

HB

218



UNITED FISHERMEN OF ALASKA

April 3, 2006

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Senator Tom Wagoner, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau, AK 99801-1182

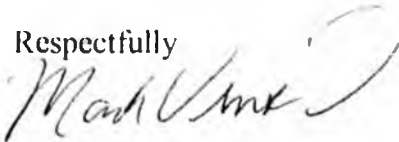
Dear Senator Wagoner:

The United Fishermen of Alaska (UFA) Board of Directors have heard concerns from some hatchery operators regarding HB 218 as it was introduced last year, and we have worked with the sponsor for changes to reflect and address those concerns. UFA supports passage of House Bill 218 relating to potential reductions in hatchery cost recovery fisheries and resulting increases in common property fisheries to be accompanied by a voluntary assessment/landing tax collected by the Department of Revenue. The basis for UFA support is three-fold:

1. First and foremost, HB 218 is permissive. That is, the hatchery and its Board of Director must elect to harvest surplus salmon through the common property fishery. Similarly, commercial fishermen are under no obligation to participate in the common property fishery and pay the additional landing tax.
2. HB 218 does not in any meaningful manner disrupt hatchery finances or in any way impinge upon the hatchery's fiduciary duties. The additional landing tax will generate the same level of net revenue now generated by the cost recovery fishery. The tax rate will be adjusted annually to ensure that the tax reflects the reasonable financial needs of the hatchery.
3. HB 218 is a first step toward reducing the direct sale of salmon by hatcheries. UFA does not oppose hatchery sales and in fact has a number of member hatcheries, including NSRAA and PWSAC. However, UFA does maintain that whenever possible, commercial salmon fishermen must have maximum opportunity to harvest and sell salmon produced at hatcheries or in the wild.

If you have any further questions regarding UFA's support of HB 218, please do not hesitate to contact me.

Respectfully

A handwritten signature in black ink, appearing to read "Mark D. Vinsel". The signature is written in a cursive style with a large, sweeping flourish at the end.

Mark D. Vinsel
Executive Director

Mary Jackson

From: Sen. Tom Wagoner
Sent: Monday, May 09, 2005 8:22 AM
To: Mary Jackson
Subject: FW: Hatchery Cost Recovery

-----Original Message-----

From: ssiterry@oz.net [mailto:ssiterry@oz.net]
Sent: Monday, May 09, 2005 7:33 AM
To: Sen. Tom Wagoner
Subject: Hatchery Cost Recovery

Email For: Senator Tom Wagoner
From: ssiterry@oz.net
Name: Terry Bertson
Street: 1900 W. Nickerson St. #205
City: Seattle, WA
Zip Code: 98119

Subject: Hatchery Cost Recovery

Dear Senator Wagoner,

My name is Terry Bertson and I am the owner of Sea Hawk Seafoods located in Valdez, Alaska.

Bob Thorstenson gave me your name so that I could contact you and inform you of the severe problems that have developed in Prince William Sound as a result of the current manner that the salmon hatcheries are obtaining their cost recovery funding.

As the price of salmon has dropped the hatcheries have been forced to take a larger share of the returning fish. Some years as much as 60%. Inturn, factory processors from the Bering Sea have seen this as an opportunity to take advantage of their AFA privileges.

Using the ships that are supported by pollock allocations, they have been able to turn the hatcheries into their own private fish traps of old.

This year, these ships will be taking 23 million lbs of the 25 million lbs of pink salmon PWSAC will need for their cost recovery requirements.

Because this privileged group is able to out bid the local shore processors, the local buyers raw product source is reduced to 40 to 50% of what it would be otherwise. To make up for this shortfall in volume and cover their overhead, their only option is to lower the price paid to the fishermen.

This is why you see the increasing gap between the hatchery \$.20/lb pink prices and the \$.10/lb paid to fishermen for the same fish.

The current system has evolved not to benefit the local fishermen, cannery workers, and businesses as it was intended to do. It has evolved to benefit a privileged few.

Fair competition is good for everyone. Unfair competition only benefits the already economically advantaged.

Please feel free to call me, (206) 355-1662, if you wish to learn more about the serious problems we are facing with the way that the hatchery cost recovery system has evolved.

Please Add My Email Address to your distribution list. Thank You.

12:00

RECEIVED
5-7-05
NOON

email: gfandrei@ciaanet.org

FACSIMILE COVER SHEET

This transmission consists of 1 pages including cover page.

Fax To: Senator Thomas Wagoner

Attn: _____ FAX No: 465-4779

From: Gary Fandrei

Remarks: Senator Wagoner I wanted to let you know that I have been following HB 218 on hatchery cost recovery. I initially felt the concept of the bill was good, but had some reservations concerning the specific language in the bill. That language has now been cleaned up and I feel much more comfortable with the passage of this bill. It would provide an option for CIAA cost recovery harvests in lower Cook Inlet. I have also heard from 2 CIAA board members that feel there may be some merit in a cost recovery harvest conducted under the terms of this bill. However, please note the CIAA Board of Directors has not taken a position on this bill.

Gary Fandrei 5-7-05



ICICLE.

May 6, 2006

Senator Tom Wagoner, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Chairman Wagoner and Committee Members,

I am writing to express our support for CS HB 218 relating to cost recovery fisheries for private nonprofit hatchery facilities.

As a major salmon processor with operations in Petersburg, Seward and Bristol Bay we believe this legislation is good for all the salmon industry stakeholders. It will provide another option for nonprofit hatchery boards to consider as a means to cover the expenses for their facilities and operations.

This legislation provides a tool that hatcheries may employ to enable all salmon permit holders to participate in the harvest of surplus salmon produced by the hatcheries in terminal harvest areas. In addition, all processors will have an opportunity to purchase this salmon from the fleets. Currently, only those harvesters and processors that are successful in their pre-season bids to the hatcheries for the cost recovery fish are able to participate. If used, this option would allow more fishing time for the fleets and provide fish to all processors while still covering hatchery expenses.

We believe this option should be made available to nonprofit hatchery facilities and request your support for CS HB 218.

Sincerely,
ICICLE SEAFOODS, INC.

A handwritten signature in black ink, appearing to read "Kris Norosz", is written over the typed name.

Kris Norosz
Government Affairs

PETERSBURG FISHERIES

A DIVISION OF ICICLE SEAFOODS, INC.

P.O. Box 1147 • Petersburg, AK 99833 • Tel: 907-772-4294 • Fax: 907-772-4472

The Alaska State Senate
Gig Decker, Wrangell Alaska.

Dear Senators, I'm writing in support of HB218.

I have fished Salmon in Alaska continuously for 33 years. I appreciate the hatchery system very much but feel the cost recovery system is becoming obsolete.

These hatcheries were created for the harvesters, now they are becoming an industry of their own. In the event they become bankrupt, the harvesters will continue to pay off the debts even after the fish stop being produced. Most fishermen I speak to want to participate in these fisheries and figure out some kind of assessment to cover costs. Many processors resent the loss of opportunity also.

The efficiency argument has gone both ways. In some cases the cost recovery drives down prices of fish like chums. This has been documented many times. How does this figure into the price per pound to harvest cost recovery?

The critical factor here is having the flexibility to use either system, which the present proposed legislation would do. The bottom line is the question of whom these hatcheries are for and who should decide on their financing.

We have all heard the pros and cons and they go on forever. What concerns me here is that I'm approached by harvesters and processors alike on a regular bases about this. They have been overwhelmingly for this legislation.

Personally, I want the hatcheries to raise the fish, I want to catch them, and I'll pay the bills. This may lead to more realistic views of some operations. The present cost recovery system is fueling the anti-hatchery debate and this may prove to be the most damaging factor of all.

Gig Decker, Wrangell Alaska

Alaska State Senator HB 218

Page 1 of 1

This message has been scanned for known viruses.

From: Eric & Sarah Jordan
 To: lan_flek@legis.state.ak.us
 Cc: seafa@gci.net, Andrew Friske, Mike Blewett, Howard Pendell, Bob Thomntson
 Subject: Alaska State Senator HB 218
 Date: Wed, 04 May 2005 16:23:52 -0800 (Alaskan Standard Time)
 File: Alaska_State_Senator_HB_218.doc (24K)

[Unable to display image]

Alaska State Senator
 State Capitol Building
 Juneau, Alaska 99801-1182

Sitka, AK
 May 4, 2005

Dear Senator,

I have looked at HR 218. This letter is to urge you to pass this legislation this year. I am a lifelong Alaska fisherman. I also have a fisheries technician certificate from Sheldon Jackson College where I worked at that hatchery. I helped organize the Northern Southeast Regional Aquaculture Association in 1977-78 as a paid organizer. I have been active in attending NSRAA meetings for many years. A big part of my troll income comes from NSRAA chums, chinook, and some coho.

I am very supportive of NSRAA and especially its fine staff like Pete Esquiro and Steve Reifensuhl. I also strongly support HB 218. I have come to believe that we made a fundamental error when we organized the aquaculture associations to take over ocean ranching technology in Alaska. That error was to set up salmon harvest entities outside of the common property fisheries.

I have come to believe that cost recovery operations in SE Alaska depress the common property fisheries market value and common property fishing opportunities to the extent that it is a big problem for the fishing groups. Just last year we lost our long time troll chum market here in Sitka because the processor was swamped with cost recovery chums.

Years ago when I was organizing NSRAA I assured fishermen that cost recovery operations would be controlled by the fishermen on the board of directors of the association and would not be encroaching on common property fishing areas. About 20 years later I was a common property fisherman fishing outside a designated cost recovery area when NSRAA got an emergency order from ADF&G to allow them to fish outside their designated area and right in front of me and other common property trollers. It has been a constant battle ever since to contain cost recovery operations and preserve the common property opportunity we need to be viable. Fortunately in Sitka, in part because of an enlightened and creative effort at NSRAA, we have been able to work things out the last few years.

Nevertheless I see HB 218 as enabling legislation that will give fishermen and hatchery associations a tool to use if they decide they want to. More importantly it will lead to engaged discussions of the problems and those discussions and the possibility of using this legislation will make the hatchery managers more sensitive to common property fisheries. I don't see any downside to the legislation. I urge you to pass it this session.

Sincerely,

Eric Jordan
 F/V I Goza
 103 Gibson Place
 Sitka, AK 99870

FREE Emoticons for your email! [Click Here!](#)





Senate Resources Chairman Wagoner
Alaska State Senate
State Capitol Building
Juneau, AK 99801-1182

May 6, 2006

Dear Chairman Wagoner

SEAS (Southeast Alaska Seiners Association) is a group of small boat commercial fishermen asking you to support a quick hearing for HB218. We believe that this is an important piece of legislation that needs to move forward as soon as possible.


Traditional cost recovery has been one of the few available options to recover expenses and pay for hatchery operations. The fishing community has been working hard for years to come up with a different approach. Indeed HB218 is very similar to the legislation passed by this body in 2004 with respect to cost recovery. The difference with that piece of legislation is that in this case only the users or "harvesters" who catch the fish actually pay the assessment. 2004's Senate legislation would have mandated all users within similar geographic districts, which would have meant that fishermen would be paying for fish that others were catching and paying hatchery taxes on wild-stock salmon.

HB218 has a zero fiscal note. As stated in the bill, it is our intent to pay any additional costs the program may entail, such as revenue collection or other costs.

It is also important to note that this bill is permissive, allowing the hatchery operators to decide. Several hatchery associations and their Executive Directors are comfortable with the concepts and policies of this HB218, including Cook Inlet Aquaculture Association's Gary Fandrei and Armstrong-Keta's Bart Watson (located in Southeast Alaska). DIPAC, SSRAA and PWSAC have all discussed and opted to not oppose HB218. If this was bad hatchery policy, there would be rampant opposition rather than the small, local opposition that we are experiencing from NSRAA.

But we would especially encourage you to recognize that fishermen broadly support this as evidenced by support from Kake Seiners Association, Petersburg Vessel Owners Association, and the United Fishermen of Alaska. Thank you again for your urgent consideration of HB218.

Respectfully yours,


Bob Thorstenson, Jr., Executive Director, SEAS

HB 218 Sponsor Packet

Cover Sheet _____ 1 page
Sponsor Statement _____ 1 page
CS HB 218 (FIN) (HB0218d) _____ 4 pages

Fiscal Notes:

4-3-06 DOC _____ 1 page
4-04-06 ADF&G _____ 1 page
4-04-06 DOR _____ 2 pages
DPS ---- have not received new one as of 4-04-05

Opposition

SE Regional Aquaculture Association, Inc. (4-04-06) _____ 1 page
• Analysis of Operational & Legal Issues _____ 3 pages
• Why HB 218 is Bad Public Policy _____ 2 pages

Support Documents:

Email – File, Kate April 4, 2006 _____ 2 pages
Letter - UFA April 3, 2006 _____ 2 pages
Email - Bertson, Terry (5-09-05) _____ 1 page
Fax - Fandrei, Gary (5-7-05) _____ 1 page
Letter – Icicle (5-06-06 ... note should be 2005) _____ 1 page
Fax – Decker, Gig (5-06-05) _____ 1 page
Email – Jordan, Eric & Sarah (5-04-05) _____ 1 page
Letter – SE Alaska Seiners (5-06-05) _____ 1 page

TOTAL PAGES: _____ 26 pages



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-461-3732

888-461-3732

FAX 907-465-2652

Sponsor Statement HB 218

"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities"

Salmon hatcheries in Alaska continue to be positive contributors to the economic development of coastal regions. Over the years, hatcheries have provided great benefit to the commercial fishing industry and to other users of fish by enhancing the strength of salmon returns and by creating jobs in our communities. The commercial salmon industry has paid into this program through the Salmon Enhancement Tax since 1980.

HB 218 relates to the methods by which hatcheries generate revenue to cover their operating and capital expenses. These methods are referred to as "cost recovery." Under current practices, hatcheries contract with processors to purchase part of the returning run of fish that are caught in areas known as Special Harvest Areas immediately in front of hatcheries or at remote release sites where enhanced runs of fish have been developed. Typically only a handful of commercial vessels actually participate in the harvest of these cost recovery fish.

HB 218 provides language that would allow hatchery operators to choose to recover their costs through fisheries open to commercial fishermen, allowing the fleet to access more fish. In return for this increased access, the industry would pay an assessment of up to 50% of the value of the fish to ensure that the users of the resource continue to pay for the costs of the hatcheries. Hatcheries were created to enhance the natural production of salmon so that the common property users would have a more abundant resource to harvest. The hatchery system should work toward the goal of minimizing the amount of fish that hatcheries sell directly to processors. However, because each hatchery has a unique financial situation, this alternative type of cost recovery will not be immediately applicable to all hatcheries. For this reason, HB 218 merely provides permissive language. It in no way will force a hatchery to change its current practices.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 218 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Private Hatchery Cost Recovery Fisheries RDU Investments (122)
 Component Investments
 Sponsor Thomas
 Requester Senate Resources Component No 383

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would allow private non-profit aquaculture associations to use a new method of conducting their cost recovery operations. Although the Alaska Division of Investments (division) provides financing to private non-profit aquaculture associations under the Fisheries Enhancement Revolving Loan Fund, the associations make all cost recovery decisions without input from the division. As a result this bill will have no fiscal impact on the division.

Prepared by Greg Winegar, Director
 Division Investments
 Approved by William C. Noll, Commissioner
 Agency Commerce, Community, and Economic Development

Phone 907 465-2510
 Date/Time 4/3/06 11:03 AM
 Date 4/3/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 218(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Private Hatchery Cost Recovery Fisheries RDU: Commercial Fisheries
 Component: SE, Central, and Westerward Regions
 Sponsor: Representative Bill Thomas Fish Management
 Requester: Senate Resources Committee Component No.: 2167, 2168, 2170

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1037 GF Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation is enabling legislation and creates no additional expenses for the Alaska Department of Fish and Game (ADF&G). The promulgation of the regulations required by this legislation is already covered by ADF&G's existing budget. A zero fiscal note assumes that ADF&G will not be conducting hold inspections and that the reporting of harvests and sales taken within the special harvest area will be accomplished through the existing fish licke catch reporting system.

Prepared by: Sarah A. Gilbertson, Legislative Liaison
 Division: Commissioner's Office
 Approved by: Commissioner McKie Campbell
 Agency: Alaska Department of Fish and Game

Phone: 465-6137
 Date/Time: 4/4/06 12:53 PM
 Date: 4/4/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 218 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Private Hatchery Cost Recovery Fisheries RDU Tax and Treasury
 Component Tax
 Sponsor Rep. Thomas
 Requester Senate Resources Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	*	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2006) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2

Prepared by: Tim Cottongim/Nels Tomlinson Phone 465-2320
 Division Tax Division Date/Time 4/4/06 1:45 PM
 Approved by: Jerry Burnett, Administrative Services Director Date 4/4/2006
 Agency Revenue

FISCAL NOTE #

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. CSHB 218(RES)

ANALYSIS CONTINUATION

This bill authorizes hatchery permit holders to recover costs using an assessment against special common property fisheries in lieu of cost recovery harvests. Revenue is charged with setting the assessment rate, not to exceed 40%, in consultation with the Department of Commerce, Community, and Economic Development, the hatchery permit holder, and commercial fishermen. Licensed fisheries businesses and participating commercial fishermen remit the assessment to Revenue under regulations that would be adopted.

Our interpretation of the bill is that it does not authorize Revenue to enforce an assessment. Revenue will not perform audits or otherwise pursue compliance with an assessment. The assessment is not subject to the administrative provisions of Title 43 that includes penalties, interest, assessments and limitations on assessments, or appeal rights and procedures. The department's authority is restricted to setting the assessment rate, receiving payments, and accounting.

Cost Discussion

Our costs are indeterminant because we cannot predict the number, if any, or complexity of common property cost recovery fisheries that will arise under the bill.

Receipt & Accounting

We are unable to predict the actual number of fisheries that can be handled using existing resources. We estimate that we can receive and account for 2 to 3 common property cost recovery fisheries using existing resources. It is possible, depending on the number of taxpayers per fishery and the complexity and timing of accounting and distribution requirements, that we could receive and account for additional fisheries using existing resources.

Rate Setting

We are unable to predict the cost of setting rates under the bill. The time and expense attributable to rate setting will be influenced by the knowledge, experience, contributions by the participants, the financial and operational status of the hatchery permit holder, and other factors specific to each fishery and hatchery permit holder. We expect to incur travel expenses with respect to hatcheries and interest groups who are testing the waters as well as for any cost recovery fisheries that actually take place. We are unable to anticipate the level of demand for services associated with rate setting activities, however, the successful establishment of a fishery under the program may not be possible without dedicated staffing. There are currently 31 hatcheries in the state. If more than 3 hatcheries elect to become common property cost recovery fisheries, Revenue projects a need for 1 to 2 additional Tax Auditor positions, along with funding for travel.

Revenue Discussion

We are unable to predict the number of cost recovery fisheries that will arise under the bill or receipts associated with a fishery.

NORTHERN



SOUTHEAST REGIONAL AQUACULTURE ASSOCIATION, INC.

(907) 747-8860

1308 SAWMILL CREEK ROAD

SITKA, ALASKA 99835

FAX (907) 747-1470

April 4, 2006

Senator Thomas Wagoner, Chairman
Senate Resources Committee
Alaska State Senate
Alaska State Capital
Juneau, Alaska

Dear Senator Wagoner:

In preparation for the April 5th meeting of your Senate Resources Committee, at which HB 218 will be heard, I have enclosed two documents for your review. One document entitled "Why HB 218 is Bad Public Policy" is presented as a means of sharing with the Committee our general view of HB 218 and why it should not be passed in its present form. The second document entitled "HB 218- Analysis of Operational and Legal Issues", attempts to document many of the more specific issues which we feel need to be worked through before passage.

I want to thank you and the Senate Resources Committee for taking the time to hear our point of view concerning HB 218. Mr. Kevin McDougall, President of the NSRAA Board of Directors, and Ms. Deborah Lyons, Sec. /Treasurer of the NSRAA Board will be testifying for NSRAA, via teleconference. Thanks again for your consideration.

Sincerely,

Pete Esquiro
General Manager

Enclosures

c.c. Senator Bert Stedman

HB 218

Analysis of Operational and Legal Issues

HB 218 creates a process that would subject Regional Non-profit Hatchery Associations and fishermen to a very complex government process. The proposed process is riddled with problematic terms that invite disputes, lawsuits, and confusion. The high cost of implementing this bill will result in lowered revenues to the non-profit and the commercial fishing fleets.

1) The Bill creates special definitions of "special harvest area" and "terminal harvest area" that do not seem consistent with other definitions in existing statutes and regulations. This seems likely to cause problems. Further research is needed to define how this bill would impact current definitions and practices the industry uses for terminal special harvest areas.

2) The "rate of assessment on harvest mechanism" in HB 218 has a fundamental problem. The underlying premise of the language in the bill is that each hatchery is a stand-alone economic unit. Regional hatchery associations are complex businesses that have many sources of revenues, many sources of expenses and many sub business enterprises. These revenues and expenses fluctuate over time, especially with natural fluctuations in salmon survival and market fluctuations in value.

3) The rate of assessment section does not allow the nonprofits to retain funds for future expansions and other programs. All nonprofits have some programs that may not be self funding, based on their individual cost recoveries. This provision should be added to the list of allowed uses for funds.

If this approach had been taken, historically, non-profits would have never been able to expand. This provision will prevent non-profits from making investments in new projects and technologies that will produce additional salmon for the common property fisheries.

4) The bill has a general lack of definition of important financial terms that will be utilized by the Department of Revenue, in setting the assessment rate. These terms must be defined so that non-profits can predict and plan their futures accurately. The definitions of these words used by non-profits might be quite different from meanings State agencies use. Terms that should be defined include:

- Revenue, operating cost, operating reserves, depreciation, capital replacement, capital reserves, equipment upgrade, research, run forecasting
- Another expense category that is not clearly included is depreciation. This starts to get at the issue of capital replacement.
- The bill allows the Department of Revenue to take assessment revenues to cover their collection and implementation costs. This needs to be added to the list to ensure the assessment rate is high enough to cover this "cost".
- Beyond this is the general business issue of upgrading technology and installing new equipment for efficiency, higher productivity or higher survival. As labor costs and inflation in general increase it is necessary to upgrade whenever new technology becomes available. The definitions need to provide for these conditions also.

Page 2, HB 218- Analysis of Operational and Legal Issues

- "Reasonable" (as in reasonable operating costs) needs to be clearly defined. Letting the department determine "reasonable" with its lack of experience in operating fish hatcheries would be problematic.

5) HB 218 creates a process of multiple steps with several State agencies. There are no time lines. If this process is to be utilized there would have to be some required timely decisions by State agencies so that non-profits, processors and fishermen all have certainty on the fishing plan for the upcoming year.

The bill as currently drafted fails to establish any timelines or deadlines.

6) Providing provisions for fishermen to not sell to licensed buyers removes the non-profits ability to easily collect and enforce collection of assessment. With a high assessment fishermen would have very large incentives to "sell" to unlicensed buyers.

It is our understanding that the Department of Revenue has historically opposed prior requirements to collect directly from fishermen. They don't have the manpower or the budget. If the department is unwilling to collect funds from fishermen the only choice for collection would be to require fishermen to sell to licensed buyers.

7) The Fish and Game Commissioner is required to find that there are no allocative issues. Further he/she is required to have "reasonable consultation with affected commercial fishermen" and the "organizations of affected commercial fishermen". These provisions are vague and undefined. They provide the potential for disputes, protests to the State, and lawsuits. More specificity should be included to prevent abuse of these provisions.

Later in the Bill a similar problem is created with the mandate that the Dept. of Commerce consult with "representatives of affected commercial fishermen". Who are these "representatives"?

This requires a definition and a process to alleviate these problems. The Commissioner needs to know the "organizations of affected commercial fishermen" and "representatives of affected commercial fishermen" have been chosen through some type of process that is democratic and public. There needs to be a time or date certain for their input. The group or organization has to be in existence and choose their representative prior to the beginning of the process of implementing provided in the bill.

There has to be certainty on who has standing to challenge the ruling of the Commissioner in court and on what basis the challenge can be made, or there will be chaos.

One really has to ask what the point of the regional non-profits having representatives of all the user groups on their board, communicating with members and conducting other outreach activities, are for? This essentially allows an entire parallel process for fishermen and fisher organizations to give comments on cost recovery plans.

8) As we know, there are biological surprises in run returns and unpredicted market prices. The process in the bill for assessments has no flexibility like the current system. There needs to be flexibility built into the mechanism. If the run comes in much weaker than predicted or if salmon prices are dramatically different than predicted, the non-profit should be provided some mechanism to alter the assessment rate or harvest plan.

Page 3, HB 218- Analysis of Operational and Legal Issues

Regional non-profits have this in season flexibility now and they should not give it up. This lack of flexibility could undermine the financial stability of the regional non-profits.

The Commissioner of Fish and Game has authority to operate under "Emergency Order" (EO's) to manage in season fisheries. It is not clear that the Commissioner of Revenue will have similar authority under this legislation to issue "EO's" to either increase or decrease the assessment rate based on the in season run strength or catch rate.

No provision is made for the scenario where the run size exceeds the catching capacity of the fishermen. The non-profit should have flexibility to deal with this occurrence.

9) If the Department of Revenue should be allowed to take cost recovery funds for their budget, the bill should be amended to put a limit on the Department of Revenues expenses. Leaving this open ended invites the State to be inefficient and just treat this as a cost-plus activity. Neither the non-profits nor fishermen would have any way to audit the "reasonableness" of these costs.

Federal and State agencies that have been allowed to "recoup their costs" by their own edicts have historically abused these authorities and costs have become unreasonable.

10) The Dept of Revenue shall "consider" several other factors such as run size and price. Is the department going to do their own research? Are they going to get the information from fishermen? As we know there is always a huge range of run size possibilities and salmon prices. With experience, non-profits have learned to correctly interpret this range of data. The State does not have this experience for non-profit hatcheries.

Since the Department of Fish and Game does not make "hatchery" salmon run forecasts the non-profits are the only logical party to do this. The State is not in a position to judge what is reasonable on these factors.

An alternative: If the bill sponsors want to insist that the Department of Revenue will determine the assessment level, instead of the hatchery operator, then the State needs to be responsible for any revenue short fall.

11) The Bill requires these special assessment funds be deposited to the State and await the Legislative and State budget process. This will cause a one year delay in cash flow to the non-profits. In the long-term this may not be a problem, but in the initial startup non-profits will lose one year of funding. There is no requirement that interest be earned on these special assessment funds and passed on to the non-profits.

12) Also, with a special high assessment rate it would be essential that fishermen be required to offload their catch before proceeding to any other fishery, so that processors would clearly know to charge the special assessment rate. There would need to be an enforcement mechanism.

Why HB 218 is Bad Public Policy

HB 218 is a reversal of long standing, successful public policy on how to best build and operate salmon hatcheries in Alaska. No "problem" is actually solved by the bill. While it is unclear that any regional non-profit hatchery association would ever use the mechanism created by HB 218, there is a presumption that the State creates new laws for a purpose.

A Successful State Policy

The private non-profit hatchery program was developed in the 1970's as a major component of the overall State effort to rebuild the salmon industry. The State concluded that the experience of government built and operated hatcheries in other jurisdictions had been very problematic and was the wrong direction for Alaska. Government built, operated and managed hatcheries suffered from myriad problems, including very high costs, very low productivity, disease problems, diminishment of wild stocks, lack of accountability to user groups, and out of date technology.

Alaska constructed a unique program building off of the successes and failures of other models for salmon hatchery programs. The private sector was nominated to build and operate hatcheries and to be accountable to a bottom line that mattered to the primary user group – commercial fishermen. Other user groups were given a voice, but were not required to fund the hatcheries. The State retained several roles – financier, regulating genetics, site location, disease and other areas that would protect the public interest and the health of the fishery resources.

The non-profit hatchery program has fulfilled the vision of the founding legislation. State hatcheries in many cases have been turned over to the non-profit sector to reduce the burden on state finances and to ensure more efficient operations. The State has fulfilled its roles of regulating the hatcheries to protect the public interest and fishery resources.

Nonprofit hatcheries are founded on principles that have worked well in our country – democratic and local control. All user groups participate and management is at the local level where local knowledge is the greatest. This has provided a forum for fishermen on a local level to participate and address their concerns, without appealing to a distant bureaucracy or requiring the Legislature to act to solve local problems. This system has allowed fishermen to pursue different enhancement strategies in different areas of the state, to fit local conditions, versus a one size fits all government solution.

HB 218 – A New Direction

SCS CSHB 218 dictates a major shift in State policy for the non-profit hatchery program. The Bill calls for a complex process involving four state agencies – Board of Fisheries, Department of Revenue, Department of Commerce and Economic Development, and Department of Fish and Game – to determine and regulate the harvest of salmon returning to non-profit hatcheries. This will inevitably destroy private sector efficiency and flexibility that has been the hallmark of the non-profit hatchery program. Passage of this bill will be a clear message to all fishermen and user groups that they should petition the State Government and the Legislature when they don't approve of the operations of a non-profit hatchery.

2, Why HB 218 Is Bad Public Policy

Fishermen can expect to pay for the increased State management of their hatcheries. The Bill takes the first step in this direction by allowing the Department of Revenue to collect a share of the returning salmon harvest to cover their costs. While State agencies may not appreciate the new regulatory burden, they will happily accept the new funding source.

SCS CSHB 218 charts a reversal of three decades of State policy that built a successful nonprofit salmon hatchery program. In place of a proven efficient private sector model, government will be substituted.

What Problem Needs Fixing?

IIB 218 does not state what problem it is fixing. Supporters have represented that the bill supplies a voluntary option and "won't hurt anything" because it is voluntary. If there is a problem that the bill is trying to fix this is the most cumbersome, complex and costly way to do that. Presumably, if after the bill is passed supporters would move to the second step of pressuring for utilization of the new law. Why pass the bill unless you intend to use it.

State agencies would interpret the passage of HB 218 as a change in State policy and direction. Why would the Legislature pass a new law unless it intended for its utilization.

The Legislature wisely gave local control to fishermen and required broad democratic participation in the non-profit hatchery process. Under the current system each regional non-profit hatchery association can design flexible cost recovery systems that work best in their region. The fact that a wide variation of cost recovery methods have been tried and exist today is an indication the system is working.

Ian Fisk

From: Kate File [files@acsalaska.net]
Sent: Tuesday, April 04, 2006 2:26 PM
To: Ian Fisk
Cc: akwapsc@aol.com
Subject: HB218 testimony

Senate Chairman Thomas Wagoner
Alaska State Senate
State Capitol Building
Juneau, Alaska 99801

Dear Chairman Wagoner,

My name is Kate File, I am a commercial fisherwoman and I live in Juneau, Alaska. I am writing to you today in support of HB218.

I would like to thank you for taking the time to discuss an issue that is of such critical importance to commercial salmon fishermen.

I would like to start by stating that seven hatcheries (Southern Southeast Aquaculture, DIPAC, Armstrong-Keta, Cook Inlet Aquaculture Assoc., Kodiak Regional Assoc., Valdez hatchery, and Prince William Sound Aquaculture Assoc.) have all discussed HB218 and have not opposed it. If this bill were in any way considered threatening to hatcheries, wouldn't we see opposition across the board to this bill? This however, is not the case.

There are NOT many fishermen who would tell you that the cost recovery system needs to stay status quo. Across the board fishermen of different gear groups believe that the cost recovery system desperately needs to be changed to become more "fishermen friendly". Look at the situation from the commercial fishers point of view. We compete with hatcheries for dock space, price, processing capacity, in the marketplace and we compete for the cost recovery fish. There are many ideas as how to enact change in the current hatchery cost recovery system. This bill will only tax those commercial fishers who choose to fish in the terminal harvest areas. This is extremely important because it gives the commercial fishermen a choice to pay the tax or not and having the choice empowers the fishing sector. Just as HB218 will give the hatchery board a choice as to whether or not to enact this management option. It has always been said among commercial fishermen that the current cost recovery system MUST change in order to create some balance and fairness between the commercial and hatchery sectors.

Commercial fishermen are in favor of having options to be able to deal with a rapidly changing industry. This being said if HB218 were to pass, this would just be

another "tool in the toolbox". It is important to realize that if the bill passes it would NOT be imposed on any hatchery unless the hatchery board itself discussed, voted and approved this "management tool". So why, may you ask, is there opposition? The opposition, I believe, comes from the concern that if HB218 were passed that the Department of Revenue would annually review the hatcheries financial situation. The hatchery cost recovery system has gone unchanged for many years and the concern maybe that the hatcheries will not be allowed to delegate their finances as they see fit, if another party were involved.

This being said, we are all in a time of fleet and processor consolidation in the commercial fishing industry. We are all making changes in the way that we do business. The only sector in the fishing industry that has not changed is the outdated cost recovery system.

When hatcheries were first introduced they were to help enhance the wild run. It was never meant to be in direct competition with the very "users" they intended to help.

It is now that I ask you to help the commercial fishermen. Give them another "tool for their box".....please pass HB218.

Respectfully,

Kate File
4515 Trafalgar
Juneau, Alaska 99801
(907) 789-2660

May-07-05 11:00am

From-COOK INLET AQUACULTURE

10072890489

T-227 P.01/01 F-136

12:00
RECEIVED
5-7-05
NOON

email: gfandrei@ciaa.net.org

FACSIMILE COVER SHEET

This transmission consists of 1 pages including cover page.

Fax To: Senator Thomas Wagoner

Attn: _____ FAX No.: 465-4779

From: Gary Fandrei

Remarks: Senator Wagoner I wanted to let you know that I have been following HB 218 on hatchery cost recovery. I initially felt the concept of the bill was good, but had some reservations concerning the specific language in the bill. That language has now been cleaned up and I feel much more comfortable with the passage of this bill. It would provide an option for CIAA cost recovery harvests in lower Cook Inlet. I have also heard from 2 CIAA board members that feel there may be some merit in a cost recovery harvest conducted under the terms of this bill. However, please note the CIAA Board of Directors has not taken a position on this bill.

Gary Fandrei

5-7-05

HB 218 Supplemental Packet

Cover Sheet _____ 1 page
Bill History-Action _____ 3 pages

MINUTES:

H FISH 3-16-05 _____ 10 pages
H FISH 4-15-05 _____ 9 pages
H RES 4-22-05 _____ 6 pages
H FIN 4-27-05 _____ 4 pages
S FIN 5-06-05 _____ 3 pages
S FIN 5-06-05 #2 _____ 3 pages

TOTAL PAGES: _____ 39 pages

House FISHERIES Minute



Mar 16, 2005

HB 218-PRIVATE HATCHERY COST RECOVERY FISHERIES

8:43:27 AM

CO-CHAIR LEDOUX announced that the next order of business would be HOUSE BILL NO. 218, "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."

IAN FISK, Staff to Representative Thomas, Alaska State Legislature presented HB 218 on behalf of Representative Thomas, bill sponsor. He explained that there are 29 private, nonprofit (PNP) hatcheries statewide which produced over 50 million fish that were harvested in 2003. This accounts for about a third of the statewide harvest by volume and about a quarter of the state harvest by value. Sport fishermen caught 481,000 hatchery fish in 2003. "It's truly been a very successful program," he opined.

What we're here to discuss today is the method by which hatcheries recover their costs. ... Cost recovery is currently done by a system whereby hatcheries contract with certain processors and the processor, through a bid process, is selected. ... Typically very few fishing vessels actually participate in the harvest. Now there's different hatcheries that have different circumstances by which they actually recover their costs, and what this bill will do is it will provide permissive language that will allow them to ... make more fish available to common property harvest. In Section 2 of the bill, you'll see that there's permissive language, and this is one of the keys to HB 218. [On page 1, lines 11-14] it specifies that a hatchery permit holder may harvest salmon for a facility in a special harvest area through agents, contractees, or employees of the permit holder as provided under regulations of the Board of Fisheries or through common property fisheries. The remainder of the bill sets out the process by which rates will be set for the common property cost recovery fishery. It specifies that as the bill currently reads, ... [Alaska Department of Revenue] will annually, in conjunction with ... hatchery permit holders and affected fishermen ... set the rate for the cost recovery harvest, and they'll collect and distribute the funds.

MR. FISK continued:

In section 2 ... the regulations to govern this cost recovery fishery will be set out by both the [Alaska Department of Fish and Game] and in certain circumstances by the [Board of Fisheries]. [The Board of Fisheries] will be involved if there is anything that will alter allocation plans that allocate fish

between different user groups. In subsection (c) there's language that sets out that a fisherman who participates in the fishery agrees to the payment of the assessment and so that there'll be a method by which ... the assessment will be determined annually. And that's to give some flexibility because of changing market circumstances.

8:47:32 AM

MR. FISK reviewed the findings in Section 1, which reads:

The Alaska State Legislature finds that the economic interests of the commercial salmon fishery are best served by the harvest of salmon returning to private nonprofit hatcheries in common property fisheries and the reduction or elimination of the direct sale of salmon by hatchery permit holders, especially when all fisheries enhancement loan obligations incurred for a hatchery facility have been repaid.

8:48:14 AM

REPRESENTATIVE ELKINS asked, "If a fisherman ... exports his own fish, how do you know you're going to get your money?"

MR. FISK replied, "The enforcement details of this bill are something that still need to be worked out." He noted that there is a provision near the end of the bill that states that violations of this law would be a class A misdemeanor, which is similar to other fishing violations.

8:49:37 AM

GARY FANDREI noted that he is the Executive Director of Cook Inlet Aquaculture Association (CIAA), but because the CIAA has not reviewed the bill he was speaking for himself only. He stated that he wanted to make three major points on HB 218.

First of all, I applaud the concept. I think this is something that some members of the fleet have expressed an interest in. It is also something that we have looked at a number of times but we haven't quite been able to figure out how to make it work. Having said that, I'm not sure that this bill does it either. Another point I'd like to make is the bill seems to encourage loans in that it does not allow for the development of any type of a reserve associated with the facility. In other words, if you come up short on your cost recovery one year, and you don't have money some place else, you're going to have to go out and get a loan to make the project work for that year. The last thing I'd like to say on the major points is that the option to use this type of cost recovery strategy, I feel, must be at the initiative or the option of the hatchery operator. I'd hate to get into a position where we're forced into doing something like this, because it may not work in all situations.

8:51:22 AM

MR. FANDREI continued:

For this to work for the hatcheries, I think in some instances we may need to redefine our cost recovery harvest areas, and so that should be something that people should be aware of. ... I also have a question on how buyers will keep up with the assessment program; it seems a little bit cumbersome to be dealing with an assessment program that's going to vary area-by-area and year-to-year. ... The last comment I would make is that the 40 percent assessment rate probably is a fairly reasonable rate to be dealing with. We have looked at our programs and that 40 percent rate represents a 1:2.5 cost benefit ratio and that it's pretty reasonable for many of the programs that we do; we're usually in that 1:3 to 1:6 cost benefit ratio with most of the programs that we run.

8:52:20 AM

CO-CHAIR THOMAS asked Mr. Fandrei to describe the make up of the CIAA board.

MR. FANDREI replied, "We are a regional association and we have a number of commercial fishermen on the board. And we also have representatives from the local communities, the borough, and a number of other groups in the area such as ... [Cook Inlet Region, Incorporated (CIRI)]."

CO-CHAIR THOMAS asked, "When you have put your cost recovery out to bid, do you get more for your bid for your fish than the common property fishermen get, or so they get more?"

MR. FANDREI responded that on the average, [CIAA] usually gets less because:

In Cook Inlet, our cost recovery programs are set up where we are the last ones in line. In other words, the commercial fishery goes first and if there's anything left ..., we're allowed to cost recover those fish and we don't really have predefined set of goals for some of them. So on the average we probably do a little bit less than the fleet because our fish tend to be a little bit more mature."

8:53:36 AM

CO-CHAIR THOMAS asked what fish [CIAA] produces.

MR. FANDREI replied that they produce sockeye for commercial harvest and coho for sport harvest.

REPRESENTATIVE WILSON pointed out that Section 2 of the bill relating to the cost recoveries, and stated, "It definitely is permissive. I think I see the word more than five times."

8:54:23 AM

CO-CHAIR THOMAS asked who formed CIAA.

MR. FANDREI answered that it was formed by the commercial fishing industry. He stated, "Our goal is to produce fish for the common property fishermen. We don't necessarily recognize any particular user group in establishing that goal. But the reality of it is [that] our income comes from the commercial fishing industry."

CO-CHAIR THOMAS asked why [CIAA] would have problems with giving more fish to the common property fishery if [CIAA] was the originally started by fishermen.

MR. FANDREI replied, "That is our goal whenever we're trying to do a common property fishery; ... to try to get the best price we can for our fish so that we can get the greatest number of fish back into the common property hands."

8:55:44 AM

JASON WELLS, Executive Director, Valdez Fisheries Development Association (VFDA), stated that he was representing Valdez Hatchery. Regarding the findings in Section 1 of the bill, he said:

I feel that these findings are inaccurate and set a bad precedent for the PNP hatchery system. Valdez Fisheries Development conducted preseason sales agreements with two strong buyers with whom we have developed strong track records. In the past 11 years, despite the bad pricing, we've managed to save \$10 million or 86 million pounds of pink salmon by selling our cost recovery above the grounds price. The aforementioned savings have been returned to the common property fishery via their catch. As you can see there is a significant economic interest in the hatchery conducting its own cost recovery and conducting direct sales. The hatchery preseason sales contracts are the last vestige of competition between processors to purchase Alaska salmon. The fishermen no longer have viable organizations to put upward pressure on grounds price. My major problem with this legislation is the issue of whether it is voluntary on the part of hatchery operators or whether it will morph into a mandatory program. Our corporation, through the Board of Directors, is obligated to the State of Alaska for loan repayment. We're obligated to our personnel, properties, and to several small businesses. These obligations have been made under a set of assumptions, ... that we remain in control of our revenue stream. If this legislation hinders our ability to perform our fiduciary responsibility, it needs to have a fiscal note attached. The Board of Directors of a private, nonprofit hatchery corporation must be allowed to choose ... to use this legislation or not. Further, if a PNP elects to investigate a common property fishery for cost recovery and it cannot negotiate agreement suitable to the corporation's financial responsibilities, there must be a back-out mechanism.

8:58:45 AM

MR. WELLS continued:

If the bill remains voluntary to PNP hatchery permit holders, there are still several problems with HB 218. The first is that the [Alaska Department of Public Safety] must be committed to fish hold inspections and to show up for each and every common property fishery in the special harvest area. Our experience is that fisheries [indisc.] are not high on the [department's] priority list. Secondly, [regarding] page 2, lines 16-18: not all buyers or processors pay for the fish upon which they write fish tickets. How will the state ensure that the hatchery gets paid for its fish, and in what time frame will those payments be made? Third, this legislation requires the [Alaska Department of Revenue] to set a rate of harvest prior to the season. ... Our experience is that there are too many variables such as: fish size, grounds price, exploitation rates of the common property fishery, and ocean survivals to make accurate pre-season estimates of harvest. The problem has resulted in VFDA managing cost recovery towards a dollar goal, not a poundage goal or an exploitation rate. We have been doing this since 1988 with good success. I doubt the Department of Revenue will be better at predicting salmon returns than [the Alaska Department of Fish & Game (ADF&G)], who've thrown their hands up and no longer make run predictions on hatchery stocks. Finally, this legislation limits the assessment rate to 40 percent of the run. What mechanism is in place to ensure that the hatchery continues to operate should we have a run failure and all of the return is needed to cover hatchery operations expenses?

9:01:02 AM

MR. WELLS continued:

House Bill 218 is a piece of legislation with many possible unintended consequences. This legislation requires consultation with PNP operators before it is rushed through. I think the intent of HB 218 would be better handled in the private nonprofit boardroom by the fishermen.

CO-CHAIR LEDOUX recommended that Mr. Wells submit his testimony in written form as well.

9:01:33 AM

MIKE ROUND, Assistant General Manager, Southern Southeast Regional Aquaculture Association, Inc. (SSRAA), commented that SSRAA is not opposed to the bill but instead views it as one of many options that the hatchery operators could use. He stated:

We do not at this time [wish], and are not likely in the future, to change the way we do business and cost recovery, and we found ... that we can minimize our cost recovery by maximizing the value of our fish. One of the things [SSRAA] does is ... make sure that

those fish do not compete with the fishermen's fish at the dock. We retain those fish and sell them into the market well beyond the local processor point so that it does not compete with the commercial fishermen's catch at the dock, as it has very little effect, if any, on the fluctuation of the price to the fishermen. We see this as ... another option that the hatcheries ... not only may elect to choose but should also be able to choose to drop it at any point where it does not any longer make sense. ... Some of the aspects of the bill seem to make it sound as if any time you have a special harvest area open to the common property fishery, that all gear holders may attend that fishery.

9:03:56 AM

CO-CHAIR THOMAS asked who formed SSRAA.

MR. ROUND replied that the commercial fishing industry formed SSRAA, and 13 of the 21 board members are commercial fishermen.

CO-CHAIR THOMAS asked if the goal of SSRAA is to provide more fish for the common property fishermen.

MR. ROUND responded affirmatively. He stated that the ultimate goal is that 75 percent of production would go to common property fishery and 25 percent would be for cost recovery operations. He noted, "However, that also assumes that all things being equal, our debts are paid down, [and] we have our reserves fully funded. There are a lot of other considerations, but that is our ultimate goal."

CO-CHAIR THOMAS asked what the actual percentages are.

MR. ROUND answered that the number fluctuates each year, but right now it is about 60 percent to common property fishery and 40 percent to the hatchery.

CO-CHAIR THOMAS asked, "I understood ... Ketchikan was doing all cost recovery in the area where you could have had rotation of fishery, and that wasn't occurring because of your debt. Was that correct?"

MR. ROUND replied that SSRAA has debts that it has paid down. He remarked:

Paying the bills is certainly ... the major factor in cost recovery operations. ... When we did get a loan from the sustainable salmon fund, we used that money ... to buy time in the common property fishery in the special harvest area to do gear rotation. We do try to get the benefits of hatchery production back to the fishermen as we are able, depending upon our economic circumstances.

9:06:47 AM

CO-CHAIR THOMAS commented:

When you went into ... major cost recovery there, you

shifted the gill net fleet from Ketchikan to Taku and to Haines and to Sitka, and actually took my earnings while you filled your coffers ... to pay off your debt, and left me hanging out here with an extra 100-150 boats or more because they were displaced....

MR. ROUND replied:

In the past we have received as much as \$1.5 million to \$2 million on the enhancement tax, and ... even though the enhancement tax we receive is considerably reduced, I think this year's was around [\$300,000]. The benefit to the fishermen is still about three to one: three times the amount of fish [that] have been caught [compared with] the value of what he pays in enhancement tax. We would like to do better, certainly, but it still is providing a good benefit to the commercial fishermen.

9:08:23 AM

CO-CHAIR THOMAS asked why processors pay SSRAA more for fish than they pay [fishermen].

MR. ROUND replied:

We do not sell our fish to the local processors, period. We retain our cost recovery fish and sell them into the world market at a point beyond the ... processors at the local docks. ... We go through the processing of the fish, freeze the fish, retain the fish, and sell them through a broker. We do not sell our fish locally to the processors unless we have a run above and beyond our means to deal with at the cost recovery site, in which case it goes out for a second place processing, and they would bid on the fish at that point, but that hasn't occurred in a few years.... We usually do not receive a higher price in that case. There might be exceptions to that, but for the most part, our operations and cost recovery are done in-house and processed and sold into the market well above the point of the local processors and the dockside price.

9:10:31 AM

DEBORAH LYONS, Secretary/Treasurer, Northern Southeast Regional Aquaculture Association (NSRAA) commented that the NSRAA board had just looked at HB 218 yesterday and hadn't yet completely evaluated it. She stated that she concurred with many of the statements made by the representatives of other aquaculture and PNF hatcheries. The bill is so complicated that she really wasn't sure what it meant, she opined. She stated that she was concerned by the findings in Section 1 of the bill, and explained:

Our aquaculture association is sort of like the state in that, if we could run everything off of taxes off of a resources, like the state runs off of taxes off of oil, if we could just exist solely on the enhancement tax that fishermen make, it would be

great; we wouldn't have to do any cost recovery. But you know that tax values fluctuate with the value of your commodity resource, and we couldn't build an operations budget and maintain it solely on those tax revenues, so there arose the need for the cost recovery fisheries. ... I think this legislation grew out of some dissatisfaction out of a certain fishery, and that's the Hidden Falls seine fishery. And I think fishermen should be maybe a little more patient.

MS. LYONS continued:

Chum salmon aren't very valuable compared to chinook and coho, and ... we have to take a large number of chum salmon to meet the cost recovery needs to balance the budget. But this year a great development is seeing our coho and chinook programs come on line, and the value of those fish as they enter into cost recovery. This year the total cost recovery, 25 percent of that value, came from the coho and chinook programs. And as those mature there will be less chum salmon that need to be taken. And Hidden Falls seine fishermen have been before our board with three different proposals to change the way cost recovery is done in that particular fishery. I believe this legislation is directed towards NSRAA because of the language about the debt. And I think you're wading into a little bit of a fish fight. And I've seen a few of them, having served on the Board of Fisheries and the Pacific Salmon Commission.

9:14:01 AM

CO-CHAIR THOMAS asked Ms. Lyons if she is a fisherman.

MS. LYONS replied that she fished for many years with her husband, and currently she works as a crewmember on a troller/longliner.

CO-CHAIR THOMAS remarked that to him, chum fish is money fish even when the price is low; it's really matter of the volume of chums that one catches. He asked if NSRAA has a reserve account, and if so, how much it is.

MS. LYONS replied that the NSRAA board set a goal of reserving \$4 million for operational reserve to cover all costs of operation if there was a catastrophic failure. She said, "In establishing reserve accounts, we feel like we are protecting the organization and the interests of the commercial fishermen by being fiscally responsible in that way." She noted that currently NSRAA has about \$3.2 million in the operational reserve. She added that a financial advisor advised NSRAA to also save for capital projects; there is \$1 million in a capital replacement fund, but it was advised that the fund be much larger. She noted that NSRAA also has a scholarship account of about \$100,000.

MS. LYONS noted that she didn't mean to devalue any fishery; she meant to demonstrate the comparative values of the fish, and "as we are able to sell more of these coho and chinook that are coming on line, more of the chums will be available in the

common property for the fishermen."

9:17:30 AM

CO-CHAIR THOMAS requested that all of the hatcheries send to him a list of their cost recovery receipts. He remarked, "I want to see if you're really there for the fishermen or [what] you're there for." He reiterated his concern that cost recovery fish prices are higher than prices for other fisheries.

9:18:26 AM

ROB ZUANICH, Executive Director, Alaska Seine Boat Owners Association, commented:

In essence what this bill does is that when a hatchery permit holder deems it appropriate ..., revenue heretofore generated in cost recovery fisheries could be substituted by an assessment on salmon landed in specified regions set by the hatchery operator. ... There may be wordsmithing that needs to get everyone on the same page. But at the end of the day, this legislation as it sits has the appropriate checks and balances for the hatcheries to satisfy their fiduciary obligations and chart a better course for Alaska's commercial fishermen.

MR. ZUANICH, in response to Co-Chair Thomas, commented that Alaska Seine Boat Owners is about 70 percent seine fleet, about 10-15 percent longliners, and the rest are "miscellaneous."

CO-CHAIR THOMAS noted that there is no cost recovery fishery for longliners.

9:21:01 AM

BOB THORSTENSON, Executive Director, Southeast Alaska Seiners Association, testified that his association strongly supports HB 218. He noted that it is not the intent of the bill to force hatcheries to do anything. He commented, "I think this is going to be a very progressive piece of legislation. ... The enforcement concerns that I've heard, I believe, are going to be very easily addressed."

9:23:47 AM

CO-CHAIR THOMAS requested that anyone interested in helping to refine HB 218 call his staff.

REPRESENTATIVE WILSON asked for further clarification on language in the bill regarding debt.

CO-CHAIR THOMAS pointed out that this was listed in the findings section on page 1, lines 8-9:

when all fisheries enhancement loan obligations incurred for a hatchery facility have been repaid.

CO-CHAIR THOMAS continued:

It is my understanding that NSRAA is one of the few

hatcheries that have probably zero-debt, and so that's why I'm wondering why they're concerned about enhancement debt, unless they're looking to obligate the fishermen to build another hatchery or something. But right now, as far as I know, they are pretty much debt-free.

REPRESENTATIVE WILSON asked what happens after the debt is paid.

CO-CHAIR THOMAS replied, "Typically I think when they have cost recovery fishery, it's to build the reserves for the next year or to pay for the debt for that year. ... Several other hatcheries I know, their debt is so huge that they need to take every fish they can." He remarked that when hatcheries were first built in the 1980s, fish prices were high, and so once the prices dropped, it was difficult to pay back debt.

CO-CHAIR LEDOUX commented that she was curious why some of the hatcheries were selling their fish above the market price. She said, "And then you had that problem in Bristol Bay where the cost recovery system was really driving the prices down."

CO-CHAIR THOMAS remarked that the only reason he could think of for why hatcheries [were able to sell their fish at a higher cost] than the gillnetters and the seiners was the tender fleet costs. He explained, "[The hatcheries] only have to send one big tender to a cost recovery area and haul out a million pounds, whereas when you serve a gillnet fishery you'll have as many as four tenders to pack maybe 100,000 pounds a day or something, and they're rotating back and forth.


9:28:21 AM

CO-CHAIR LEDOUX announced that HB 218 would be held over.

Bill Root:

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House FISHERIES Minute



Apr 15, 2005

HB 218-PRIVATE HATCHERY COST RECOVERY FISHERIES

CO-CHAIR THOMAS announced that the next order of business would be HOUSE BILL NO. 218, "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."

8:50:16 AM

REPRESENTATIVE ELKIN: moved to adopt the committee substitute for HB 218, Version 24-LS0544/Y, Utermohle, 4/12/05. There being no objection, Version Y was before the committee.

8:51:19 AM

IAN FISK, Staff to Representative Thomas, presented the committee substitute for HB 218 on behalf of Representative Thomas, sponsor. He pointed out that the findings were changed to read:

The Alaska State Legislature finds that Alaska private nonprofit salmon hatcheries should maximize the harvests of returning hatchery-produced salmon by commercial salmon fishing permit holders. The legislature also finds that private nonprofit hatcheries should minimize, to the greatest extent feasible, the direct sale of salmon harvested in special harvest areas.

MR. FISK explained that subsection (e) on page 3 has been reworded to model other fishing industry assessments such as the 3 percent salmon enhancement tax. This was because the attorney general's office advised that the original language, in which the revenue from the assessment would be held in trust, would not work; assessments are considered revenue to the state and therefore must be appropriated by the legislature. He commented that this will cause a delay in the distribution of the funds.

8:53:27 AM

MR. FISK stated that lines 20 and 22 on page 2 and line 3 on page 3 had been changed such that the Alaska Department of Revenue would no longer be able to set the dates of distribution to the funds because the funds have to be appropriated by the legislature. Also, line 22 on page 3 was altered to make the violation of this bill a Class A fisheries misdemeanor rather than a Class A misdemeanor, and therefore the fine can be up to \$15,000, and could require forfeiture of the vessel and the gear. Mr. Fisk emphasized that there are no changes to the bill's main language.

8:55:37 AM

REPRESENTATIVE WILSON asked if the hatcheries will be likely to make any changes if the language in the bill is permissive.

MR. FISK replied that it wouldn't be appropriate for the legislature to require these changes. He noted that the hatcheries each have different circumstances, including different debts and different types of fish, and therefore they shouldn't be forced into operating in the same way. He commented that it's hard to guess how many of the hatcheries will make these changes; it's up to each hatchery board to decide for itself.

8:57:52 AM

REPRESENTATIVE WILSON asked if the hatcheries are in a position where they can handle the delay in funding.

MR. FISK responded that this would depend on the finances of each individual hatchery.

8:58:33 AM

CO-CHAIR THOMAS stated, "The fishermen started the hatcheries, the fish were for them to increase their profitability and produce more common property fish. Hopefully ... the board of directors have enough commercial fishermen on their board that they can utilize this [bill]. And I think it's a good tool...."

8:59:37 AM

BRUCE WALLACE noted that he is on the Southern Southeast Regional Aquaculture Association (SSRAA) board, and said that at this time he doubted SSRAA would support this bill. However, he commented that as long as the bill is permissive, it is good to have it available as a tool.

9:01:06 AM

PETER ESQUIRO, General Manager, Northern Southeast Regional Aquaculture (NSRAA), commented that he was glad the findings were changed in the CS for HB 218. He explained that financing a hatchery outside of the public sector is no small job; private operation of hatcheries is very rare. He noted that 20 years ago when private nonprofit hatcheries were authorized, cost recovery was identified by the legislature as the mechanism most likely to succeed in allowing for private payment of hatchery operating costs. He continued:

For a number of years we have not been fully satisfied with the way cost recovery is going. Despite the fact that we have been, in this association, fairly successful in getting 70 plus percent of our returns every year to the common property fisheries. ... We've always felt that there's some room for improvement. And we continue to look for those areas where we can improve that program. But ... in all the looking that we've done in the past 15 years or so, we've not found a replacement for it that does not result in a net loss in value to the commercial fishery resource.... Contributions [to this cost recovery program] are very diverse. ... We have several sources of income; we have several species in several locations that feed into our total cost recovery program....

9:05:29 AM

MR. ESQUIRO expressed appreciation for the permissiveness of the bill. He also made some recommendations for other possible changes. He asked for clarification regarding the word "board" on page 2, line 10, as it isn't clear whether it is referring to the Board of Fisheries or the board of directors of the corporation. He commented that the words, "representatives of affected commercial fishermen" on page 3, lines 5-6, are redundant in that there are 15 commercial fisherman on the NSRAA board of directors, which is the hatchery permit holder. He recommended that the word "facility" on page 3, line 9 be changed to "corporation" because the corporation is the entity that has the fiduciary responsibilities to fulfill.

MR. ESQUIRO, regarding subsection (e) on page 3, commented, "I know that's modeled after the language ... that authorizes the salmon enhancement tax, and I hope that we can continue to have the same kind of relationship that we've had with the legislature for the last ... twenty-some years with respect to appropriating the funds." He then turned to page 4, lines 1-4 regarding the exemption, he said:

In some years, the salmon enhancement tax, the 3 percent tax that's generated from the fish caught at Hidden Falls hatchery can be one-quarter to one-third of our entire enhancement tax in a given year. So in the models that we've worked with to determine whether or not this is a good thing for fishermen ... we did not take exempting this from the 3 percent tax into consideration. So I hope that you would reconsider that exemption part there, because that is real income that we have coming in to us.

MR. ESQUIRO stated that NSRAA is still opposed to HB 218. He said, "I don't think that this is really enforceable, and in the models that I've looked at, I don't know that this really produces the results desired by the commercial fishermen."

9:10:08 AM

STEVE REIFENSTUHL, Operations Manager, Northern Southeast Regional Aquaculture Association (NSRAA), remarked that the findings in Version Y are much better than the original language. He said that he has done an economic analysis of what it would mean if this bill were implemented at Hidden Falls hatchery. The conclusion of this analysis, he said, is that there would be a net negative benefit to the fishermen with this tax imposed at the hatchery. He commented that only under one or two scenarios, with no administrative fees, no increase in enforcement monies, and with a price of about 27 cents, is there any benefit to common property fisheries; all other cases, there would be a negative benefit and the fishermen would actually have less money in their pockets at the end of the season than they did to begin with.

MR. REIFENSTUHL noted that he sent the NSRAA letter of response to HB 218 to all the representatives. He said:

Managing a fishery at one of the hatchery programs is a very difficult and complex job. And to do that we

have to consider not only contribution to the common property fisheries but also our cost recovery program and, more particularly, our brood stock. And if this proposal were implemented at Hidden Falls, we would still potentially have to close down a midweek fishery because of brood stock concerns.

MR. REIFENSTUHL explained that in many areas there are brood stock requirements of over 100,000 fish, which can be 5-10 percent of the return. He noted:

It takes a great deal of effort to have that entire return represented in the timing; we can't just wait until the end of the return to take brood stock, because that would skew the timing on future returns. So we have to manage the fishery from the very beginning to the end to assure representation of that brood stock.

9:14:15 AM

MR. REIFENSTUHL commented on the exemption listed on page 4 of the bill; he said that he didn't realize that the 3 percent tax wouldn't be applied to the fish harvested in any one of these special harvest areas. He stated that, for example, if they had to have a 30 percent tax on the Hidden Falls fishery, this bill would require that they change it to a 33 percent tax in order to generate the revenue required for operations. He said that the delay in revenue appropriations would be a major problem; most organizations don't have the funds, or what funds they do have are already allocated for certain purposes.

9:15:45 AM

CO-CHAIR THOMAS asked Mr. Reifentstuhl what percentage of the contributions to the hatchery come from sport charter fleet.

MR. REIFENSTUHL replied that the hatchery does not get anything on a regular basis from either the sport fish division (of ADF&G) or from sport fish charter operations. He said that they occasionally receive a small sum of money from the local charter boat organizations, but he noted that the program is worth hundreds of thousands of dollars to the sport fisheries.

CO-CHAIR THOMAS remarked that it is a \$20 million industry to the sport charter operators in Sitka.

9:17:52 AM

MIKE WELLS, Sales Manager, Valdez Fisheries Development Association (VFDA), testified in opposition to Version Y of HB 218. He said that he has serious concerns about subsection (e) on page 3. He said:

The suggestion that the assessed funds will go into the general fund and then the legislature may or may not appropriate these funds back to the hatchery operator is just not going to work in our opinion. There's just no guarantee that these funds would come back to the hatcheries after being subjected to the legislative process. Hatchery operators, including

VFDA, simply can't wait to pay expenses pending these appropriations and we're not sure what, if any, loans ... or funding would be available in reserves to be able to carry us over.

MR. WELLS pointed out that there is no fiscal note attached to the bill and no financial analysis has been completed on what the impact of HB 218 would have on the private hatcheries or on the Alaska Department of Revenue, which holds the notes on most of the hatcheries.

9:19:39 AM

REPRESENTATIVE HARRIS stated that the language in subsection (e) on page 3 is "more boilerplate than anything else." He asked Co-Chair Thomas if he knew of any language in statute that is permissive in this way. He also asked if this bill would develop a situation where a hatchery would not know from year to year whether or not their cost recovery money would be returned to them.

CO-CHAIR THOMAS replied that it is his understanding that the 3 percent salmon enhancement tax is handled in the same way.

REPRESENTATIVE HARRIS asked if anyone from the Alaska Department of Revenue was available to take questions.

MR. FISK answered that no one from that department could make it to the meeting.

9:21:42 AM

STEVE DAUGHERTY, Assistant Attorney General, Alaska Department of Law (DOL), stated that he is very happy with the changes in the CS. He noted that DOL still has a very concerns with subsection (d) on page 3 and the broad discretion that it gives to the commissioner of the Alaska Department of Revenue to set an assessment anywhere between zero and 40 percent without definite guidelines and criteria for imposing a set level. He said that DOL does recognize that there are criteria there and that the bill may be defensible, however DOL does believe that it would be more defensible if more explicit criteria for establishment of the fee are set fort. in the bill. He stated:

We note that there are no other statutes that give such broad discretion to a department to set such a wide range of an assessment. Most of the other statutes that deal with this situation, such as the salmon enhancement tax, the dive fishery management assessment, and the seafood marketing assessment lay out specific options that the department can choose between, and in some cases have a vote of (an) association to determine which one is going to be imposed. We would be more comfortable with language like that, but we do realize that with the uncertainty and the variance between the different hatcheries, that such a scheme might not be feasible, because it might require 40 or more separate options. And we are continuing to work with the sponsor of the bill and we hope that we can develop some more definite criteria for the assessment in future versions of the bill.

9:24:20 AM

BRUCE WHITE, Hatchery Program Coordinator, Division of Commercial Fisheries, Alaska Department of Fish & Game (ADF&G), stated that ADF&G has some concerns with the legislation. He said:

The department ... does exercise authority over the private nonprofit hatcheries through their annual management plans. However the department has not been involved in the actual mechanics of the cost recovery operations of these hatcheries. And this legislation would have the department establish rules and conditions governing these common property cost recovery fisheries, and the department would prefer not to become involved as a referee on an issue that is basically between the fishermen and the hatchery operator.

MR. WHITE continued:

Second concern is this legislation has the [ADF&G] consulting with the Department of Revenue in establishing the rate of assessment to be levied on the fishermen. And we currently do not know what information or expertise the [ADF&G] is expected to provide or its role in this consultation. And again, historically the [ADF&G] has not had a role in setting hatchery cost recovery policies or amounts, and would prefer that it to continue to not have a roll in that process.

MR. WHITE commented:

The [ADF&G] is concerned that the early and late portions of the returns to the hatchery cost recovery when the volumes of fish are relatively low may not be adequately harvested, especially if other more attraction opportunities are available to the commercial fishermen. So the [ADF&G] would want to ensure that the hatchery had a backup harvester or harvesters to clean up any fish from the beginning or end of the run that may not be harvested in the common property fishery.

MR. WHITE concluded:

The [ADF&G] understands that this legislation has been generated because of some conflicts between the hatchery cost recovery operations and opportunities for common property fisheries on hatchery stocks. The [ADF&G] is willing to work on solutions to these problems when they are brought to our attention. And in closing, the [ADF&G] appreciates that this legislation is voluntary and the hatchery operator has the option to utilize common property fisheries for cost recovery. We're also supportive of the efforts to benefit ... commercial fishermen and hatchery operators, which we believe this bill attempts to do.

9:28:17 AM

BOB THORSTENSON, President, United Fishermen of Alaska (UFA); Executive Director, Southeast Alaska Seiners Association, testified in support of HB 216. He said, "All we're asking for is the ability to discuss with the hatchery and the hatchery board a way to have a direct user fee so the people that actually catch the fish pay the fee." He continued:

[Under this bill, Alaska Department of Fish & Game's] role will not change dramatically at all. The fish are going to be caught during the common property harvest, ... not in a special cost recovery fishery if this legislation were to be passed; [ADF&G] already manages that common property fishery. ... The cost recovery fishery is going to be taken into the common property fishery, so ... this is not going to be cost recovery anymore if a hatchery decides to go down this course because cost recovery will come out of the assessment in the fishery.

MR. THORSTENSON remarked that ADF&G has a role in the 3 percent enhancement tax and he said, "We're not asking for a greater role than that. He continued, "The [ADF&G] has to make a guess or make an estimate of how many fish are coming back. The [ADF&G] doesn't have to levy taxes, come up with different revenue ideas; [ADF&G] is just going to do the normal, simple role of estimating how much fish are coming back." He opined that there will always be fishermen available to catch the fish, and [therefore there will be no need for backup harvesters].

9:31:53 AM

REPRESENTATIVE HARRIS commented that VFDA had expressed concern about how the hatchery can be sure that it will get funding to operate the hatchery.

MR. THORSTENSON replied that most districts have some sort of overriding enhancement tax which then goes only to the main regional aquaculture associations; therefore some of the hatcheries do not collect an enhancement tax. For example, in Southeast Alaska the 3 percent enhancement tax is given only to NRSAA and SSRAA. He estimated that NRSAA collects an average of between \$700,000 to \$1.2 million [per year], while SSRAA collects about \$350,000 to \$800,000.

REPRESENTATIVE HARRIS asked if that money automatically goes back to those hatcheries.

MR. THORSTENSON answered that it is his understanding that it takes 9-12 months for the money to come back to the hatchery. He commented, "Some of the hatchery operators are looking at a potential problem with this funding because it will mirror that, the same kind of collection and it will be nine or twelve months later that the funds will come back." He opined that because of this delay, there might have to be a much higher assessment the first year so that the hatchery can be prepared for the delay. He pointed out that in cost recovery the hatchery would get paid within 30 days of selling the fish.

9:34:48 AM

REPRESENTATIVE HARRIS asked Mr. Thorstenson if he understood the hatcheries' concerns about waiting for the legislature to appropriate funds every year.

MR. THORSTENSON said that hatchery boards have to take it on faith that they will get the funds they need.

9:35:39 AM

REPRESENTATIVE WILSON commented that she doesn't understand the process of allocating funds to the hatcheries. She asked if this was part of the budget deliberations, and if the funding has ever been adjusted by the legislature.

MR. ESQUIRO explained that in the beginning all the regional aquacultures gave information to the legislature regarding what they would need to get their programs started; it was forward funded by appropriation by the legislature. From that point on, what the hatcheries get in any given year is based on the previous year's collection, and therefore there is no delay in receipt of funds. He said, "If we were to start this program just the same way that the 3 percent enhancement program was started way back when, ... there should be an appropriation equal to what the projected costs of operating would be for next year." He noted that in 27 years, all the money that was ever collected through the enhancement program was appropriated back to the hatcheries.

9:38:33 AM

MCKIE CAMPBELL, Commissioner, Alaska Department of Fish & Game (ADF&G), offered to answer questions and noted that other members of his staff were also available.

REPRESENTATIVE HARRIS asked if the language in the bill is similar to language in other bills for funding hatcheries.

COMMISSIONER CAMPBELL replied that he did not know the answer but would find out and get back to Representative Harris.

9:40:16 AM

CO-CHAIR THOMAS, after ascertaining that no one else wished to testify, closed public testimony on HB 218.

9:40:25 AM

CO-CHAIR THOMAS commented that the Alaska Department of Revenue told him that the legislature can choose to allocate some of the enhancement tax money to Douglas Island Pink and Chum, Inc. (DIPAC).

REPRESENTATIVE WILSON asked why DIPAC doesn't usually get any of the enhancement tax money.

CO-CHAIR THOMAS replied that this was because DIPAC is a private nonprofit hatchery and not a regional aquaculture. He explained that the regional aquacultures are owned by fishermen, while the others are not.

9:42:13 AM

REPRESENTATIVE ELKINS moved to report the committee substitute for HB 218, Version 24-LS0544\Y, Utermohle, 4/12/05, out of committee with individual recommendations and the accompanying zero fiscal notes.

REPRESENTATIVE HARRIS objected for discussion purposes. He commented that he will research the issues and deal with his concerns when the bill is heard by the House Resources Standing Committee. He then removed his objection.

9:43:11 AM

There being no objection, CSHB 218(FSH) was reported from the House Special Committee on Fisheries.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

HB 218

House Resources Committee 4/22/05

House Finance Committee 4/27/05

Senate Finance Committee 5/6/05 @ 11:00 a.m.

Senate Finance Committee 5/10/05 @ 4:46 p.m.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR STEDMAN

TO: SCS CSHB 218(RES), Draft Version "W"

1 Page 2, line 7, following "area":

2 Insert "The board of each hatchery that is a hatchery permit holder may act under this
3 subsection only if at least two-thirds of the full membership of the board

4 (1) votes to submit a request under this subsection; and

5 (2) after an opportunity to review the proposed regulation, votes to
6 approve participation in a harvest of surplus salmon under this subsection; this vote
7 may not occur before the first anniversary of the vote authorizing the action described
8 in (1) of this subsection.

9 (c)"

10

11 Reletter the following subsections accordingly.

12

13 Page 2, line 13, following "area.":

14 Insert "Each participating hatchery permit holder must make a one-year commitment
15 to operate under this subsection in a terminal harvest area and, at the end of that year, may opt
16 out of the plan."

17

18 Page 2, line 19:

19 Delete "(d)"

20 Insert "(c)"

21

22 Page 3, line 17, following "(b)":

23 Insert "or (c)"

1

2 Page 3, line 19:

3 Delete "(c)"

4 Insert "(d)"

Ian Fisk

From: John Barry [pillarbay@acsalaska.net]

Sent: Tuesday, April 04, 2006 6:15 PM

To: Ian Fisk

Cc: AKWAPSC@aol.com

Senate Resources Chairman Thomas Wagoner

April 4, 2006

Alaska State Senate
State Capitol Building
Juneau, AK 99801-1182

Dear Chairman Wagoner,

My name is John Barry and I own and operate the fishing vessel Pillar Bay. I live in Sitka and seine in Southeast. I have also been on the SEAS board for the last six years. I am writing this letter in support of HB218. I have fished cost recovery for NSRAA in the past, and was part of the group of Hidden Falls cost recovery boats in 2005. I hope to perform cost recovery for NSRAA in the future, and I would never support anything I believed detrimental to NSRAA. The success of NSRAA is crucial to any profitable seine operation. I do not know if the blueprint in this bill will ever fit most hatchery areas, but I do believe it provides an additional tool that may in the future fit at Hidden Falls. I do not believe there is any intent to force anything on any hatchery, and I believe we must continue to fund our hatcheries for maximum sustainable yield. I see this bill as nothing more than an additional tool that hatcheries may or may not choose to use to fund their operations.

Respectfully,

John Barry



Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

February 22, 2006

Representative Bill Thomas
State Capitol, Room 428
Juneau, Alaska 99801-1182

RE: Support HB 218 "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities"

Dear Representative Thomas,

Cordova District Fishermen United supports passage of House Bill 218 relating to cost recovery fisheries for private nonprofit hatchery facilities.

CDFU supports the overall concept and believes it will assist with reducing the direct sale of salmon by hatcheries. Additionally, HB 218 will allow the percentage of cost recovery to be negotiated with hatcheries.

Please do not hesitate to contact me should you have any questions regarding CDFU's support of HB 218.

Sincerely,

Diane Platt
Executive Director

Cc: Representative Jay Ramras
Representative Ralph Samuals



Senate Resources Chairman Thomas Wagoner
Alaska State Senate
State Capitol Building
Juneau, AK 99801-1182

April 3, 2006

Dear Chairman Wagoner

SEAS(Southeast Alaska Seiners Association) is a group of small boat commercial fishermen. We believe that HB218 is an important piece of legislation that needs to move forward as soon as possible.

Traditional cost recovery has been one of the few available options to recover expenses and pay for hatchery operations. **The fishing community has been working hard for years to come up with a different approach.** *Indeed HB218 is very similar to the legislation passed by this body in 2004 with respect to cost recovery.* The difference with that piece of legislation is **in this case only the users or "harvesters" who catch the fish actually pay the assessment.** 2004's Senate legislation would have mandated all users within similar geographic districts, which would have meant that fishermen would be paying for fish that others were catching and they would also be paying hatchery taxes on wild-stock salmon.

HB218 has a zero fiscal note. As stated in the bill, it is the intent to have the fishermen pay any additional costs the program may entail, such as revenue collection.

It is also important to note that this bill is permissive, allowing the hatchery operators to decide. VFDA(Valdez), AKI(Juneau), CIAA(Kenai), KRAA(Kodiak) DIPAC(Juneau), SSRAA(Ketchikan) and PWSAC(Cordova) have all discussed and opted to **not oppose** HB218. *If this was bad hatchery policy, would there not be rampant opposition rather than the small, local opposition that we are experiencing from NSRAA?*

But we would especially encourage you to recognize that fishermen broadly support this as evidenced by support from **Kake Seiners Association, Petersburg Vessel Owners Association, Cordova District Fishermen United and the United Fishermen of Alaska.**

Respectfully yours,

Bob Thorstenson, Jr., Executive Director, SEAS



ICICLE

April 4, 2006

Senator Tom Wagoner, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Chairman Wagoner and Committee Members,

Thank you for holding a hearing on CS HB 218, an act relating to the cost recovery fisheries for private nonprofit hatchery facilities. We fully support this legislation.

As a major salmon processor with plants in Petersburg, Seward, Bristol Bay, and Kodiak Island, we believe this legislation is good for all salmon industry stakeholders. It provides another option for nonprofit hatchery boards to consider as a means to cover the expenses of their facilities and operations. It does not bind them to this method.

This legislation provides a tool that hatcheries may choose to employ to enable all salmon permit holders to participate in the harvest of surplus salmon produced by the hatcheries in terminal harvest areas. In addition, it provides all processors with an opportunity to purchase this salmon from the fleets. Currently, only those harvesters and processors that are successful in their pre-season bids to the hatcheries for the cost recovery fish are able to participate. If a nonprofit hatchery board chooses to exercise the option this legislation allows, the result will be more fishing time for the fleets and additional fish purchasing opportunities for the processors.

We believe this option should be made available to nonprofit hatchery facilities and request your support for CS HB 218.

Sincerely,
ICICLE SEAFOODS, INC.

Kris Norosz
Government Affairs

PETERSBURG FISHERIES

A DIVISION OF ICICLE SEAFOODS, INC

P.O. Box 1147 • Petersburg, AK 99833 • Tel: 907-772-4294 • Fax: 907-772-4472

Petersburg Vessel Owners Association

P.O. Box 232
Petersburg, Alaska 99833
Phone (907) 772-9323 Fax (907) 772-4495

April 4, 2006

Senator Wagoner, Chair
Senate Resources Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: Support HB 218 Private Non-Profit Hatchery Cost Recovery Elimination

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in many fisheries statewide, including the troll, gillnet, and seine fisheries for salmon. These fisheries have benefited greatly from the State of Alaska's salmon enhancement program. However, in recent years we have experienced difficulty in optimizing fish harvest and quality in some special harvest areas.

We support passage of this bill that would allow private non-profit hatcheries to recover their operating costs through an assessment on fish caught in the area rather than by directly harvesting a percentage of the return. The assessment would have to be initiated and approved by the hatchery. This method couldn't be used unless the hatchery board of directors wanted to use it. The permissive nature of the bill language will allow the hatchery staff and board of directors to determine which method is most economical and appropriate.

In short, HB 218 would give the fleet and the hatcheries another option for cost recovery in situations where the traditional method has been problematic without forcing anyone to change their current practices. We appreciate your consideration of these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Crome
Director



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

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888-461-3732

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MEMORANDUM

Date: February 8, 2006

To: Senator Tom Wagoner, Chair
Senate Resources Committee

From: Representative Bill Thomas

Re: HB 218

I respectfully request that you schedule HB 218, "an act relating to cost recovery fisheries for private nonprofit hatchery facilities," at your earliest convenience. The bill will provide a new option for hatchery permit holders to recover their costs in a common property fishery.

If you have any questions regarding this legislation, please contact Ian Fisk in my office at 465-6867.

Thank you very much for your consideration of this request.

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Albert Kookesh

DATE: April 6, 2006

TO: Brian Kane

FROM: Mary Jackson 

RE: HB 218 - Senate Resources Committee Substitute

Please provide a work draft Senate Resources Committee Substitute for HB 218, based on the language in your work draft 24-LS0544\T (4/5/06), with the following changes:

- P. 2 subsection (c): Re-draft to require that salmon be delivered to a licensed buyer. Delete last sentence from line 25-30.
- P. 2, line 31 after "annually" insert "by March 1 of each year"
- P. 3, line 21: re-draft subsections (f) and (g) to read that the provisions of 16.05.722 or 16.05.723 may be applied to any violations. This should allow prosecution under either strict liability for a violation or under the commercial fishing misdemeanor.

I would appreciate your providing this as soon as is possible so I can distribute it to the members for their review at tomorrow's meeting.

Thank you for your time and consideration.

24-LS0544\T
Kane
4/5/06

SENATE CS FOR CS FOR HOUSE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THOMAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 16.10 is amended by adding a new section to read:

4 Sec. 16.10.435. Cost recovery fisheries. (a) A hatchery permit holder may
5 harvest salmon for a facility in

6 (1) a special harvest area through agents, or employees of or persons
7 under contract with the permit holder as provided under a permit from the department
8 or regulations of the Board of Fisheries; or

9 (2) a terminal harvest area through the common property fishery under
10 this section.

11 (b) A hatchery permit holder may annually elect to harvest surplus salmon
12 produced at a facility in a terminal harvest area established for that facility through the
13 common property fishery. At the request of the hatchery permit holder and if the
14 commissioner of fish and game determines that there are no allocative issues involved,
15 and after reasonable consultation with affected commercial fishermen and the

1 organizations of affected commercial fishermen, the commissioner may adopt
2 regulations governing the harvest of surplus salmon in a terminal harvest area when
3 the hatchery permit holder elects to harvest surplus salmon produced at a facility
4 through a common property fishery. The regulations must specify the terms,
5 conditions, and rules under which the common property fishery in the terminal harvest
6 area shall be conducted, including requirements for hold inspections and reporting of
7 harvests and sales of salmon taken in the terminal harvest area. The Board of Fisheries
8 may adopt regulations under AS 16.05.251 regarding a fisheries management plan
9 governing operations under this subsection in a terminal harvest area, including
10 allocation plans. Participation in the fishery must be open to all interim-use permit and
11 entry permit holders who hold permits to operate a type of gear that may be used in the
12 fishing district in which the terminal harvest area is located if that type of gear is
13 authorized by regulation to be used in the terminal harvest area. An interim-use permit
14 holder or an entry permit holder who takes salmon in a common property fishery in a
15 terminal harvest area may sell the salmon to any fish buyer or processor who is
16 licensed to do business in the state.

17 (c) As a condition of participation in a common property salmon fishery in a
18 terminal harvest area under this section, a fisherman who participates in the fishery is
19 subject to the payment of the assessment levied under (d) of this section. The
20 assessment is levied on the value of salmon that the fisherman takes in the terminal
21 harvest area and either sells to a buyer or exports from the state without being sold in
22 the state. If the buyer of the salmon is licensed under AS 43.75, the buyer shall collect
23 the assessment on salmon taken in a terminal harvest area at the time of purchase and
24 remit the assessment to the Department of Revenue in accordance with regulations
25 adopted by the Department of Revenue. If a fisherman does not sell salmon harvested
26 in a terminal harvest area to a buyer licensed under AS 43.75 or if a fisherman does
27 not sell salmon harvested in a terminal harvest area to a buyer before the salmon are
28 exported from the state, the fisherman shall remit the amount of the assessment to the
29 Department of Revenue in accordance with regulations adopted by the Department of
30 Revenue.

31 (d) The Department of Revenue may, by regulation, annually set the rate of

1 the assessment levied on salmon taken in a terminal harvest area in consultation with
2 the Department of Commerce, Community, and Economic Development, the hatchery
3 permit holder, and representatives of affected commercial fishermen. The rate of the
4 assessment shall provide sufficient revenue to cover debt service to the state,
5 reasonable operating expenses, reasonable maintenance expenses, and development or
6 maintenance of a reserve fund up to 100 percent of annual operating costs of the
7 hatchery permit holder. In setting the rate of the assessment, the department shall
8 consider the estimated return and harvest of salmon in the terminal harvest area, the
9 projected price to be paid for salmon in the region, the amount of the existing reserve
10 held by the hatchery permit holder, and the amount by which the assessment collected
11 in previous years exceeded or fell short of the amount anticipated to be collected. The
12 total rate of the assessment may not exceed 50 percent of the value of the salmon.

13 (e) The Department of Revenue shall deposit the assessments collected under
14 this section in the general fund. The legislature may appropriate the funds collected
15 under this section to the hatchery permit holder who operates a facility in the terminal
16 harvest area in which the assessment was levied. A hatchery permit holder shall use
17 funds appropriated under this subsection for the purposes set out under
18 AS 16.10.450(a). The legislature may also appropriate funds collected under this
19 section to the Department of Revenue for costs incurred by the department under this
20 section.

21 (f) A person who without any culpable mental state violates this section, or a
22 regulation of the Board of Fisheries or the department to interpret or implement this
23 section, is guilty of a misdemeanor and, in addition to punishment under other
24 provisions in this title, including AS 16.05.195 and 16.05.710, upon conviction is
25 punishable by a fine of not more than \$15,000. In addition, the court shall order
26 forfeiture of any fish, or fair market value of fish, taken or retained as a result of the
27 commission of the violation, and the court may forfeit any vessel and any fishing gear,
28 including any net, pot, tackle, or other device designed or employed to take fish
29 commercially, that was used in or in aid of the violation. Any fish, or its fair market
30 value, forfeited under this subsection may not also be forfeited under AS 16.05.195.

31 (g) On a third misdemeanor conviction within a period of 10 years for an

1 offense listed in this section, the court shall impose, in addition to any penalties
2 imposed under (f) of this section, a fine equal to three times the gross value of the fish
3 found on board or at the fishing site at the time of the offense, or a fine equal to
4 \$10,000, whichever is greater.

5 (h) In this section,

6 (1) "facility" means a hatchery or salmon rehabilitation project for
7 which a permit is issued under AS 16.10.400 - 16.10.470;

8 (2) "special harvest area" means an area designated by the
9 commissioner or the Board of Fisheries where salmon returning to a hatchery may be
10 harvested by the hatchery operators, and, in some situations, by the common property
11 fishery;

12 (3) "terminal harvest area" means a harvest area, which may include a
13 hatchery release site, established by the commissioner or the Board of Fisheries where
14 salmon returning to a hatchery may be harvested by the common property fishery;

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

16 * Sec. 2 AS 43.76.035 is amended to read:

17 **Sec. 43.76.035. Exemption. Except as provided under (b) of this section,**
18 AS 43.76.001 - 43.76.040 do not apply to salmon harvested under a special harvest
19 area entry permit issued under AS 16.43.400.

20 * Sec. 3. AS 43.76.035 is amended by adding a new subsection to read:

21 (b) Salmon harvested in a common property fishery conducted in a terminal
22 harvest area under AS 16.10.435 are subject to a salmon enhancement tax levied under
23 AS 43.76.001 - 43.76.040.

24-LS0544W
Kane
4/6/06

SENATE CS FOR CS FOR HOUSE BILL NO. 218(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THOMAS, Elkins, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."**

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

3 *** Section 1.** AS 16.10 is amended by adding a new section to read:

4 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
5 harvest salmon for a facility in

6 (1) a special harvest area through agents, or employees of or persons
7 under contract with the permit holder as provided under a permit from the department
8 or regulations of the Board of Fisheries; or

9 (2) a terminal harvest area through the common property fishery under
10 this section.

11 (b) A hatchery permit holder may annually elect to harvest surplus salmon
12 produced at a facility in a terminal harvest area established for that facility through the
13 common property fishery. At the request of the hatchery permit holder and if the
14 commissioner of fish and game determines that there are no allocative issues involved,
15 and after reasonable consultation with affected commercial fishermen and the

1 organizations of affected commercial fishermen, the commissioner may adopt
2 regulations governing the harvest of surplus salmon in a terminal harvest area when
3 the hatchery permit holder elects to harvest surplus salmon produced at a facility
4 through a common property fishery. The regulations must specify the terms,
5 conditions, and rules under which the common property fishery in the terminal harvest
6 area shall be conducted, including requirements for hold inspections and reporting of
7 harvests and sales of salmon taken in the terminal harvest area. The Board of Fisheries
8 may adopt regulations under AS 16.05.251 regarding a fisheries management plan
9 governing operations under this subsection in a terminal harvest area, including
10 allocation plans. Participation in the fishery must be open to all interim-use permit and
11 entry permit holders who hold permits to operate a type of gear that may be used in the
12 fishing district in which the terminal harvest area is located if that type of gear is
13 authorized by regulation to be used in the terminal harvest area. An interim-use permit
14 holder or an entry permit holder who takes salmon in a common property fishery in a
15 terminal harvest area may sell the salmon to any fish buyer or processor who is
16 licensed to do business in the state.

17 (c) As a condition of participation in a common property salmon fishery in a
18 terminal harvest area under this section, a fisherman who participates in the fishery is
19 subject to the payment of the assessment levied under (d) of this section. The
20 assessment is levied on the value of salmon that the fisherman takes in the terminal
21 harvest area and sells to a licensed buyer. The buyer of the salmon must be licensed
22 under AS 43.75, and the buyer shall collect the assessment on salmon taken in a
23 terminal harvest area at the time of purchase and remit the assessment to the
24 Department of Revenue in accordance with regulations adopted by the Department of
25 Revenue.

26 (d) The Department of Revenue may, by regulation, annually, by March 1 of
27 each year, set the rate of the assessment levied on salmon taken in a terminal harvest
28 area in consultation with the Department of Commerce, Community, and Economic
29 Development, the hatchery permit holder, and representatives of affected commercial
30 fishermen. The rate of the assessment shall provide sufficient revenue to cover debt
31 service to the state, reasonable operating expenses, reasonable maintenance expenses.

1 and development or maintenance of a reserve fund up to 100 percent of annual
2 operating costs of the hatchery permit holder. In setting the rate of the assessment, the
3 department shall consider the estimated return and harvest of salmon in the terminal
4 harvest area, the projected price to be paid for salmon in the region, the amount of the
5 existing reserve held by the hatchery permit holder, and the amount by which the
6 assessment collected in previous years exceeded or fell short of the amount anticipated
7 to be collected. The total rate of the assessment may not exceed 50 percent of the
8 value of the salmon.

9 (e) The Department of Revenue shall deposit the assessments collected under
10 this section in the general fund. The legislature may appropriate the funds collected
11 under this section to the hatchery permit holder who operates a facility in the terminal
12 harvest area in which the assessment was levied. A hatchery permit holder shall use
13 funds appropriated under this subsection for the purposes set out under
14 AS 16.10.450(a). The legislature may also appropriate funds collected under this
15 section to the Department of Revenue for costs incurred by the department under this
16 section.

17 (f) A person who violates a regulation adopted under (b) of this section is
18 guilty of a violation under AS 16.05.722 or a misdemeanor under AS 16.05.723. A
19 person who violates a regulation adopted by the Department of Revenue under (c) of
20 this section is guilty of a class A misdemeanor.

21 (g) In this section,

22 (1) "facility" means a hatchery or salmon rehabilitation project for
23 which a permit is issued under AS 16.10.400 - 16.10.470;

24 (2) "special harvest area" means an area designated by the
25 commissioner or the Board of Fisheries where salmon returning to a hatchery may be
26 harvested by the hatchery operators, and, in some situations, by the common property
27 fishery;

28 (3) "terminal harvest area" means a harvest area, which may include a
29 hatchery release site, established by the commissioner or the Board of Fisheries where
30 salmon returning to a hatchery may be harvested by the common property fishery;

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

1 * **Sec. 2.** AS 43.76.035 is amended to read:

2 **Sec. 43.76.035. Exemption. Except as provided under (b) of this section,**

3 AS 43.76.001 - 43.76.040 do not apply to salmon harvested under a special harvest
4 area entry permit issued under AS 16.43.400.

5 * **Sec. 3.** AS 43.76.035 is amended by adding a new subsection to read:

6 (b) Salmon harvested in a common property fishery conducted in a terminal
7 harvest area under AS 16.10.455 are subject to a salmon enhancement tax levied under
8 AS 43.76.001 - 43.76.040.

NORTHERN



SOUTHEAST REGIONAL AQUACULTURE ASSOCIATION, INC.

(907) 747-8850

1308 SAWMILL CREEK ROAD

SITKA, ALASKA 99835

FAX (907) 747-1470

TO: Senator Thomas Wagoner

FAX NO: 907-465-4779

FROM: Pete Esquivel

FAX NO: (907)747-1470

Message consists of 7 pages, including this cover sheet.

DEPT. CODE: 11

DATE: 4-4-06



Senator Thomas Wagoner, Chair, Senate Resources Committee
State Capitol, Mail Stop 3100
Juneau, AK 99801

Dear Chairman Wagoner

An important and revolutionary new hatchery bill will be coming to your committee within the next week or so. This bill, a hatchery cost recovery alternative, is HB218. SEAS urges your swift passage of this necessary legislation.

For 20 years the standard for the state private-non-profit and regional hatcheries has been to take their costs through a method called "cost recovery". Under this harvest mechanism one or very few boats harvest a percentage of the hatchery return and these are sold to a single processor. While this had roughly worked for part of these 20 years, it has recently met with marketing difficulties for that 99% of the fishermen and 90% of the processing sector who take no part in the cost recovery fisheries.

HB218 takes this broken paradigm and allows for an assessment so that the entire fleet and the entire processing sector can harvest and process the returning hatchery fish. This takes place through a statutorily mandated assessment. For example, under the old model of cost recovery, if 35% of the fish returning to a hatchery were harvested by one or very few cost recovery boats, then the fleet would catch 65% of the fish. Also, one processor would process 35% of the fish, while the other processors waited to process the remaining 65%. At times, delays in achieving cost recovery goals meant wait times of up to several weeks while the markets were without fish from the remaining fishermen and processors.

Under HB218, the entire fleet could catch all of the fish and just simply pay a 35% assessment. The processing sector and surrounding communities would all share in the processing of 100% of the fish coming back to the hatchery.

HB218 allows the hatchery itself to determine usage and is thus permissive legislation. Hatchery testimony against this bill should therefore be self-limiting as each hatchery has a choice of whether or not to use this legislation. Thank you for your consideration of HB218..

Sincerely,

Bob Thorstenson, Jr., Executive Director, SEAS

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Albert Kookesh

DATE: April 7, 2006

TO: Members, Senate Resources Committee

FROM: Senator Tom Wagoner, Chair
Senate Resources Committee

RE: HB 218 Private Hatchery Cost Recovery Fishery

Attached is a Senate Resources Committee Substitute work draft for HB 218 and a memo from the sponsor outlining the changes between CS HB 218 (FIN) (\C version) and the new work draft.

The sponsor had prepared a senate substitute work draft (\T version) and was working with affected parties from that draft on Wednesday, April 5, prior to the Resources meeting, attempting to mitigate some concerns. I am enclosing a copy of that work draft as background information.

The Senate Resources Committee work draft in front of you today incorporates the language in the \T version work draft as well as some added changes as a result of the public hearing on Wednesday.

The changes made yesterday are reflected in the attached memo to Legal from Mary Jackson, dated April 6, 2006. Also attached is a new fiscal note from Public Safety.

Attachments:

\W version = Senate Resources Committee work draft dated 4-06-06 (4 pages)

\T version = sponsor's Senate work draft (4 pages)

Sponsor's memo regarding changes (1 page)

Legal memo re: amendments for Senate Resources (1 page)

FN - DPS 4-06-06 (1page)

Committee Staff: Mary Jackson (907) 465-4907 telephone (907) 465-4779 fax



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

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CHANGES TO CSHB 218 (FIN) (LS0544R)

P. 1, lines 6-7: "contractees" is replaced by the phrase "persons under contract"; "under a permit from the department" is added to clarify that ADF&G issues permits for harvest of salmon by hatcheries in special harvest areas and the Board of Fisheries writes the regulations.

P. 1, line 12: "At the request of the hatchery permit holder" is inserted to clarify that only the hatchery may initiate the process of starting a common property cost recovery fishery.

*added at suggestion of NSRAA

P. 2, line 1: "if" is changed to "when"

*added at suggestion of NSRAA

P. 2, line 6-7 "as the board considers appropriate" is replaced by "under AS 16.05.251" to be more specific about the board's authority to adopt regulations.

*added at suggestion of Dept. of Law

P. 2 subsection (c): Fishermen will be required to deliver to a licensed buyer. Lines 24-29 are deleted.

*added at suggestion of NSRAA.

P.2, line 30: after "annually", "March 1" is inserted.

*added at suggestion of NSRAA

P. 3, line 11: The maximum rate of assessment is changed from 40 percent to 50 percent. This change was made as a compromise between the proponents of this bill and the NSRAA

P. 3, subsection (f) is changed to allow prosecution as either a violation or a misdemeanor. This will provide better flexibility for the state in pursuing any fishermen who violates the new cost recovery system.

*added to address general NSRAA concern about enforcement.

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Albert Kookesh

DATE: April 6, 2006

TO: Brian Kane

FROM: Mary Jackson

RE: HB 218 - Senate Resources Committee Substitute

Please provide a work draft Senate Resources Committee Substitute for HB 218, based on the language in your work draft 24-LS0544\T (4/5/06), with the following changes:

- P. 2 subsection (c): Re-draft to require that salmon be delivered to a licensed buyer. Delete last sentence from line 25-30.
- P. 2, line 31 after "annually" insert "by March 1 of each year"
- P. 3, line 21: re-draft subsections (f) and (g) to read that the provisions of 16.05.722 or 16.05.723 may be applied to any violations. This should allow prosecution under either strict liability for a violation or under the commercial fishing misdemeanor.

I would appreciate your providing this as soon as is possible so I can distribute it to the members for their review at tomorrow's meeting.

Thank you for your time and consideration.