

**SB**

**71**

<TARGET><BILL>SB 71</BILL><SUBJECT>SB  
71</SUBJECT><COMM>SRES28</COMM></TARGET>

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/11/13

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/29/13

Resources Committee considered SENATE BILL NO. 71

### SB 71-PAYMENT OF FISHERY RESOURCE LANDING TAX

"An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

and recommends:

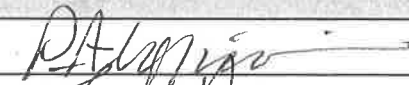

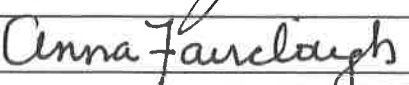

- be replaced with CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
REV		✓		1
CED			✓	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	MICHELLE	✓			
	Dyson	✓			
	FAIRCLOUGH	✓			
CHAIR: 	Giessel	✓			

# ALASKA STATE LEGISLATURE

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## SENATOR PETER A. MICCICHE

### Sponsor Statement

#### DISTRICT O

*Anchor Point*

*Clam Gulch*

*Cohoe*

*Diamond Ridge*

*Fox River*

*Fritz Creek*

*Funny River*

*Halibut Cove*

*Happy Valley*

*Homer*

*Kachemak City*

*Kachemak Selo*

*Kalifornsky*

*Kasilof*

*Kenai*

*Nikolaevsk*

*Ninilchik*

*Razdolna*

*Ridgeway*

*Seldovia*

*Soldotna*

*Voznesenka*

SB 71 "An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

SB 71 has been introduced to repair glitches in the landing resource tax statutes and regulations that are requiring the payment of unfair penalties and interest by commercial fishermen.

Section 1 aligns the date that the resource landing tax is due with the date that the statewide average fish price report is released. Currently the tax is due before April<sup>1<sup>st</sup></sup>, however, the statewide average fish price report, which is calculated by the Department of Fish and Game, is not always out by then.

While the Department of Revenue does grant an automatic extension to file the landing tax return if the report has not been released at least 30 days prior to the due date, this does not extend the time for payment of the tax so penalties and interest can occur. (Last year, for example, the list for 2011 was not published until May 29, 2012.)

Section 2 of the legislation still maintains that you must pay at least 100% of last year's tax liability or at least 90% of the estimated amount owed but takes out the requirement for equal payments each quarter and lets commercial fishermen pay tax based on the earnings for the quarter. Depending on the fishery, the current statute requires payment of 50% of the landing taxes before they have even left the dock to go fishing.

I urge your support of this legislation, designed to bring efficiencies to both the fishermen and the department.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: SB 71  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB071-DCCED-DCRA-03-22-13  
Title: PAYMENT OF FISHERY RESOURCE LANDING  
TAX  
Sponsor: MICCICHE  
Requester: Senate Resources

Department: Department of Commerce, Community and  
Economic Development  
Appropriation: Community and Regional Affairs  
Allocation: Community and Regional Affairs  
OMB Component Number: 2879

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By:	<u>Scott Ruby, Director</u>	Phone:	<u>(907)269-4569</u>
Division	<u>Community and Regional Affairs</u>	Date:	<u>03/22/2013 11:00 AM</u>
Approved By:	<u>JoEllen Hanrahan, Director</u>	Date:	<u>03/22/13</u>
	<u>Administrative Services Division</u>		

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2013 LEGISLATIVE SESSION**

**BILL NO. SB 71**

**Analysis**

This bill would amend existing statutes regarding payment of the fishery resource landing tax. The amendments change the timeline for when annual returns must be made, and add clarification for the specific amount required for each quarterly payment.

There is no anticipated fiscal impact to the Division of Community and Regional Affairs from this bill.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: SB 71  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB071-DOR-TAX-03-22-13  
Title: PAYMENT OF FISHERY RESOURCE LANDING TAX  
Sponsor: MICCICHE  
Requester: (S) RES

Department: Department of Revenue  
Appropriation: Taxation and Treasury  
Allocation: Tax Division  
OMB Component Number: 2476

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>	***	***	***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/13

**Why this fiscal note differs from previous version:**

Initial note.

Prepared By:	John Bernasconi	Phone:	(907)465-6628
Division	Tax Division	Date:	03/22/2013 12:43 PM
Approved By:	Johanna Bales, Deputy Tax Director	Date:	03/22/13
	Department of Revenue		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. SB 71

### Analysis

**Bill Language:**

This bill will change the return and payment due date of Fishery Resource Landing Tax returns to 30 days after the department publishes the statewide average price list. Currently, taxpayers must file their returns and make payment by April 1st of each year. The Fishery Resource Landing Tax is calculated using the statewide average price which historically is not published until sometime in May of each year. If a taxpayer fails to pay the full amount of tax owed, the taxpayer is charged interest on the unpaid tax from the date the tax was due until the tax is ultimately paid. It is virtually impossible for taxpayers to know the exact amount of tax they owe on April 1st since the information they need to calculate the tax isn't available until May. This bill also changes the timing of estimated tax payments needed to avoid estimated tax penalty to either 90% of the amount calculated by multiplying the actual price paid at the time the fishery resource was landed by the appropriate tax rate or 100% of the taxpayer's liability for the prior tax year.

**Revenues:**

We expect to see a small decline in interest revenue received on late payments as a result of this legislation. However, we are unable to project the exact amount as there are several variables used in the calculation of interest. Additionally, we expect that the amount of penalty imposed on estimated tax payments will also decrease. However, the amount of penalty for the past two fiscal years was \$9,088 for FY2012 and \$5,216 for FY2011. Therefore, we estimate that the decrease in penalty for failure to underpay estimated tax payments would not exceed \$9,088 (the highest of the past two fiscal years).

**Expenditures:**

We anticipate the provisions within this bill can be implemented in the Tax Division using existing staff and resources.

**Regulations:**

This bill will require a change to 15 AAC 77.025 to remove the equal tax installments required currently in the regulation. 15 AAC 77.015 should be repealed as there will no longer be a requirement for an automatic extension of the time to file a return. We anticipate regulations can be adopted by December 31, 2013.

**Fishery Resource Landing Tax**  
**AS 43.77**

**Description**

Alaska levies a fishery resource landing tax on fishery resources processed outside of and first landed in Alaska, based on the unprocessed value of the resource. The unprocessed value is determined by multiplying a statewide average price per pound (derived from Alaska Department of Fish and Game data) by the unprocessed weight.

The Division collects the fishery resource landing tax primarily from factory trawlers and floating processors that process fishery resources outside of the state's 3-mile limit and bring their products into Alaska for transshipment.

**Rate**

Tax rates are based on whether the resource is classified as "established" or "developing" by the Alaska Department of Fish and Game. Tax rates are:

Classification	Rate
Established	3%
Developing	1%

**Returns**

Taxpayers file returns and pay tax on a calendar year basis with a due date of March 31 of the following year. Taxpayers are required to make quarterly estimated tax payments that are due on the last day of each calendar quarter.

The Division grants an automatic extension to file the landing return if it does not provide statewide average prices to taxpayers at least 30 days prior to the due date. If the extension applies, the due date is the last day of the month following the month in which the Division issues statewide average prices.

**Exemptions**

Unprocessed fishery resources landed in the state are exempt from the fishery resource landing tax, but may be subject to the fisheries business tax.

**Credits**

**Education** - Taxpayers are allowed a credit for contributions to Alaska universities and accredited nonprofit Alaska two-year or four-year colleges for facilities, direct instruction, research, and educational support purposes. The tax credit can also be taken for donations to a school district or state-operated vocational technical education and training school for vocational education courses, programs, and facilities. Donations for an annual intercollegiate sport tournament, Alaska Native cultural or heritage programs for public school staff and students, and a facility in the state that qualifies as a coastal ecosystem learning center under the Coastal American Partnership also qualify. The credit is 50% of the first \$100,000, 100% of the contribution over \$100,000 and up to \$300,000 and 50% of the remaining amount over \$300,000. The total allowable credit may not exceed \$5 million.

**Scholarship Contributions** - Taxpayers that contribute to the A.W. "Winn" Brindle memorial scholarship account may claim a tax credit for the amount of contributions not to exceed 5% of their tax liability.

**CDQ** - Taxpayers that harvest a fishery resource under a community development quota (CDQ) may claim a credit of up to 45.45 percent of fishery resource landing taxes for contributions to Alaska nonprofit corporations that are dedicated to fisheries industry-related expenditures.

**Other Taxes** - Taxpayers that paid taxes on fishery resources to another jurisdiction may claim a credit against

The majority of fishery resource landing tax revenues are derived from fish processed in the Bering Sea and landed in Unalaska

the fishery resource landing tax. The credit, equal to the amount of taxes paid in the other jurisdiction, may not exceed the fishery resource landing tax.

**Disposition of Revenue**

The Division deposits all revenue from the fishery resource landing tax into the General Fund. The legislature may appropriate revenue from the tax for revenue sharing as described below:

**Landings Inside Municipality**

The Division shares 50% of taxes from landings within a municipality with the respective municipalities in which landings occurred. If a municipality is within a borough, the Division divides the 50% shareable amount between the municipality and borough.

**Landings Outside Municipality**

The Division shares 50% of the taxes from landings outside a municipality (unorganized borough) through an allocation program administered by the Alaska Department of Commerce, Community and Economic Development.

**History**

**1993** - The legislature enacted the fishery resource landing tax effective January 1994. The rate was 3.3% of the unprocessed value of the resource. The Department of Revenue adopted regulations regarding administration of the tax, effective April 1994.

**1994** - The American Factory Trawler Association (AFTA) filed litigation challenging the constitutionality of the landing tax.

**1995** - The Alaska Supreme Court rejected AFTA's request based on AFTA's failure to exhaust administrative remedies with the Department of Revenue.

**1996** - The landing tax was restructured to mirror the fisheries business tax program. The legislature revised the tax rate to 3% for established species and 1% for developing species. The 0.3% portion of the previous 3.3% tax rate was incorporated into seafood marketing assessment statutes (AS 16.51). The legislature also amended the landing tax statutes to provide for tax credits for education and A.W. "Winn" Brindle scholarship contributions. All changes were retroactive to January 1994, the inception date of the landing tax.

**1997** - AFTA dismissed its challenge to the landing tax and in June, the state issued a formal hearing decision upholding the constitutionality of the tax. Shared tax amounts from calendar year 1994 and 1995 returns, previously held in escrow, were released to municipalities.

**1999** - The American Fisheries Act (P.L. 105-277) required a fishery cooperative to execute a contract with each cooperative member that obligated the member to make a payment to the state for pollock harvested in the Alaska pollock fishery that is not landed in Alaska. AS 43.77.015 required that those payments be treated as if they were landing taxes.

**2001** - The legislature amended landing tax statutes to require quarterly payment of estimated fishery resource landing taxes, effective calendar year 2002.

**2002** - The legislature authorized credits of up to 50% for contributions of not more than \$100,000 and 75% of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.

**2008** - The legislature amended education credit provisions to include

50% of the fishery resource landing tax collected is shared with incorporated cities and/or organized boroughs

Pollock and pacific cod are the two highest value fisheries reported by landing taxpayers

cash contributions accepted for secondary level vocational courses and programs by a school district in Alaska and by a state-operated vocational technical education and training school.

contributions made after June 30, 2011 to annual intercollegiate sports tournaments, Alaska Native cultural or heritage programs for public school staff and students, and a facility in the state that qualifies as a coastal ecosystem learning center under the Coastal American Partnership.

**2010** - The legislature amended the education credit by increasing the maximum credit allowed from \$150,000 to \$5 million effective January 1, 2011. In addition, the legislature expanded contributions eligible for the credit to include contributions made for construction and maintenance of facilities by state operated vocational education schools and two or four-year colleges. The increase in the credit from \$150,000 to \$5 million expires December 31, 2013. On January 1, 2014, the maximum credit allowed will revert to \$150,000.

**2011** - The legislature enacted legislation extending the date that the \$5 million annual education credit limit expires from January 1, 2014 to January 1, 2021. It is then scheduled to return to \$150,000. In addition, the legislature expanded contributions eligible for the credit to include

**FY 2012 Statistics**

Tax Collections	<b>\$12,013,308</b>
<i>Including penalties, interest and credits.</i>	
Number of Returns	78
Number of Taxpayers	67
Program Cost	\$204,011
Staffing (full-time equivalent)	1.9

## Alaska Scallop Association

PO Box 8989  
Kodiak, AK 99615  
907-512-7018



**March 14, 2013**

Senate Resources  
Alaska State Legislature  
State Capitol, Room 205  
Juneau, AK 99801-1182

**RE: SB 71**

Dear Senator Giessel, Chair and Resource Committee Members,

Alaska Scallop Association (ASA) is a trade organization representing the Alaska Weathervane Scallop catcher/freezer boats.

ASA is in support of SB 71, "An Act relating to the filing date for the final quarterly payment of, and to the assessment of penalties under, the fishery resource landing tax."

As operators of fishing vessels shucking scallops and selling our own product we are required to pay Landing Taxes. Under current statutes our landing taxes must be paid in 4 equal payments at the end of each quarter with final payment due by March 31 of the following year. While this might be fine for entities operating year round, there are certainly problems with "Seasonal" operations, particular ones that only operate on the second half of the calendar year.

Problem #1; The Scallop Season begins July 1, our first product normally lands in Kodiak, mid-July with payment from our customers for this product beginning to trickle in by mid-August. Current statutes require we pay landing tax at the end of each quarter, March 31, June 30, Sept 30 & December 31. With our season timing the current statute requires us to pay 50% of our landing taxes before we have even left the dock to go fishing. This can place a difficult financial burden on our fishing boats as they prepare for the upcoming season.

Problem #2; Landing taxes are calculated using a Statewide Average Price put out by the Department of Revenue. This Statewide Average Price list is normally released to us in May. Our final Landing tax payment is due March 31, four to six weeks before the price list is released. While we can estimate fairly closely we can never get the exact correct price that ADOR publishes. It just seems logical to have the final payment due 30 days after the Statewide Average Price list is released, rather than a date before we know what price to use.

Regards, Jim Stone, ASA Vice President

A handwritten signature in black ink, appearing to read "Jim Stone", written over a horizontal line.

## Lynne Smith

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**To:** Lynne Smith  
**Subject:** RE: Landing Tax issue

**From:** Kruzof [<mailto:kruzof@ak.net>]  
**Sent:** Friday, March 15, 2013 9:47 AM  
**To:** Sen. Peter Micciche  
**Cc:** Kathy Hansen  
**Subject:** Landing Tax issue

Dear Senator Micciche,

Thank you for your willingness to sponsor and introduce SENATE BILL NO. 71 regarding repairing flaws in how the Fisheries Landing Tax is administered. While I and others in the industry have made great effort to fulfill fish tax requirements for the State of Alaska, it has been difficult to meet all the confusing regulatory and statutory mandates surrounding this tax code. Consequently, over the years my business has endured undue tax penalties and interest due to the conflicting wording between the statutory and regulatory language. Section 1 of your bill helps correct this.

Industry has also been burdened with a strict mandate of equal quarterly tax payments scheduled throughout the year. Such payments run contrary to varied catch and price rates throughout a harvester's operating season. Therefore it is difficult to make equal quarterly tax payments throughout the year on fish that is either, not yet harvested, or when the value and catch volume may vary vastly from one quarter or year to the next. Section 2 of your bill takes this into consideration and helps alleviate regulatory burden on industry and its ability to be an effective revenue producing entity for the State of Alaska.

I believe this legislation will help improve process efficiencies for both industry and the Department of Revenue, therefore sincerely appreciate your time and effort on this bill.

I leave you with hope that your colleagues will understand and support the importance of this bill. If you need to hear any further details on why this bill should be implemented please feel free to contact me anytime.

Sincerely yours,



*J & R Fisheries*  
Fresh Frozen Seafood

*Rhonda A. Hubbard,*  
*Managing member and Owner*  
*P.O. Box 3302*  
*Seward, Ak 99664*  
*Ph/Fax: (907) 224-5584/5572*  
*MP (907) 362-1813*  
[www.jrfisheries.com](http://www.jrfisheries.com)

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

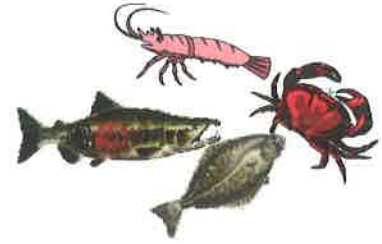
Juneau, AK 99801

Phone: 907-586-6652

Fax: 907-523-1168

Email: [seafa@gci.net](mailto:seafa@gci.net)

Website: <http://www.seafa.org>



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March 21, 2013

Senate Resources  
Alaska State Legislature  
State Capitol, Room 205  
Juneau, AK 99801-1182

RE: Support SB 71

Dear Senator Giessel, Chair and Resource Committee Members,

Southeast Alaska Fishermen's Alliance (SEAFa) is a multi-gear/multi-species, membership based association. SEAFa supports SB 71 which addresses an issue that affects several of our members.

SB 71 will prevent the imposition of tax penalties and interest for a situation that is completely out of the tax payer's control. SB 71 aligns the date the tax is due to correspond with the date the report is due. Currently the report is due March 31<sup>st</sup> or the last day of the month following the month the State publishes the statewide prices that must be used on the return which generally is in May but the tax is due on April 1<sup>st</sup>. How do you pay a tax when you don't know what you owe and why should an individual then be punished by the imposition of penalties and interest for failure to pay on time?

Section 2 of SB 71 deletes the requirement to make equal quarterly payments and allows the commercial fisherman to pay each quarter based on their production and estimated price for that quarter. A commercial fisherman has no idea of how their season is going to go until they are done fishing - asking to pay before they fish is difficult as you don't know how much to pay nor do you have income from the fishing to pay for the taxes.

In FY 2012, 78 Resource landing tax reports were filed by 67 tax payers.

This legislation does not take away the right of the State to assess penalties or interest if a tax payer does not pay an appropriate quarterly payment based on their production.

SEAFA supports SB 71 and hopes that the Legislature fixes this glitch in the Resource Landing Tax that penalizes law-abiding tax payers.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Hansen", followed by a long horizontal line extending to the right.

Kathy Hansen  
Executive Director



# UNITED FISHERMEN OF ALASKA

**Mailing Address:** PO Box 20229, Juneau AK 99802-0229

**Physical Address:** 410 Calhoun Ave Ste 101, Juneau AK 99801

**Phone:** (907)586-2820 **Fax:** (907) 463-2545

**Email:** [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org) **Website:** [www.ufa-fish.org](http://www.ufa-fish.org)

March 25, 2013

Senator Cathy Geissel, Chair  
Senate Resources Committee  
State Capitol  
Juneau, AK 99801-1182  
Email: [Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)

**RE: Support for SB 71, PAYMENT OF FISHERY RESOURCE LANDING TAX**

Dear Senator Geissel, and members of the Senate Resources Committee;

United Fishermen of Alaska (UFA) is the largest statewide commercial fishing trade association, representing 36 commercial fishing organizations participating in fisheries throughout the state and its offshore federal waters.

UFA supports SB 71, which makes changes to current statutes regarding the timing and requirement for four equal payments in estimated fisheries resource landing tax.

SB 71 would change the current timing of tax payment due date to align with the date the corresponding report is due. Currently the report is due March 31st or the last day of the month following the month in which the State publishes the statewide prices that must be used on the return, which generally is in May, but the tax is due on April 1<sup>st</sup>. This mismatch in timing results in late payment fines and interest for well-intentioned producers, as well as confusion, frustration, and wasted time that could best be spent harvesting and processing fish to increase revenue.

The current statute includes provisions for four equal payments, but with the seasonal nature of many fisheries, and the variability in harvest, it is virtually impossible for resource landing taxpayers to accurately predict their full years harvest to calculate equal payments. SB 71 would create a fair and equitable tax system by aligning the date of the tax with the report.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Julianne Curry".

Julianne Curry  
Executive Director

CC:  
Senator Peter Micciche