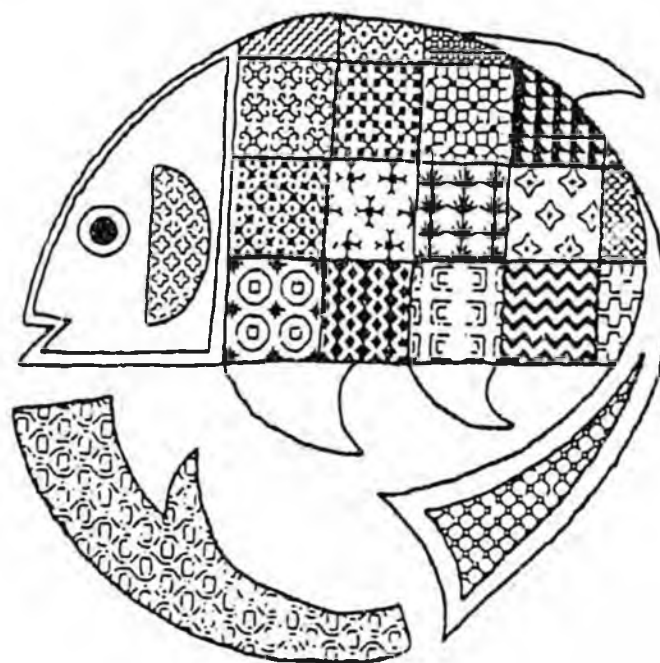
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Magnuson-Stevens Fishery Conservation and Management Act

As Amended Through October 11, 1996



U.S. Department Of Commerce
Michael Kantor, Secretary

National Oceanic and Atmospheric Administration
D. James Baker, Under Secretary for Oceans and Atmosphere

National Marine Fisheries Service
Rolland A. Schmitt, Assistant Administrator for Fisheries

NOAA Technical Memorandum NMFS-F/SPO-23

December 1996

(2) (A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

(B) To be eligible to participate in the western Pacific community development program, a community shall--

- (i) be located within the Western Pacific Regional Fishery Management Area;
- (ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;
- (iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;
- (iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and
- (v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

(D) For the purposes of this subsection "Western Pacific Regional Fishery Management Area" means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.

