

**HB**

**238**

Internal Revenue Service

Department of the Treasury

District  
Director

915 Second Avenue  
Seattle, WA 98174

FEB 26 1999

Representative Mary Sattler Kapsner  
Attn: Aaron Spitzer  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. Spitzer:

Enclosed are three summary sheets of limited entry permit holders who have transferable permits with value. These sheets cover the two periods you requested plus the most current information we have for 1999. Unfortunately, we do not have non-filer information for 1999 at this time. Please let me know if you need this information and we will provide it as soon as it is available.

The summary sheets have the taxpayers separated into two categories:

1. **IRS NON FILERS** - Individuals who have not filed required tax returns and have no outstanding tax liabilities (balance due).
2. **IRS BALANCE DUE** - Individuals who have tax liabilities outstanding.  
**NOTE:** Some of these individuals also may not have filed all required tax returns. To avoid duplication we have omitted them from the "non filer" column.

We also provided a breakout for Alaska residents and residents of Washington and Oregon. The balance due is broken down into various dollar amounts with the number of individuals falling into each category.

The bottom portion of the sheet contains a listing of geographic areas with the greatest tax compliance problem among Limited Entry Permit Holders.

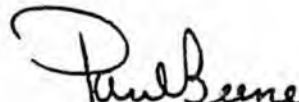
There is one flaw in the information we are providing. In 1992, we had a listing of all permit holders by name and Social Security Number. This enabled us to do a 100% match against our database of non-filers and balance due accounts. Subsequent to 1992, we have not been able to obtain a listing of permit holders with their Social Security Number. The information we recently obtained came off the public bulletin board and it does not contain the permit holders Social Security Numbers. As a result, we are not able to match the name to a Social Security Number on 1,600 of the estimated 11,000 permit holders. Therefore, we do not know if these 1,600 individuals are non-filers, have outstanding balance due, or are compliant.

Representative Mary Sattler Kapsner  
State Capitol

In the event we get a listing of permit holders with Social Security Numbers from the State of Alaska, we will do a 100% match and provide you with a corrected summary sheet. I hope you find this information useful in your resurrection of the Tax Obligation Loan Program.

If you have any further questions on this subject, please contact Douglas Hartford, Collection Group Manger, at 949 E 36th Avenue, Anchorage, AK 99508, MS A201 or call him at (907) 271-6982.

Sincerely,

  
Paul Beene  
District Director

Enclosures

cc: Bruce Twomley  
Chairman, CFEC

October 1993 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	** IRS Balance Due	IRS Total	LEP Holders	* Amount Due
Alaska Residents	1173	1111	2284	8,802 (Estimate)	13.7 M
Lower 48 States and Hawaii Residents	333	315	648	2,000 (Estimate)	3.9 M
<b>TOTAL</b>	<b>1506</b>	<b>1426</b>	<b>2,932</b>	<b>11,000</b>	<b>17.6 M</b>

25.9%  
32.4%

\* In 1993, the amount due only reflected the assessed balance due. Accrued penalties and interest were not calculated. Based on historical knowledge, the total amount due with accruals as is reflected in the 1997 and 1999 data would be an additional fifty to 100 percent. Therefore in 1993, the total amount due would have been between 20.5 M and 27.4 M

**\*\* Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$0 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
827	130	101	32	21	1111	13.7 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region	Greatest Problem(s)
Bethel	Non Filing/Non Payment
Bristol Bay and Dillingham	Non Filing/Non Payment
Haines Borough & Skagway-Yakutat-Angoon	Non Filing/Non Payment
Kenai Peninsula Borough	Non Payment
Kodiak Island Borough	Non Payment
Wade Hampton	Non Filing/Non Payment

February 1997 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	271	643	914	8,802 (Estimate)	18.6 M
Washington and Oregon Residents	23	102	125	2,000 (Estimate)	1.5 M
<b>TOTAL</b>	<b>294</b>	<b>745</b>	<b>1,039</b>	<b>11,000</b>	<b>20.1 M</b>

10.3%

6.2%

**\* Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
311	103	120	63	46	643	18.6 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region	Greatest Problem(s)
Bethel	Non Filing/Non Payment
Bristol Bay and Dillingham	Non Filing/Non Payment
Haines Borough & Skagway-Yakutat-Angoon	Non Filing/Non Payment
Kenai Peninsula Borough	Non Payment
Kodiak Island Borough	Non Payment
Wade Hampton	Non Filing/Non Payment

February 1999 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	Unknown	838	Unknown	8,802 (Estimate)	24.5 M
Washington and Oregon Residents	Unknown	108	Unknown	2,000 (Estimate)	2.0 M
<b>TOTAL</b>	<b>Unknown</b>	<b>946</b>	<b>Unknown</b>	<b>11,000</b>	<b>26.5 M</b>

4.5%  
5.4%

**\* Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
467	117	125	71	58	838	24.5 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region	Greatest Problem(s)
Bethel	Non Filing/Non Payment
Bristol Bay and Dillingham	Non Payment
Haines Borough & Skagway-Yakutat-Angoon	Non Filing/Non Payment
Kenai Peninsula Borough	Non Payment
Kodiak Island Borough	Non Payment
Wade Hampton	Non Filing/Non Payment

## I. INTRODUCTION.

The Internal Revenue Service (IRS) administratively seized property possessed with respect to an Alaskan salmon limited entry permit held by Francis S. Carle, a 61-year-old Alaska Native fisherman from Hydaburg, Alaska. The IRS attempted to sell the right, title and interest of Mr. Carle in and to his fishing privileges at its Anchorage public auction in December of 1995.

Subsequent to this administrative seizure and sale, the IRS applied to the Commission for a voluntary transfer of the privileges completing the application forms as if it were Mr. Carle.

An Alaska limited entry permit is a use privilege that may be transferred only by the Alaska Commercial Fisheries Entry Commission (CFEC), and CFEC is required to review every request for transfer to ensure compliance with the law. AS 16.43.170.

This application for transfer is the first time CFEC has been called upon to review an IRS request for transfer arising from an IRS administrative levy and sale. We agreed to review this request as expeditiously as possible, and, toward that end, we Commissioners are taking up the request directly (without the normal, intermediate procedural levels of review).

Although we provide background and discuss additional issues raised by IRS, this request for transfer presents a simple question of IRS' statutory authority.

We have reviewed (1) IRS' application and conclude federal governing statutes do not authorize the administrative levy and sale of Alaska limited fishing privileges. Therefore, we deny IRS' request.

## II. FACTS OF IRS' REQUEST FOR TRANSFER OF MR. CARLE'S FISHING PRIVILEGE.

### A. Mr. Carle.

Francis S. Carle is a 61-year-old fisherman from the Alaska Native fishing community of Hydaburg on Prince of Wales Island in Southeast Alaska. As an Alaska Native elder, Mr. Carle has maintained for his lifetime a traditional dependence upon commercial fishing as his only means of earning a living to support himself and his extended family (including his wife, two sons, and daughter).

In 1975, pursuant to AS 16.43 et. seq., the State of Alaska Commercial Fisheries Entry Commission (CFEC) originally issued Mr. Carle his Southeast Alaska purse seine entry permit. (2) The permit is a revocable use privilege. As 16.43.150(e) The state found Mr. Carle would have suffered "significant economic hardship" without the permit, because he was so heavily dependent upon the fishery. In fact, Mr. Carle's dependence on his salmon fishing was so substantial, the state could not have denied him the privilege even if it meant issuing more than the maximum number of entry permits. (3)

Mr. Carle's Southeast salmon seine permit is one of three such permits in Hydaburg today. Mr. Carle has owned his own seine vessel since 1963. In his seine operation, Mr. Carle employs six crewmembers from Hydaburg.

### B. IRS Action.

On November 13, 1995, pursuant to 26 USC 6331(a), the IRS levied upon property possessed by Mr. Carle with respect to his permit by personally serving him with a Notice of Seizure. (4)

IRS published a notice (5) for its public auction of property of Mr. Carle and others in the Juneau Empire on November 29, 1995, that stated in part as follows:

Sales are subject to any and all qualifications and/or restrictions established by the Alaska Limited Entry Fishing Commission . . . . Successful bidders must meet all qualifications prior to transfer.

Mr. Carle turned to his local tax preparer and Alaska Legal Services Corporation for help. When Mr. Carle's tax preparer was out of town and unable to complete the required work in time, Mr. Carle's attorney sought help from the IRS Problem

The economy is dependent to the extent of more than two-thirds (2/3) of its income upon Federal Expenditures.

However, the prevailing view was Alaska could survive as a state, but only if Alaska controlled its own natural resources including fisheries(15)

H.R. 7999 will enable Alaska to achieve full equality with existing States, not only in a technical juridical sense, but in practical economic terms as well. It does this by making the new State master in fact of most of the natural resources within its boundaries . . . .

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In order to understand clearly the necessity for certain different provisions in the Alaska statehood bill, it is advisable to have in mind some of the basic facts about Alaska's peculiar situation.

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Over 99 percent of the land area of Alaska is owned by the Federal Government. [S]uch a condition is unprecedented . . . .

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Much of the remaining area of Alaska is covered by glacier, mountains, and worthless tundra. Thus it appeared to the committee that this tremendous acreage of [federal] withdrawals might well embrace a preponderance of the more valuable resources needed by the new State to develop flourishing industries with which to support itself and its people.

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If Alaska is to become a State, it must be a full and equal State, and not a puppet of the Federal Government.

With respect to demands on the Federal Treasury, proponents of statehood also noted(16):

Concretely, the grant of statehood will mean some saving to the Federal Government as the people of Alaska take over part of the burden of supporting certain governmental functions now borne by the United States Treasury.

The "extreme degree of Federal domination of Alaskan affairs"(17) and its deleterious effect was very evident in Alaska's salmon fisheries. As long as Alaska remained a Territory, the Federal Government managed Alaska's fisheries. Under federal management, canneries were allowed a monopoly over the Alaska salmon harvest through the use of fish traps. This federal management practice undermined sustained yield management and, over time, resulted in severe harm to the resource. Additionally, federal management of Alaska's fisheries through fish traps denied individuals, who traditionally relied on commercial fishing for their livelihood, the opportunity to fully participate in the commercial harvest. As the result of this exclusion, these individuals and those dependent upon them suffered severe economic distress. This placed a heavy burden on the Territory and the Federal Government to provide basic support to those individuals, their families and their communities.

Senator Ernest Gruening summarized the fishery situation before statehood:

The Salmon Conservation Fiasco.--Another long-standing Alaskan grievance relates to the depletion of what was once Alaska's greatest natural resource, the salmon fishery. It was also the nation's greatest fishery resource.

The Pacific salmon originate in the rivers and lakes of North America's northwest coast; they migrate to sea and return to the waters that gave them birth to spawn and then to die. The salmon industry consists of catching them as they return at the end of their life cycle and processing them, chiefly by canning. Such was the abundance of this resource that Alaska's coastal streams were once solidly red with the mass of anadromous salmon. The first cannery was established in Klawock in 1878 and others followed, financed chiefly by San Francisco capital. Conservation was undreamed of in those days. Not until 1889 did the federal government, alerted by warnings of

Alaska's limited entry system is the product of years of effort by the State beginning in 1961. Two previous attempts by the legislature to establish the means to limit entry into Alaska's fisheries failed as the result of legal challenges.

The Alaska legislature persisted, however, because Alaska's salmon fisheries were experiencing a long and threatening decline, while the number of participants continued to increase substantially, which resulted in more and more fishing pressure on a diminishing resource. A limited entry system was the only means by which the State could control a critical variable in the management of its fishery resources: the number of fishermen participating in a given fishery.

Following action by the legislature, in 1972, Alaska voters approved an amendment to Article VIII, Section 15 of the Alaska Constitution, which authorized:

the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

Building upon this constitutional foundation, in 1973, the Alaska legislature adopted the Limited Entry Act, which has resulted in the largest limited entry program of its kind in the United States. Limitation of entry into all twenty-six of Alaska's salmon fisheries followed shortly. During 1976, by referendum, the voters of Alaska again supported limited entry by a margin of almost two-to-one. Today, some forty-six of Alaska's fisheries are under limitation.

As a food source important to Alaskans and the world, Alaska's fisheries are without question one of its most important renewable resources. Alaska's fisheries employ a substantial segment of the State's population, and many remote communities rely upon commercial fishing as their primary economic base. Therefore, sound management of its fisheries is crucial to the State of Alaska, and limited entry is an important part of the State's management system.

Extensive biological, economic, historic, and cultural data and analyses have been generated to aid the development, enactment, and review of entry limitation in Alaska. (A partial bibliography is set forth in Appendix A.) Thousands of hours of hearings throughout the State and before the legislature have informed the choices made in shaping Alaska's limited entry system. Alaska's courts have carefully scrutinized the program and developed a body of law governing limited entry in Alaska that is both extensive and unique. (A partial list of cases decided by the Alaska Supreme Court is set forth in Appendix B.)

In addition to direction and support from the legislature and the courts, Alaska's limited entry program has functioned only through the continuing cooperation and support of the Governor of Alaska, the Alaska Departments of Fish and Game, Law, Revenue, Administration, Commerce, and Public Safety, together with that of private citizens, economists, lawyers, scientists, processors, and, particularly, fishermen.

Under AS 16.43.140, no commercial fisherman may operate fishing gear in a limited fishery without an entry permit. The Alaska Commercial Fisheries Entry Commission (CFEC) issues entry permits and administers the program. ~~The entry permit is the critical element of the system and, to an Alaskan fisherman, an entry permit is a legally required tool of his trade.~~ In establishing limited entry and considering the needs of the State and its citizens, the Alaska legislature gave careful consideration to the nature of an entry permit and the privileges that a permit would extend to its holder.

In enacting a limited entry system, if the legislature had been committed only to simplicity and economy, it could have authorized auctioning of a limited number of property rights to its fisheries. The legislature rejected this approach, because it would not have been consistent with the State's most important objectives in establishing a limited entry system.

The legislature recognized that, ~~for the purpose of conservation, the State needed to retain control of its fishery resources. Looking ahead, the legislature wished to ensure that privileges extended through an entry permit could~~

generating an additional and unnecessary State bureaucracy.

Consistent with its grant of only a privilege, the State through CFEC, retained control over all transfers. A permit holder may transfer his permit only upon approval by CFEC. AS 16.43.170. To ensure against intemperate transfers, the legislature requires a 60-day waiting period before a permit may be transferred. A fisherman may revoke an agreement to transfer any time during this 60-day period. A number of legal requirements must be satisfied before CFEC will approve a transfer. AS 16.43.170; 20 AAC 05.710.

Generally, AS 16.43.150(g) prohibits involuntary transfer requiring that an entry permit may not be "attached, distrained, or sold on execution of judgement or under any other process or order of any court." Additionally, a fisherman may not pledge his entry permit as security for a debt. (The legislature recognized that the absence of a property right might impair a fisherman's ability to obtain financing for the purchase of a permit and his fishing operation, and, therefore, established two State authorized loan programs. AS 16.10.333-16.10.377; 44.81.271; and 44.81.230-44.81.250.) Just as a fisherman could not, contrary to State law, create a security interest in his fishing privilege, neither can a creditor.

The legislature recognized that a fisherman's earnings were seasonal and subject to many variables from year-to-year beyond control (for example, weather, predation, and interception). If creditors with short term objectives were allowed to treat an entry permit as a fungible item of property and to seize and force its sale, a fisherman without other means of earning a living, together with those dependent upon him, could well be left destitute. In Alaska, where many communities in remote areas of the State depend upon commercial fishing as the primary basis for their cash economy, this is a very real possibility. [The legislature notes that the Social Security Administration has acknowledged the wisdom of Alaska's approach by recognizing that an entry permit is essential to self-support, and, therefore, by not considering the market value of a permit as an alternative resource in determining an individual's eligibility for Supplemental Security Income benefits. 50 Fed. Reg. 42683, 42685 (1985).]

Although the State of Alaska could not countenance a system that inexorably would sever fishermen from the source of their livelihood, nonetheless, as a privilege, the legislature has made clear that an entry permit is subject to forfeiture, if its holder fails to abide by the applicable laws. See, for example, AS 16.05.480; 16.05.665; 16.05.710; 16.43.960; 16.43.970. Ultimately, because it has granted to fishermen only a revocable privilege, the State retains the dominion and control necessary to protect and manage its fishery resources.

In conclusion, compelling State interests were served, when the legislature rejected the idea that an entry permit represent a property right belonging to the permit holder. Instead, the legislature chose to establish an entry permit as a mere privilege, subject to State control, and revocable at the will of the State without compensation.

In this manner, Alaska established fundamental policies through its comprehensive fisheries management system. Alaska directed the benefits of the system to individual fishers dependent on the resource (as opposed, for example, to processors, banks, and investment companies). From its unique circumstances giving rise to statehood, Alaska has attempted to protect individual fishers from economic coercion by nonfishers and from forced loss of their livelihood.

When too many participants threatened sustained yield and caused economic distress among fishers, Alaska established limited entry, but not an exclusive right or special privilege of fishery. AS 16.43.150(g) ensures individual fishers are fully accountable only to the state, so no third party can pressure or influence their commercial fishing activities. Consider, Alaska manages more fishery resources and more coastline than exist in the rest of the United States combined. Currently, Alaska has some 54 enforcement officers in the field. Alaska requires complete authority over fishing activities to ensure compliance with regulations necessary for sustained yield. The risk of losing fishing privileges is a critical incentive to comply with Alaska's requirements for sustained yield of its fisheries.

And Alaska's requirements are many. See, for example, AS 16.05; AS 16.10; AS 16.40; AS 16.43, and regulations adopted thereunder. As sovereign, Alaska closely regulates its fisheries, as necessary, to open and close fishing seasons, to prohibit fishing, to limit the size of vessels as well as type and amount of gear, to restrict areas of fishing, to limit the amount of harvest, to ensure escapement, to impose strict liability for certain fishing offenses, to board vessels without warrants, and to forfeit permits, vessels, gear and catch.(21)

salmon fishery through the limited entry system.

Nevertheless, the report recognizes limited entry would become a destabilizing influence in the area if permits are sold outside the area. It also notes the risks of open access fisheries:

The limited entry permit system is the other powerful force at work in the region. The loss of commercial permits to outsiders by sale alienates the local society from its resource base. With the development of the fisheries, the market value of commercial permits increases, making sales for short term gain more attractive. The opening of new commercial fisheries without limits on outside competition holds the potential for degradation of the resource or loss of the value of the resource to more heavily capitalized competitors. Further, the need to preserve a commercial resource from over-exploitation requires the application of restrictive management systems from state or federal agencies.

In summary, commercial fishing provides one of the few sources of cash income in many isolated rural fishing communities. Cash is needed in these villages both to purchase basic necessities and to purchase gear and equipment needed for subsistence harvests. Limited entry helped stabilize a source of monetary income through the initial allocation of entry permits to applicants in those communities and by preventing the dilution or destruction of that economic base through the influx of large numbers of outsiders.

The State of Alaska must preserve the economic base in such isolated rural fishing villages. With declining oil revenues, State subsidies in such communities may decline by necessity in the near future. Furthermore, Alaska is becoming increasingly responsible for the economic welfare of its citizens as the Federal government significantly downsizes its activities (in part, through reductions in public assistance) in order to balance the Federal budget. The fragile economic base in these communities is of vital importance.

Any substantial loss of permits in these villages would be devastating. Large-scale seizure of entry permits by the IRS and sales to outsiders pose such a threat to the economies of many rural fishing villages. The widespread poverty in many of these villages and the lack of cash and/or available credit means persons within such villages likely would be unable to compete with outsiders at IRS permit auctions.(28)

B. IRS has Targeted Individuals in Rural Alaskan Communities.

1. IRS asserts "unlimited supply" of limited entry permits to sell.

a. IRS data.

For more than ten years, the IRS has declared its intention to seize and force the sale of limited entry permits, making the state aware the problem is extensive throughout Alaska and heavily concentrated in isolated rural communities. As former Chief of Collections for the IRS, Dave Tucker, announced(29) in 1994: "we have an unlimited supply of entry permits to sell."

Mr. Tucker estimated as many as 4,000 limited entry permits held by Alaskans could be at risk of IRS seizure due to failure to file tax returns and failure to pay federal tax obligations.(30) Four thousand limited entry permits would constitute roughly 40% of all permits held by Alaskans.(31) The primary source of this supply of limited entry permits is rural Alaska.

In response to repeated requests from the State, in November of 1993, the IRS provided more specific estimates to the Entry Commission. Exhibit L This limited view(32) shows as many as 26%(33) of Alaska resident limited entry permit holders(34) had failed to meet some federal tax obligations. The majority of individuals did not owe an overwhelming amount of taxes. Among those not in compliance, the IRS estimated 74% owed \$10,000 or less, and 86% owed \$20,000 or less. Because some of these figures are derived from IRS forced filing of returns when an individual has not filed, the amount owing likely would be much less upon filing of actual returns with full deductions for actual expenses.

Most disturbing is the focus on isolated rural fishing communities throughout Alaska. Among others, the IRS report singles out the Dillingham, Bethel, and Wade Hampton 1990 census districts as serious problem areas.(35)

b. A glimpse behind the data.

**YEAR TOTAL PERMITS GROSS AVERAGE FEDERAL PERMITS FISHED EARNINGS FISHING TAX GROSS DUE(40)**

1989	60	53	\$196,690	\$3,711	0
1990	63	45	72,410	1,609	0
1991	52	42	104,522	2,489	0

**c. IRS summons: a snapshot of IRS' enforcement targets.**

In the summer of 1992, IRS served the Limited Entry Commission with an extensive summons demanding earnings records for more than 2,500 fishers(41) IRS stated(42) the individuals targeted by the summons were limited entry permit holders who failed to file returns for the year 1992. The information conveyed by the summons(43) is only a snapshot in time: it represents only part of the problem. As such, we need to cautiously view this information as the tip of an iceberg.

We extracted the following data from the summons to highlight the number of individuals targeted in the particular census districts and communities mentioned in the previous subsection.

Census Area	Village(s)	Number of Individuals Targeted by IRS Summons
Dillingham Census Area	Togiak	69
	Other Dillingham area communities	149
	<b>TOTAL</b>	<b>218</b>
Bethel Census Area	Kipnuk	15
	Other Bethel area communities	248
	<b>TOTAL</b>	<b>263</b>
Wade Hampton Census Area	Hooper Bay	18
	Other Wade Hampton area communities	224
	<b>TOTAL</b>	<b>242</b>

**2. IRS permit seizures cause significant hardship.**

**a. Isolated Alaskan fishing villages depend upon commercial fishing for their survival.**

All of these data underscore the importance of commercial fishing as a source of livelihood for Alaskans in many isolated fishing villages(44) The loss of permits would reduce the monetary income of permit holders, their crewmembers, their families and households, and others in the community sustained through the village's non-commercial sharing networks.

The loss of permits and commercial fishing income would push more residents below the poverty level and increase the community's dependency on public assistance. The loss of commercial fishing income would also reduce the community's ability to purchase the gear, equipment, and supplies needed to harvest subsistence foods for survival.

**b. Seizing entry permits undermines a purpose of limited entry (and may not be in the national interest).**

(1) United States' special relationship to Alaska Natives

Many villages are populated largely by Alaska Natives engaged in a "mixed, subsistence-cash" economy. Commercial fishing is one of the few sources of monetary income available to people in many of these villages.

Monetary income from commercial fishing is for basic necessities and is used to purchase the gear and equipment required to harvest subsistence food needed for basic survival. Permit holders, their crewmembers, their families and households, and others who are sustained through non-commercial sharing networks would all suffer from the loss of their commercial fishing economic base.

flow of tax revenues to the U.S. Treasury.

### 3. IRS and CFEC experience in villages.

IRS statistics highlight isolated, rural Native Alaskan villages. Communicating with villagers has always been difficult for distant governmental entities (including our own). For example, every attorney attempting to work within these communities has experienced a similar problem. Commonly, a resident produces a small stack of official letters. The correspondence is invariably years old and unanswered. At an earlier time, the letters were often from the U.S. Department of Interior informing the village resident of the necessity to respond within thirty days or lose the resident's claim to land.

In short, for a variety of reasons, including isolation, culture, language, and lack of formal education, the individuals did not have the capacity to answer such a letter.(51) The inherent risk in governmental communications is for a distant bureaucrat to assume the individual who did not respond to the letter is a bad actor who requires a harsher measure to get his attention.(52)

Going to a village and meeting the individual can quickly dispel such a notion. Recently, Charles M. Stromme, Chief of Special Procedures for the IRS in Alaska,(53) returned from a regional village meeting held in Kasigluk (an Alaska Native village on the Yukon-Kuskokwim Delta) and announced, "my God, we're trying to collect money from people who don't even know we exist!"(54)

Individual insight, however, may not curb a bureaucratic agenda. At least one IRS supervisor has stated limited entry permit seizures should target lower valued limited entry permits in Western Alaska (representing less valuable commercial fisheries), because such lower valued permits are less likely to be rescued from the enforcement process by legal means, and, thereby, IRS could more quickly obtain ultimate legal victory over the State of Alaska.(55)

At a time when IRS is facing severe budget reductions and responding with dramatic consolidation, we fear such a bureaucratic agenda may prevail.(56)

### 4. State of Alaska and IRS cooperation.

In the face of IRS' threat, the state has extended itself to help IRS achieve tax compliance and avoid IRS seizures of limited entry privileges. In turn, the IRS has supported and joined these efforts. Under the leadership of IRS' District Director Michael R. Allen,(57) the IRS in Alaska committed resources to work with individual fishers to achieve voluntary compliance. The state has encouraged and joined in this effort as have private parties.(58)

The State Division of Investments (which manages the Tax Obligation Loan Program) and the Commercial Fishing and Agriculture Bank (CFAB) represent arms of the state established by the Alaska Legislature to avoid economic distress to fishermen and those who depend upon them for a livelihood. State employees have worked hand-in-hand with IRS employees to visit Rural Alaskan communities helping individuals understand and meet their tax obligations, often with the help of the State's Tax Obligation Loan Program. In slightly over a year during which the program has functioned, the state has committed more than \$3.6 million through the Tax Obligation Loan Program. This amount represents revenue the IRS would not likely have received but for the direct effort of the state.

Private individuals have helped as well. The Alaska Business Development Center works with individual permit holders throughout the state. In the Bristol Bay area, the Bristol Bay Economic Development Corporation together with the Bristol Bay Native Association have funded an office to work with local permit holders. In Western Alaska, other regional economic development corporations are looking at the Bristol Bay model in order to develop similar projects. In support, the Division of Investments, the University of Alaska, the Alaska Business Development Center, and the IRS are developing a plan through Volunteer Income Tax Assistance (VITA), to place accounting students in rural communities to assist individuals to meet their federal tax obligations.

That no individual or public officer can sell, and convey good title to, the land of another, unless authorized to do so by express law, is one of those self-evident propositions to which the mind assents, without hesitation; and that the person invested with such power must pursue with precision the course prescribed by law, or his act is invalid, is a principle which has been repeatedly recognized by this court.

## 2. Federal tax lien.

A lien arises by operation of law upon "all property and rights to property, whether real or personal, belonging to such person" where (1) a tax assessment has been made; (2) a taxpayer has been given notice of the assessment, stating its amount, and demanding payment; and (3) the taxpayer has failed to pay the amount demanded within ten days after the notice and demand. IRC 6321; Saltzman, *IRS Practice and Procedure*, 14.05 (2d ed. 1991). This tax lien does not seize or deprive the taxpayer of his property. It is merely a claim against the taxpayer's property comparable to a Uniform Commercial Code lien of a private creditor. H.R. Rep. No. 1884, 89th Cong., 2nd Sess., 1966-2 CB 815; Saltzman, *supra*, 14.04 (2d ed. 1991).

## 3. Enforcement of federal tax lien.

The IRC provides the government with two methods to enforce the lien: (1) as in the case of Mr. Carle, it may levy, and sell the property administratively without judicial intervention pursuant to IRC 6331-6343 or (2) it may institute suit to foreclose the lien pursuant to IRC 7403. *LLS. v. Hemmen*, 51 F.3d 883, 887 (9th Cir. 1995); Saltzman, *supra*.

## 4. Statutory administrative levy and sale provisions.

The statutory authority for the IRS to levy upon and administratively sell property of a delinquent taxpayer is contained in the Internal Revenue Code (IRC), Subchapter D, Chapter 64, Subtitle F, in particular 6331 "Levy and distraint," 6335 "Sale of seized property," 6338 "Certificate of sale; deed to real property," and 6339 "Legal effect of certificate of sale of personal property and deed of real property." Related provisions are contained in Subchapter C, Chapter 64, Subtitle F governing liens for taxes, in particular 6321 "Lien for taxes" and in Subchapter A, Chapter 76, Subtitle F, governing civil actions brought by the United States, in particular 7403 "Action to enforce lien or to subject property to payment of tax."

In their relevant parts, we have set out the controlling federal statutes in this section.

IRC 6331(a). [in part]

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.

IRC 6331(b). [emphasis added]

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

6335(e)(1)(B). [in part, emphasis added]

If, at the sale, one or more persons offer to purchase said property for not less than the amount

required condition necessary before the IRS was entitled to administratively sell such property. Specifically, the IRS levy did not affect Mr. Carle's right, as a permit holder, to fish under State law. Alaska Statutes, Title 16, Fish and Game

#### 6. Administrative sales and the plain language of statutes.

Controlling law in this circuit makes clear in conducting an administrative sale, the government must strictly comply with 6335. Anderson v. U.S., 44 F.3d at 801 (holding where a sale was postponed or adjourned for a period in excess of 1 month in violation of 6335(e), the sale was invalid) (62) Goodwin, 935 F.2d at 1065 (holding that failure to give the notice as required by 6335(a) invalidated a sale notwithstanding that the delinquent taxpayer had actual notice of the sale).

Section 6335(e) gives the IRS three possibilities at the time of sale: sell the property, buy it, or release it. Anderson, 44 F.3d at 800. The statutory language is clear that the IRS shall: (1) if a bid is made that equals or exceeds the minimum price set by the IRS, declare the property sold to the highest bidder [ 6335(e)(1)(B)]; and (2) give the purchaser a certificate of sale upon payment of the full price [ 6338(a)]. The use of the word shall leaves no room for discretion. Anderson, 44 F.3d at 799.

Specifically, the IRC requires such property "shall" be declared sold to the highest bidder at the sale. Also, the applicable federal regulations provide the property shall be sold by the IRS "as is" and "where is" and "without recourse" against the IRS with "no guarantys (sic) of warranty, including the validity of title". 26 C.F.R. 310.6335-1(c)(iii). Contrary to the explicit requirements of the IRC and the applicable regulations, the IRS conducted a sale of Mr. Carle's property subject to the condition that CFEC transfer Mr. Carle's permit to the successful bidder. The IRC does not authorize the IRS to sell Mr. Carle's property subject to the condition that the State transfer Mr. Carle's permit to the successful bidder. IRC 6335(c)(1)(B); IRC 6338(a); IRC 6339(a)(2) (63) Accordingly, the sale is invalid under IRC as interpreted by our Ninth Circuit Court of Appeals in Anderson and Goodwin.

#### C. Conclusion.

In its application to transfer Mr. Carle's entry permit, IRS has raised other issues we will discuss briefly in the following section. However, at this point we conclude we must deny the requested transfer of Mr. Carle's fishing privilege. For lack of federal statutory authority, the administrative levy and sale (upon which the transfer request is based) appears to be ineffective.

#### V. OTHER ISSUES RAISED BY IRS.

##### A. Claim by IRS State Law Invalid.

In making this application, the IRS rejected the procedure required by the state (64) as follows:

The IRS has not completed the Request for Permanent Transfer of Entry Permit Due to Involuntary Action form as the restrictions set out in A.S. 16.43.170(g)(6) and (h) are not applicable to transfer requests by permit holders and are invalid to the extent they interfere with revenue collection. Perez v. Campbell, 402 U.S. 637, 649 (1971).

Perez v. Campbell, 402 U.S. 637, 29 L.Ed. 2d 233, 91 Sup. Ct. 1704 (1971), does not stand for the principle that state laws "are invalid to the extent they interfere with revenue collection." The IRS was not a party to Perez, and the IRC was not at issue in Perez. The case presented the U.S. Supreme Court with a glaring conflict between a specific state law and federal bankruptcy law. In short, federal bankruptcy law discharged debts in order to provide a fresh start for the debtor. 29 L.Ed. 2d at 241. Directly to the contrary, the state law in question provided certain judgment debtors were not relieved of liability by a discharge in bankruptcy. Id. at 238. The five-member majority stated the court must proceed by a 2-step process: (1) look for authoritative construction of the two statutes (federal and state); and (2) determine whether they are in conflict. Id. at 239. With ease, the court found "both statutes authoritatively construed" and concluded they were in direct conflict. Id. Due to direct conflict, the state law violated the Supremacy Clause of the Constitution and was preempted. (65)

The word "property" is commonly equated with "things". However, in its true sense, property is a cultural concept that serves to order relations between people in organized societies. As noted legal philosopher Morris Coher(69).observed (emphasis added):

Whatever technical definition of property we may prefer, we must recognize that a property right is a relation not between an owner and a thing, but between the owner and other individuals in reference to things.

The U.S. Supreme Court and the lower federal courts routinely recognize that, although the IRC sets forth the rules to assess and collect taxes on property, the IRC does not create property; rather, property is created by non IRC law. *U.S. v. Bess*, 357 US 51, 55 (1958); *Aquilino v. U.S.*, 363 US 509, 512 (1960); *U.S. v. Durham Lumber Co.*, 363 US 522, 526 (1960); *U.S. v. Rodgers*, 461 US 677, 683 (1983); *U.S. v. National Bank of Commerce*, 472 US 713, 719-720 (1985); *In re Tergwillinger's Catering Plus, Inc.*, 911 F. 2d 1168, 1171 (6th Cir. 1990) cert. den'd *Ohio Department of Taxation v. I.B.S.*, 111 S. Ct. 2815 (1991); *In re Kimura*, 969 F. 2d 806, 811 (9th Cir. 1992). Alternatively stated, property may not be created under the IRC for the sole purpose of federal seizure. *U.S. v. California*, 281 F. 2d 726, 728 (9th Cir. 1960).

Lower federal courts addressing the issue have tended to treat the license as a tangible thing (like a car) or have addressed only disposition of proceeds after a license has been transferred by a government regulator. Few courts have considered whether a federal tax lien specifically attaches itself to the license itself, or the use and enjoyment thereof, the qualified right to request the state to transfer the license, or the proceeds thereof.

Since the *Lorentzen* ruling(70) that an entry permit represents "property or rights to property" under the IRC, a new line of cases concerning FCC licenses has analyzed the various relationships a licensee may have with third parties and what interests those relationships may affect. The analysis addresses some of the court's remaining questions posed to the parties at the conclusion of the *Lorentzen* case.

The threshold case, *In re Bidgley Communications, Inc.*, 139 B.R. 374, 377-379 (Bkrcty. D. Md. 1992), held a third-party creditor of the licensee may not assert a property right to force the sale of the license against the government issuer and explained its reasoning as follows:

[A] license confers certain private rights upon the licensee and that these rights may be sold for profit to a private party, subject to Commission approval. [The] rights between licensees and the Commission are to be distinguished from rights between the licensee and a private third party. It is this distinction that permits a licensee to receive a profit from the transfer of a license to a third party.

\*\*\*

The case of *In re Jewel F. Smith*, 94 Bankr. 220 (Bankr. D. Ga. 1988), [held] a creditor could not take a security interest in the debtor's broadcast license.

\*\*\*

In *Smith*, the creditor sought to abrogate the rights of the licensee, i.e., its ability to freely initiate a transfer of a license. The right to initiate a transfer is a right granted by the terms of the license and is seriously impaired if it is subject to the dictates of a creditor . . . . This interference in the relationship between the licensee and the [FCC] is precisely the evil the FCC was attempting to avoid by the terms of its policy against the recognition of security interests . . . .

\*\*\*

[I]n the instant case [the creditor] is not asserting any interest in the rights of a licensee with respect to the FCC. The right to transfer is a right between the FCC

PBB Communication; 172 B.R. 132; Beach Television Partners, 38 F.2d 535.

Furthermore, the FCC's distinction between the license and the licensee's right to receive proceeds from an FCC approved transfer of it is the distinction between a privilege as between the licensee and the FCC and a property right as between the licensee and third parties, such as creditors. See also, U.S. v. Berkshire Street Railway Co., 219 F.Supp. 861 (DC Mass. 1963) (IRS may not enjoin Commonwealth of Massachusetts from discharging a sovereign function to revoke a franchise from the Department of Public Utilities, because the franchise was a privilege, not property); Tak, 985 F.2d 916 (As a privilege, not property, an FCC license is neither part of the bankrupt's estate nor property to which a UCC security interest may attach). Compare Brown v. Baker, 688 P.2d 943 (Alaska 1984) (A promise to retransfer an entry permit is an attempt to create a security interest in the permit and illegal under AS 16.43.150(g) and, therefore, will not be enforced by the courts); Pavone, 860 P.2d 1228.

The IRS accepts FCC policy enunciated in Chesky, 9 FCCR at 987, and does not conduct IRS administrative levy and sales of FCC licenses. The Internal Revenue Manual (IRM) directs IRS' employees as follows:

#### 56(16) 4 FCC Broadcasting Licenses

(1) Administrative seizure and sale of FCC broadcasting licenses are not feasible due to the difficulties involved in the transfer of ownership without the approval of the Federal Communications Commission. However, levy against other assets of the taxpayer business is still appropriate. Such seizures should be handled on a routine basis. As is the case with any issue of a sensitive nature, management should be apprised of pertinent developments.

Although the IRM does not have the force of law, see Anderson, 44 F.3d at 799, the IRS "manual provisions do constitute persuasive authority as to the IRS' interpretation of the IRC." Griswold v. U.S., 59 F.3d 1571, 1576 n.8 (11th Cir. 1995).

#### b. Nature of an Alaskan limited fishing privilege.

In Alaska, fish within the jurisdiction of the state are reserved to the people for their common use and no person may have an exclusive right in fishery resources. Article VIII., Section 3, and Section 15, Alaska Constitution. Limited entry permits do not confer an exclusive right or a special privilege of fishery upon the holders: they are a use privilege authorized under Article VIII., Section 15. Accordingly, no person may assert a property right against the State of Alaska to fishery resources. State v. Hebert, 803 P.2d, 866 (Alaska 1990). The permission granted in itself represents only a revocable use privilege. AS 16.43.150(e).

As such, the permission itself is not property. AS 01. 10.060; AS 16.43.150(e); In re Harrell 73 F.3d at 220. The nature of the permission conferred upon the holder is designed to serve fundamental purposes of the State of Alaska. To avoid economic harm, Alaska ensures access to fisheries by those dependent upon them. The State maintains and requires complete control over the holders and corresponding accountability of the holders solely to the State, free from direct economic coercion, in order to ensure compliance with laws regulating Alaska's geographically vast and biologically complex fisheries. The state reserves control over the use of the privilege that may be transferred only by the state. AS 16.43.170.

The state does not confer but reserves and strictly prohibits encumbrances, retained rights of repossession, and involuntary transfers. AS 16.43.150. These reservations attached to the permission serve the State's fundamental purposes and can not stand alone any more than the Limited Entry Act can stand apart from the state's comprehensive fisheries management system. (73)

Kimura, supra at 812, held (74) the state could impose transfer conditions on a license for the state's own benefit and did not limit the benefit to money:

by: \_\_\_\_\_

# *Representative Mary Sattler Kapsner*

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Quinhagak  
Togiak  
Tuntutuliak  
Twin Hills

## **Sponsor Statement**

### **House Bill 238 Fishermen's Tax Obligation Loan Program**

This bill would re-institute a widely supported, previously existing program to assist fishermen in paying back taxes, thereby rescuing Alaska limited entry permits from the continued threat of seizure and resale by the Internal Revenue Service.

The Tax Obligation Loan Program was initially created in 1993, in the wake of threats by the IRS to seize the permits of fishermen who were found to owe back taxes. The program draws from the existing Fishermen's Loan Fund, providing loans of up to \$30,000, with a pay-back interest rate of 10.5 percent. The money paid back returns to the fund where it becomes available for further loans.

This bill is not simply aimed to assist delinquent taxpayers. Rather, it assists all fishermen and, in turn, the economy of Alaska. When the IRS seizes commercial fishing permits, they are under no obligation to re-sell the permit for its real value. In one case in 1996, the IRS seized the \$30,000 permit of a Kenai fisherman and sold it for only \$5,005. Such an action had the effect of devaluing all commercial fishing permits.

Moreover, the IRS is under no obligation to re-sell permits to Alaskans. Due to transferability, a great number of limited entry permits are gifted or inherited from one Alaskan to another, protecting a valuable state resource. When the IRS re-sells a permit, they cannot discriminate between Alaskans and outsiders. The IRS' actions threaten to speed the movement of permits into the hands of non-Alaskans.

Before it sunsetted in 1997, the Tax Obligation Loan Program provided 288 loans, at a value of \$6.06 million, to fisherman from every region of Alaska. Though tax compliance has dramatically improved among Alaskan fishermen since the early part of this decade, there still exists a need for the Tax Obligation Loan Program. The IRS still staunchly opposes the state's view that fishing permits cannot be legally seized. Moreover, the number of fishermen with tax delinquencies has climbed since the sunsetting of the program in 1997.

# LEGAL SERVICES

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## MEMORANDUM

February 4, 2000

**SUBJECT:** Sectional Summary of HB 238; An Act establishing a federal tax obligation loan program under the commercial fishing loan program. (HB 238)

**TO:** Representative Mary Kapsner

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of HB 238; An Act establishing a federal tax obligation loan program under the commercial fishing loan program.

A sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.10.310(a) to authorize the commercial fishing loan program to make loans to Alaska resident fishermen to satisfy past due federal tax obligations that may result in the involuntary transfer of their entry permits.

Section 2 of the bill adds a new subsection to AS 16.10.310 to provide that a loan may not be made to satisfy past due federal tax obligations unless the person has filed past and current federal tax returns and has executed an agreement with the federal government for the payment of past due federal tax obligations. A person may obtain only one loan from the commercial fishing loan program to pay past due federal tax obligations during the person's lifetime. The maximum amount of a loan that can be made by the commercial fishing loan program to pay past due federal tax obligations is \$30,000.

GU:jdr  
00-059.jdr

**FISCAL NOTE**

Bill Version: HB 238  
 (H) Publish Date: 2/9/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) February 4, 2000 Dept. Affected Community and Econ. Development  
 Title An act establishing a federal tax obligation loan BRU Investments  
program under the commercial fishing loan program Component \_\_\_\_\_  
 Sponsor Representative Kapsner Component No. \_\_\_\_\_  
 Requester House Special Committee on Fisheries

**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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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)*

This legislation establishes a new program within the Commercial Fishing Revolving Loan Fund to allow Alaskan commercial fishing harvesters to borrow funds to satisfy past due federal tax obligations that could result in the loss of a limited entry permit through a foreclosure action.

Prepared by: Martin J. Richard  
 Division: Investments  
 Approved by Commissioner: Deborah B. Sedwick  
 Agency: Community and Economic Development

Phone (907) 465-2510  
 Date/Time 2/4/00 8:07 AM  
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# SENATE COMMITTEE REPORT

DATE: 4/17/00

FURTHER:

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IN TO OFFICE:

19  
4/17/00

Resources Committee considered

HOUSE BILL NO. 238

"An Act establishing a federal tax obligation loan program under the commercial fishing loan program."

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 <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>			
<i>[Signature]</i>	✓				
<b>CHAIR:</b> <i>[Signature]</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

DCED	2/4/00	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill