

HB

217

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

5/12/99

DATE: 5/6/99

FURTHER:

DATE TURNED

IN TO OFFICE: 5/12/99

Finance Committee considered

HOUSE BILL NO. 217

"An Act relating to obligations and payments to the state under fishery cooperative contracts; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Rev/operations	4/30/99	0	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version: HB 217
(H) Publish Date: 5/4/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)		Dept. Affected	Revenue
Title	<u>Fishery Cooperative Contracts</u>	BRU	<u>Revenue Operations</u>
		Component	<u>Income and Excise Audit</u>
Sponsor	<u>(H) FIN</u>		
Requester	<u>(H) FIN</u>	Component Serial No.	<u>113</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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** (increase)	256.2-512.5	256.2-512.5	256.2-512.5	256.2-512.5	256.2-512.5	256.2-512.5
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FUND SOURCE (Thousands of Dollars)

1002 FeJeral Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

** The estimated revenue increase is due to provisions of the American Fisheries Act. The bill provides for how these payments will be remitted to the State. Because there is no precise data on the amount of BSAI pollock that is landed outside of the State, we have provided a range instead of a point estimate. Please see attached for further analysis.

Prepared by Brett Fried, Economist
 Division Income and Excise Audit
 Approved by Wilson L. Condon
 Commissioner
 Agency Department of Revenue

Phone 465.3682
 Date/Time April 30, 1999
 Date April 30, 1999

COMMITTEE COPY

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**SECTIONAL ANALYSIS BY THE DEPARTMENT OF REVENUE OF HB 217 –
FISHERY COOPERTIVE CONTRACTS**

SECTION ANALYSIS

Section 1 amends AS 43.77 by adding AS 43.77.015 to categorize payments made to the state under federal fishery cooperative contracts. Pursuant to recently enacted federal law, the American Fisheries Act, cooperatives are required to execute contracts with its members who must agree to make payments to Alaska for pollock harvested in the Alaska pollock fishery that is not landed in Alaska. The payments are to be equal to the amount that would have been due had the product been landed in Alaska and subject to the Landing Tax. The bill provides that these payments are to be deposited by the department in the separate account maintained in the general fund for landing taxes, and treated as tax revenue collected for revenue sharing purposes. This allows for the payments to be shared with municipalities in the routine manner upon appropriation.

The amount of the obligation imposed by contract is treated as if it were a tax for purposes of AS 43.77.020. This imposes the obligation upon the cooperative members to file necessary state "as if" Landing Tax returns and to remit the proper payment. However, the payments are not taxes for other intents, such as for assessment, interest, penalty, and collection purposes.

Section 2 provides that the bill has an immediate effective date.

OPERATION EXPENSES

The Department of Revenue does not anticipate increases in cost due to the provisions of this bill.

REVENUES

The American Fisheries Act changed the structure of the Bering Sea and Aleutian Islands (BSAI) pollock fishery. Catcher processors fishing in the BSAI have signed a fishery cooperative contract that was authorized by the American Fisheries Act. Consequently, they must also make payments to the State for any BSAI pollock harvested in the pollock fishery but not landed in the State. Prior to passage of the American Fisheries Act this pollock was not subject to Alaska fish taxes.

In order to estimate the amount of pounds of pollock harvested in the BSAI but not landed in the State, we compared historical Department of Revenue BSAI pollock data to National Pacific Management Council data. DOR pounds of pollock were 16% to 18% less than those identified by the National Pacific Marine Council. Although these differences could be due to different factors (including how unprocessed pounds are calculated), we used this historical information to estimate two scenarios: (1) pollock landed outside the State accounts for 10% of total pollock landed and (2) pollock landed outside the State

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accounts for 20% of pollock landed. Using these two scenarios the amount of new revenue coming into the State as a result of the American Fisheries Act would be from \$256,000 to \$512,000. There is, however, no method for adjusting these historically based numbers to reflect the new reality of the cooperative fishery. The pace of fishing has been altered by the fact that the catcher processors no longer compete with each other to maximize their share of the pollock. This could result in changes to the amount of pollock landed in Alaska. Additionally if motherships sign a fishery cooperative contract then payments should increase.

Alaska Department of Revenue
Income and Excise Audit Division

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<u>Assumptions</u>	<u>1999</u>
Total Allowable Catch in the BSAI for pollock in metric tons	992,000
Metric Tons to Pounds conversion factor	2,205
Total Allowable Catch in the BSAI for 1999 in pounds	2,187,360,000
Q Allocation (10% of TAC)	218,736,000
Total Non-CDQ allowable catch	1,968,624,000
Bering Sea Catcher-Proc. Percent Discards Pollock 1998	2.5%
Percentage of CDQ to Catcher Processors	85.0%
Percentage to Motherships	10.0%
Percentage to Catcher Processors	40.0%
Percentage to Inshore Processors	50.0%
Price Pollock per pound	0.09
Tax rate	3.0%
Scenario 1: Last Load Percentage	10.0%
Scenario 2: Last Load Percentage	20.0%

BSAI POLLOCK "LAST LOAD" - ANNUAL REVENUE FY 2000-FY2005				
Pounds of Pollock	Value (@ \$.09/lb.)	Tax Revenue (@ 3% tax rate)	Last Load Scenario 1	Last Load Scenario 2
949,040,820	\$85,413,674	\$2,562,410	\$256,241	\$512,482

Sources: North Pacific Fishery Management Council, National Marine Fisheries Service and Department of Revenue Fishery Resource Landing Tax and Fisheries Business Tax Returns.

Alaska State Legislature
Representative Carl E. Moses



Member
House Finance Committee

MEMORANDUM

SESSION
Stat. Capitol Building
Juneau, Alaska 99801-1182
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800-878-4151
Fax: (907) 465-3445

INTERIM
P.O. Box 730
Unalaska, Alaska 99685
Phone: (907) 581-2275
Fax: (907) 581-4949

DATE: May 5, 1999

TO: Sn. John Torgerson, Co-Chairman
Senate Finance Committee

Sn. Sean Parnell, Co-Chairman
Senate Finance Committee

FROM: Rep. Carl E. Moses, Member *CEM*
House Finance Committee

SUBJ: Request For Hearing - HB 217

I would greatly appreciate your scheduling a hearing for HB 217, relating to obligations and payments to the state under fishery cooperative contracts, and providing for an effective date. This bill preserves revenue for the state on fish products removed from state waters without being landed in Alaska. It is not a tax, nor an increase in taxes.

The bill addresses a vacancy in statute which should clearly specify authority for the state to receive payments in lieu of commercial fishery landing taxes for product shipped directly out of state. It would authorize the Department of Revenue to collect such payments.

Attached are copies of the bill, sponsor statement, fiscal note, bill history and the relevant statutes. You will see where every member but one from the House Finance Committee gave HB 217 a "do pass," and where it received a 34-0 vote on the House floor. This bill needs to pass this session so as to be in place in anticipation of next year's pollock fishery.

If you have questions of this office, please contact Tim Benintendi at 6591. Thank you.

SPONSOR STATEMENT / SECTIONAL ANALYSIS

HB 217 - Obligations & Payments To The State Under Fishery Cooperative Contracts

House Bill 217 grants specific statutory authority to the Department of Revenue to collect payments-in-lieu-of-taxes which are required under the American Fisheries Act of 1998. The AFA provided for payments in lieu of commercial fishery landing taxes, as part of fishing cooperative contracts for the at-sea pollock fishery. These payments are made on product which is not landed for processing in Alaska.

To avoid the loss of landing tax revenue, the following section was included in the AFA of 1998:

"Any contract filed under subsection (a) shall include a contract clause under which parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in the amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law."

Because of the AFA, nine factory trawlers were removed from the fishery in order to lessen competition and slow the pace of the fishery. The remaining vessels were allowed to form these cooperatives with individual fishery quotas, in order to fish on a more flexible schedule, and with more attention to safety and by-catch restrictions. As a consequence, some boat owners find it advantageous to return to places like Seattle for refueling, resupplying, and making crew changes. In these circumstances, they would leave the fishing grounds loaded with pollock, and land it in Seattle, thus reducing the landings in Alaska, and the landing tax normally paid.

House Bili 217 does not change the landing tax policy, but merely allows the State of Alaska to collect revenues due it by the AFA. It would assure that payments-in-lieu-of-taxes are processed as intended under current state law. The bill is supported by the Departments of Revenue and Community & Regional Affairs, and carries a zero fiscal note.

Section 1 (a): Adds a new section to AS 43.77 which provides the authority for the state to deposit the collected payments in lieu of landing taxes into a new account for that purpose.

(b): Provides that the payment-in-lieu-of-taxes obligation in the cooperative fishing contract should be treated as a fishery landing tax obligation for collection as tax revenue.

Section 2: Immediate effective date.



Sec. 43.77.020. Filing return and payment of tax.

(a) A person subject to the tax under this chapter shall file a return stating the value of fishery resources landed in the state that are subject to the tax, the point of landing of the fishery resource, and other information the department requires by regulation.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year, and the tax shall be paid with the return.

(c) The department may, under regulations it adopts, grant a reasonable extension of time for the filing. A grant of an extension of time for filing does not extend the time for payment of the tax.

Sec. 43.77.050. Separate accounting.

(a) [Repealed, Sec. 28 ch 81 SLA 1996].

(b) The tax collected under this chapter shall be paid into a separate account in the general fund. The annual balance in the account may be appropriated by the legislature for revenue sharing under AS 43.77.060. The amount of all tax credits approved by the commissioner under AS 43.77.040(b) shall be deducted from amounts paid to municipalities under AS 43.77.060 (a) - (c).

Sec. 43.77.060. Revenue sharing.

(a) Subject to appropriation by the legislature and except as provided in (b) of this section, the commissioner shall pay to each

(1) unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected from taxes levied under this chapter on the fishery resource landed in the municipality and accounted for under AS 43.77.050 (b);

(2) city located within a borough, 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050 (b); and

(3) borough

(A) 50 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the area of the borough outside cities and accounted for under AS 43.77.050 (b); and

(B) 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in cities located within the borough and accounted for under AS 43.77.050 (b).

(b) Notwithstanding the provisions of (a)(2) and (a)(3) of this section, and subject to appropriation by the legislature, the commissioner shall pay to each

(1) city that is located in a borough incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050 (b):

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

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

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

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

(2) borough that is incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the cities located within the borough and accounted for under AS 43.77.050 (b):

(A) five percent of the tax revenue collected during the calendar year in which the borough is incorporated;

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

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

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

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

(d) To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080 (e) that approval of the office of management and budget is required, an amount equal to 50 percent of the tax revenue that is collected under this chapter and is not subject to division with a municipality under (a) - (c) of this section shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Regional Affairs for disbursement to eligible municipalities under AS 29.60.450.

(e) For purposes of this section, tax revenue collected under AS 43.77.010 from a person entitled to a credit under AS 43.77.035 or 43.77.045 shall be calculated as if the person's tax had been collected without applying the credits.

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 29, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/4/99

The FINANCE Committee considered:

HB 217

HOUSE BILL NO. 217

FISHERY COOPERATIVE CONTRACTS

"An Act relating to obligations and payments to the state under fishery cooperative contracts; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) DOR _____ [] fiscal note(s) _____

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Therriault</i> Therriault	X			
<i>Edo Mulder</i> Mulder	X			
<i>Jim Kohring</i> Kohring			X	
<i>John & Jerry J. Davies</i> Davies	X			
<i>Ben Grussendorf</i> Grussendorf	X			
<i>Paul E. Moses</i> Moses	X			
<i>W. R. Williams</i> Williams	X			
<i>[Signature]</i> Foster	X			

CHAIR'S SIGNATURE *Gene Therriault* *Edo Mulder*
m. l. d. -

SENATE FINANCE COMMITTEE

SIGN-IN

HB 217-FISHERY COOPERATIVE CONTRACTS

NAME: TIM BENINTENDI Sub./Bill No: _____

Co./Dept./Title: FROM REP. MOSES OFFICE Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: Brett Fried Sub./Bill No: _____

Co./Dept./Title: Revenue Economist Phone: 465-3682

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions