

SB

135

<TARGET><BILL>SB 135</BILL><SUBJECT>SB
135</SUBJECT><COMM>SRES29</COMM></TARGET>

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500
fax: 907-465-3532



550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450
fax 907-269-7461
www.Gov.Alaska.Gov
Governor@Alaska.Gov

Governor Bill Walker
STATE OF ALASKA

January 15, 2016

The Honorable Kevin Meyer
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Meyer:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to a tax on fisheries business and fishery resource landing.

The bill would increase the tax rates of the fisheries business tax (AS 43.75.015) and the fishery resource landing tax (AS 43.77.010). The tax rates covered by these statutes vary from one percent to five percent, depending on the type of fishery. The bill would increase those tax rates by one percent across the board, with the exception of some developing fisheries that are exempt from the increase. Currently, the revenue generated by these taxes is split evenly between the state and the municipalities where the fisheries are located. The bill would exempt this one percent increase from the revenue sharing arrangement, thereby insuring that the entire increase is applied to the general fund.

This legislation is expected to generate additional revenue of approximately \$18,000,000 annually. Currently the costs to the state to regulate commercial fisheries are greater than the amount of general fund revenue generated by these taxes. Therefore, this proposed increase is reasonable. The fishing industry could continue to operate in this state, but, under this bill, would bear a fairer share of industry costs to the state.

To increase administrative efficiency for the Department of Revenue and state taxpayers, the bill would require the electronic submission of tax returns with an exemption available upon request.

The bill is an integral component of the New Sustainable Alaska Plan to provide a balanced and sustainable budget for Alaska's long-term fiscal stability.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Bill Walker".

Bill Walker
Governor

Enclosure



Sectional Analysis, SB 135
Fisheries Business and Fisheries Landing Tax Bill
January 22, 2016

- Sec. 1.** Adds a \$25 or 1% tax penalty for failure to file electronically unless an exemption is received by the taxpayer
- Sec. 2.** Requires electronic submission of tax returns, license applications, and other documents submitted to the Department of Revenue. This changes the general tax statutes, AS 43.05, and will apply to all tax types administered by the department. Provides a process to request an exemption if a taxpayer does not have the technological capability to do so.
- Sec. 3.** Increases three different tax rates within the Fisheries Business Tax by one percent. The current rates range from three to five percent.
- Sec. 4.** Increases tax rate within the Fisheries Business Tax for developing fish species processed by a floating processor from 3 to 4 percent. Rate remains at 1 percent for developing fish species processed by a shore-based business.
- Sec. 5.** Increases tax rate within the Fisheries Business Tax for direct marketers from 3 to 4 percent. Rate remains at 1 percent for developing fish species sold by direct marketers.
- Sec. 6.** Conforming language related to the requirement to submit returns or reports electronically. This section deletes the requirement for taxpayers to submit their returns to the department in Juneau.
- Sec. 7.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.
- Sec. 8.** Increases tax rate within the Fisheries Landing Tax for fish species other than developing fish species from 3 to 4 percent. Rate remains at 1 percent for developing fish species.
- Sec. 9.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.
- Sec.10.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with boroughs per the currently existing formula.

Sec. 11. Transitional language allowing for regulations

Sec. 12. Section 11 above takes effect immediately.

Sec. 13. Effective date of 7/1/16 for the rest of the bill including the tax rate change.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	SB 135
Fiscal Note Number:	1
(S) Publish Date:	1/19/2016

Identifier: DOR-TAX-01-13-16
 Title: ELECTRONIC TAX RETURNS & FISHERIES TAXES
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

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)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues		18,300.0	18,700.0	19,100.0	19,500.0	19,900.0	20,500.0
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Estimated SUPPLEMENTAL (FY2016) cost: 100.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

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: Brandon Spanos
 Division: Tax
 Approved By: Jerry Burnett
 Agency: Deputy Commissioner, DOR

Phone: (907)269-6736
 Date: 01/13/2016 11:00 AM
 Date: 01/13/16

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Analysis

Bill Analysis

The Fisheries Business Tax is generally paid by seafood processors, although it is also paid by fisherman if they market and sell their fish directly. The rate varies from 1% to 5% depending on the location and type of processing and the condition of the fishery (onshore / offshore; canning / other processing; developing / mature fishery.)

The Fisheries Landing Tax is generally paid by offshore processors, generally working in federal fisheries, who bring their product through Alaska ports. Although there are several other fisheries taxes, these are the only two that generate unrestricted general funds. The others are all dedicated to a specific program (marketing, salmon enhancement, dive fisheries enhancement, etc.)

The FY16 estimated state revenue for these is about \$19.5 million for the Business Tax and \$5.3 million for the Landing Tax, or \$24.8 total under existing law. Both of these taxes are split 50/50 with the municipality in which the activity takes place. In practice, the state revenue is less than half of what is collected, because there are several tax credits (salmon product development tax credit is the most widely known) and credits come out of the state's "half." So that \$24.8 million is net of both credits and sharing.

The bill proposes raising most of the tax rates for both of these taxes by 1%. The taxes resulting from this increment would not be subject to the municipal sharing requirement. The tax rates on certain "developing" fisheries who currently pay at 1% are not increased.

The other major change is to require electronic tax filing. With the implementation of the Tax Revenue Management System, DOR has a much more advanced, integrated tax database with a strong online portal and robust reporting functions. Paper tax filings require a laborious process of scanning and manual data entry, and the department is working to transition away from this system. To this end, each of the several revenue bills being introduced contains language in the general revenue statutes to require electronic submission unless the taxpayer does not have the technological capability to do so.

Revenue Impact

DOR estimates that this legislation would create additional revenue of approximately \$18.3 million in FY17. Estimates are based on the fall 2015 revenue forecast, factor in a 2.25% inflation rate, and estimate only a minor catch shift from year to year.

Implementation Cost

This legislation would require the Department of Revenue to update its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online. The update would consist of reprogramming both systems, updating the return rules in TRMS and testing both systems thoroughly to verify that they function as expected. We would also need to update the current tax return forms. This cost is higher than the costs we've attached to some of the other excise and business tax changes; this is because of the additional need to adjust certain Revenue Sharing features.

The supplemental fiscal note figure of \$100.0 in FY16 is to cover the costs of having our contractor update the two systems. We do not anticipate any continuing costs or additional staff needs. After the implementation of the changes, this legislation would not cause any additional administrative burden on the Tax Division.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

COMMISSIONER'S OFFICE

State Office Building
333 Willoughby Avenue, 11th Floor
PO Box 110400
Juneau, Alaska 99811-0400
Main: 907.465.2300
Fax: 907.465.2389

January 20, 2016

The Honorable Cathy Giessel, Chair
Senate Resources Committee
State Capitol Building
Juneau, AK 99801

Dear Senator Giessel:

The Department of Revenue (DOR) respectfully requests that SB 135, "An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date," be scheduled in the Senate Resources Committee at your earliest convenience.

The purpose of this legislation is to increase the tax rates of the fisheries business tax (AS 43.75.015) and the fishery resource landing tax (AS43.77.010). This increase would result in additional revenue of approximately \$18,000,000 annually.

Your favorable consideration of this request is appreciated. If you need any additional information, please contact Jerry Burnett, Deputy Commissioner for the Department of Revenue at 907-465-3669.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall J. Hoffbeck".

Randall J. Hoffbeck, Commissioner

Cc: Darwin Peterson, Legislative Director, Office of the Governor
Jerry Burnett, Deputy Commissioner, Department of Revenue
Ken Alper, Director, Tax Division, Department of Revenue

ESTATE TAX

AS 43.31

DESCRIPTION

Historically, Alaska levied an estate tax on the transfer of an estate upon death. However, in 2001, the federal Economic Growth and Tax Relief Reconciliation Act was enacted. As a consequence of the federal act, the state tax credit was phased out gradually over a four-year period. The state tax credit no longer applies to estates of decedents whose date of death is January 1, 2005 or

later. However, the Division may continue to collect tax from estates greater than the \$1.5 million exemption where the date of death was prior to January 1, 2005, as a result of returns filed, audits, or other enforcement activities.

FISHERIES BUSINESS TAX

AS 43.75

DESCRIPTION

Alaska levies a fisheries business tax (also known as the “raw fish tax”) on fisheries businesses and persons who process fisheries resources in, or export unprocessed fisheries resources from Alaska. The tax is based on the price paid to commercial fishermen for the raw resource, or fair market value when there is no arms-length transaction prior to processing or export. The Division collects fisheries business taxes from processors and persons who export unprocessed fishery resources from Alaska.

RATE

Fisheries business tax rates are based on the location and type of processing activity and whether a fishery resource is classified as “established” or “developing” by the Alaska Department of Fish and Game. Rates are as follows:

PROCESSING ACTIVITY

ESTABLISHED	RATE
Floating	5%
Salmon Cannery	4.5%
Shore-based	3%
DEVELOPING	RATE
Floating	3%
Shore-based	1%

RETURNS

Fisheries businesses file calendar year returns that are due with payment on March 31 of the following year.

After filing the calendar year return, taxpayers file returns to report post-season bonus payments made to fishermen. Returns for these payments are due with additional taxes by the last day of the month following the month of bonus payments.

EXCLUSION

Commercial fishermen who process fish on board their vessels are excluded from the tax if they sell to a licensed processor.

CREDITS

The following credits are available for use against the liability of this specific tax education, scholarship contributions, scholarship contributions, and salmon product development tax credits.

For specific information concerning these credits, see the Description of Credits section.

DISPOSITION OF REVENUE

The Division deposits all revenue derived from the fisheries business tax into the General Fund. The legislature may appropriate revenue from the tax for revenue sharing described below:

PROCESSING ACTIVITY INSIDE MUNICIPALITY

The Division shares 50% of tax collected with the incorporated city or organized borough in which the processing took place. If an incorporated city is within an organized borough, the Division divides the 50% shareable amount equally between the incorporated city and the organized borough equally.

FY 2014 STATISTICS

Tax Collections and License Fees

\$51,552,226

Including penalties, interest and credits.

FISHERIES BUSINESS LICENSES ISSUED	ONLINE	PAPER	TOTAL
Direct Marketer	194	10	204
Shore-based	148	4	152
Catch/Processor	46	1	47
Floating	34	0	34
Cannery	24	0	24
Exporter	15	0	15
Total	461	15	476

Number of Returns	915
Number of Taxpayers	420

PROCESSING ACTIVITY OUTSIDE MUNICIPALITY

The Division shares 50% of tax collected from processing activities outside an incorporated city or an organized borough through an allocation program administered by the Department of Commerce, Community and Economic Development.

HISTORY

1899 - The U.S. Congress adopted a "salmon case" tax to fund fisheries-related activities in pre-territorial Alaska. The Organic Act passed in 1912 established an organized territorial government in Alaska. In 1913, the First Territorial Legislature adopted the "salmon pack" tax which applied to salmon canneries based on canned salmon (\$0.07 per case); and the "cold storage" tax which applied to other fisheries and was based on business receipts. Between 1913 and 1949, the legislature amended the tax several times by changing tax rates and expanding the tax base to include different fisheries.

1949 - The territorial legislature restructured the fisheries business tax to be based on value of the fisheries rather than volumes (case or business receipts). The new "raw fish" tax applied to salmon (4%), crab and clams (2%), and other fishery products (1%) processed in canneries.

1951 - The territorial legislature enacted a fishery business license requirement with a \$25 license fee, a tax

on floating processors at 4% of value and increased the tax rate for salmon canneries to 6%.

1962 - The legislature adopted provisions for sharing taxes (10%) and requiring calendar year returns for all businesses.

1967 - The tax rate on salmon canneries was amended to 3% and provisions were adopted requiring security for a fishery business license under certain conditions.

1979 - The legislature adopted the modern tax structure with different tax rates for established and developing species, as well as increasing the shared tax percentage to 20%.

1981 - The shared tax percentage was increased to 50%.

1986 - The legislature authorized a fisheries business tax credit of up to 50% of fisheries business taxes for capital expenditures associated with constructing and improving shore-side processing operations. The tax credit program was effective for 1987 through 1989 with a carryforward provision through 1991. Taxpayers claimed approximately \$47.5 million of credits under this program. The legislature also enacted the A.W. "Winn" Brindle scholarship credit allowing a credit of up to 5% of fisheries business taxes due.

1987 - The legislature enacted the Alaska education tax credit program allowing a tax credit on educational

contributions of up to \$100,000 against fisheries business taxes due.

1990 - The legislature enacted provisions for a civil penalty for processing without a license. The Division may progressively assess penalties in increments of up to \$5,000 for each infraction to a maximum of \$25,000 for the fifth and subsequent assessments. The legislature also enacted a provision that authorized sharing of 50% of taxes sourced from processing activities in the unorganized borough, effective July 1992.

1991 - The legislature restructured the Alaska education credit and increased the maximum amount to \$150,000.

1993 - The Department of Labor surety bond program transferred to the Department of Revenue under Executive Order 85, effective July 1, 1994.

1995 - The legislature reduced the amount of surety bonding for small processors from \$10,000 to \$2,000.

2001 - The legislature modified the tax payment security requirements necessary to obtain a fisheries business tax license. The legislature expanded the existing requirement for a whole-salmon exporter to include any exporter of any unprocessed fisheries resource. Under the legislation, exporters of unprocessed fish can obtain a fisheries business license by posting a \$50,000 surety bond and paying their taxes monthly.

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.

2003 - The legislature authorized a Salmon Product Development/Utilization (SPDU) Credit that allows tax credits against fisheries business taxes for expenditures promoting the value added processing of salmon products and the utilization of salmon waste in Alaska. The amount of the tax credit cannot exceed 50% of the taxpayer's fisheries business liability for processing of salmon during the tax year.

- Effective June 11, 2003, and retroactive to January 1, 2003, the SPDU legislation sunsetted on December 31, 2005. Unused credits earned may be carried forward for three years.

- The legislature authorized monthly payment of the fisheries taxes in lieu of existing forms of security or

prepayment as a prerequisite to being licensed. Fisheries businesses that elect the monthly payment option must post a \$50,000 bond or have \$100,000 equity in real property in the state. The provisions of this legislation took effect September 8, 2003.

2004 - Legislation authorized a new Direct Marketing Fisheries Business License and tax structure set at the shore based rate of 1% of the value of developing fish species and 3% of the value of established fish species. The provisions of this legislation took effect January 1, 2005.

2005 - Effective May 18, 2005, the legislature modified the surety and tax payment requirements for obtaining a fisheries business license. The legislature reduced the amount of surety bonding for small primary fish buyers from \$10,000 to \$2,000. The legislation also added requisites for obtaining a fisheries business license. Before being issued a license, a fisheries business must have fully paid (including penalties and interest) taxes administered by the Division, seafood marketing assessments, employment security contributions, OSHA penalties, and municipal fishery taxes.

2006 - The legislature extended the Salmon Product Development Credit for expenditures made through December 31, 2008. The Salmon Utilization Credit was not extended.

2008 - The legislature amended education credit provisions to include 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.

- The legislature extended the salmon product development tax credit program by three years. The legislation extended the ending date for placing specified property in service to qualify for the credit from December 31, 2008 to December 31, 2011. This legislation expanded the list of qualified property to include conveyors used for producing value-added salmon products and requires that the Department of Revenue develop and implement procedures for pre-determining if investments qualify for the salmon product development tax credit.

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. The maximum credit allowed was to revert to \$150,000 on January 1, 2014. That date was extended in 2011 (see below).

- The legislature extended the salmon product development tax credit program by four years. The legislation extended the last date for placing qualified property in service from December 31, 2011 to December 31, 2015. The legislation expanded the list of qualified property to include ice making machines.

- The legislature authorized the Department to withhold or suspend a fisheries business license if a fisheries

business fails to pay the permit buyback fee imposed by the National Marine Fisheries Service under 16 U.S.C. 1861a.

2011 - The legislature extended 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 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.

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:

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

The following are available for use against the liability of this specific tax: education, scholarship contributions, CDQ, and other taxes credits.

For specific information concerning these credits, see the Description of Credits section.

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 are 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 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.

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. The maximum credit allowed was to revert to \$150,000 on January 1, 2014. That date was extended in 2011 (see below).

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 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.

FY 2014 STATISTICS

Tax Collections	\$12,583,645
<i>Including penalties, interest and credits.</i>	
Number of Returns	78
Number of Taxpayers	63

Title: Fish tax analysis and surtax projections

Preparer: Will Bishop, Economist, 465-8222

Purpose: To show fish pounds, value, and tax revenue broken down by tax rate and by developing versus established status. Also, to project revenue from a fisheries surtax that would not be split with municipalities.

Data Source: Fisheries business tax and landing tax returns in TAS from 2012 to 2014 as of Sept. 11, 2015

Key Assumptions: Surtax does not affect commercial fishing activity.

History:

Disclaimer:

The Department of Revenue is in the process of reviewing and updating the data on which this analysis is based. As a result, future analysis could have different results.

The information contained in this workbook may be privileged, confidential or otherwise protected from disclosure. If you are not the intended recipient, any use, dissemination, disclosure, distribution or copying is strictly prohibited.

Fish tax data by rate, 2014 tax year

<u>Tax</u>	<u>Total pounds</u>	<u>Total value</u>	<u>Total tax</u>
Total established at 3% rate	5,079,848,777	\$ 1,634,853,220	\$ 49,045,597
Total established at 4.5% rate	164,913,261	\$ 125,292,220	\$ 5,638,150
Total established at 5% rate	253,594,261	\$ 90,264,481	\$ 4,513,224
Total established fisheries	5,498,356,299	\$ 1,850,409,921	\$ 59,196,971
Total developing fisheries	5,032,117	\$ 1,540,893	\$ 16,324

Fish tax data by rate, 2013 tax year

<u>Tax</u>		<u>Total value</u>	<u>Total tax</u>
Total established at 3% rate	4,664,415,146	\$ 1,589,557,980	\$ 47,686,739
Total established at 4.5% rate	386,367,387	\$ 236,981,613	\$ 10,664,173
Total established at 5% rate	307,998,228	\$ 130,889,515	\$ 6,544,476
Total established fisheries	5,358,780,761	\$ 1,957,429,108	\$ 64,895,388
Total developing fisheries	168,551,700	\$ 20,633,581	\$ 206,670

Fish tax data by rate, 2012 tax year

<u>Tax</u>		<u>Total value</u>	<u>Total tax</u>
Total established at 3% rate	4,400,854,781	\$ 1,690,667,746	\$ 50,720,032
Total established at 4.5% rate	219,874,245	\$ 167,124,013	\$ 7,520,581
Total established at 5% rate	255,499,971	\$ 121,271,496	\$ 6,063,575
Total established fisheries	4,876,228,997	\$ 1,979,063,255	\$ 64,304,188
Total developing fisheries	180,611,785	\$ 22,642,641	\$ 226,757

*Note: "total tax" includes amount shared with municipalities

Estimates of surtax revenue

<u>Type of fishery</u>	<u>Rate</u>	<u>Revenue estimate</u>
Developing	0.50%	\$ 74,695
Established	1%	\$ 19,289,674
Total		\$ 19,364,369

Estimates are based on the average fish value in the previous 3 years.
Surtax would not be shared with municipalities.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Fish and Game

OFFICE OF THE COMMISSIONER
Headquarters Office

1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526
Main: 907.465.4100
Fax: 907.465.2332

MEMORANDUM

TO: Mr. Randall Hoffbeck, Commissioner
Department of Revenue

FROM: Sam Cotten, Commissioner *Sam Cotten*
Department of Fish and Game

DATE: January 27, 2016

SUBJECT: List of Alaska's Developing Fisheries for 2016

In accordance with AS 16.05.050(a)(10), I am providing the attached list of fisheries the Department of Fish and Game (ADF&G) considers developing during 2016. The developing fishery designations were derived under the criteria specified in AS 16.05.050(a)(10).

- (A) The optimum yield from the harvest of the species has not been reached;
- (B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or
- (C) a commercial harvest of the fish species has recently developed.

Under these criteria, ADF&G considers developing fisheries to include the situation where there is no existing commercial fishery, but intermittent commercial utilization has occurred in the past.

Federally managed species were evaluated under the first criterion (A) and considered developing if a majority of total allowable catch has not been recently harvested due to reasons other than conservation or prohibited species bycatch, the harvest is not allocated (i.e., in a catch share program), and there is a directed fishery for the species.

CHANGES TO THE DEVELOPING FISHERIES LIST

Fisheries considered for inclusion as developing are assessed annually by ADF&G and the attached listing incorporates our changes to comprehensively reflect Alaska's developing fisheries for 2016.

Rays are no longer listed under the "other groundfish" category. This change reflects the practice of listing all rays as skates for the purposes of catch accounting, stock assessments, and fisheries data collection (observer programs); no evidence was found for occurrence or retention of ray species in commercial fisheries other than skates.

Pacific hake (whiting) is included as developing in Pacific Ocean waters. Pacific hake are caught in waters of Alaska as sporadic incidental bycatch in other fisheries and are landed in relatively small numbers, which clearly meets criteria to be included as a developing fishery. This change is noteworthy because ADF&G received a request from a fishing corporation to include Pacific hake, caught off the Pacific coast of the United States, as a developing fishery in 2015. This request was initiated in order to facilitate an experimental delivery of approximately 7,500 mt of finished Pacific hake to Dutch Harbor. Under the developing fishery tax rate this delivery may prove economically feasible and lead to future increased landings. Pacific hake take off the Pacific coast of the United States is regulated under a quota system and optimum yield is not being achieved, thereby meeting an additional criterion for inclusion as a developing fishery.

Should you require further information, my office will be happy to respond.

Attachment

cc: Anna Kim, DOR, Chief of Revenue Operations
Scott Kelley, Director, Division of Commercial Fisheries
Forrest Bowers, Deputy Director, Division of Commercial Fisheries
Nicholas Sagalkin, Regional Supervisor, Division of Commercial Fisheries
Tracy Lingnau, Regional Supervisor, Division of Commercial Fisheries
John Linderman, Regional Supervisor, Division of Commercial Fisheries
Lowell Fair, Regional Supervisor, Division of Commercial Fisheries

ALASKA DEPARTMENT OF FISH AND GAME
ALASKA DEVELOPING FISHERIES FOR 2016

Authority AS 16.05.050(a)(10)

Species or species assemblages listed below are considered developing based on the following criteria: (A) the optimum yield from the harvest of the species has not been reached; (B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; (C) a commercial harvest of the fish species has recently developed; or (D) there is no existing commercial fishery, but intermittent commercial utilization has occurred in the past.

FISHERY	STATUS
Groundfish (see definition on page 6):	
Atka mackerel	Developing in the Eastern Bering Sea/Aleutian Islands (NMFS statistical areas 518, 519, and 541), jig gear only.
Arrowtooth flounder	Developing in the following waters: (1) Southeast Alaska (NMFS statistical areas 650 and 659) (2) West Yakutat (NMFS statistical area 640)
Flatfish (see definitions on page 6)	Developing in the following waters: (1) Southeast Alaska (Southern Southeast Inside and Northern Southeast Inside Subdistricts as defined in 5 AAC 28.105(a)(1-2) and NMFS statistical area 650) (2) West Yakutat (NMFS statistical area 640)
Lingcod	Developing in the following waters: (1) Kodiak (5 AAC 28.400) (2) Chignik (5 AAC 28.500) (3) South Alaska Peninsula (5 AAC 28.550) (4) Bering Sea – Aleutian Islands (5 AAC 28.600)
Pacific cod	Developing in the following waters: (1) Southeast Alaska (NMFS statistical area 650) (2) West Yakutat (NMFS statistical area 640)
Pacific hake (whiting)	Developing in Pacific Ocean waters.
Pollock	Developing in Southeast Alaska (NMFS statistical area 650)
Dusky rockfish	Developing in Southeast Alaska (NMFS statistical area 650)
Pacific ocean perch	Developing in Southeast Alaska (NMFS statistical area 650)
Black rockfish	Developing in the following waters: (1) Southeast Alaska (5 AAC 28.100) (2) South Alaska Peninsula Area (5 AAC 28.550), only west of 164° 44' W longitude (3) Bering Sea-Aleutian Islands Area (5 AAC 28.600)

FISHERY STATUS**Groundfish (continued):**

Other groundfish (see definition on page 6)	Greenlings, eels, grenadiers, prowfish, and ratfish are developing in all waters. Sharks, skates, and sculpins are not considered developing.
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Herring:

Herring sac roe	Developing in the following waters: (1) Chignik Area (5 AAC 27.550) (2) Alaska Peninsula – Aleutian Islands Area (5 AAC 27.600) (3) Adak District, gillnet and seine fishery (5 AAC 27.657) (4) Kuskokwim Area (5 AAC 27.870) (5) Bering Sea – Kotzebue Area (5 AAC 27.900)
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Herring food and bait	Developing in the following waters: (1) Chignik Area (5 AAC 27.550) (2) The following districts of the Alaska Peninsula – Aleutian Islands Area: (a) Sand Point District (5 AAC 27.605(a)) (b) Pavlof District (5 AAC 27.605(b)) (c) King Cove District (5 AAC 27.605(c)) (d) Umnak District west of Samalga Pass (5 AAC 27.605(g)) (e) Adak District (5 AAC 27.605(h)) (f) Amak District (5 AAC 27.605(i)) (g) Port Moller District (5 AAC 27.605(j)) (h) Port Heiden District (5 AAC 27.605(k)) (3) The following districts of the Bering Sea – Kotzebue Area: (a) Port Clarence District (5 AAC 27.905(c)) (b) Kotzebue District (5 AAC 27.905(d))
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Other finfish:

Freshwater finfish (see definition on page 6)	Bering cisco is developing in the Lower Yukon River.
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Hagfish	Developing in all waters.
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Lamprey	Developing in all waters.
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Forage fish (see definition on page 6)	Smelt and eulachon fisheries are developing in Upper Cook Inlet (5 AAC 21.505(b)(2)).
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Salmon:

Pink salmon	Developing in the following waters: (1) Kotzebue Area (5 AAC 03.100) (2) Norton Sound – Port Clarence Area (5 AAC 04.100) (3) Yukon – Northern Area (5 AAC 05.100) (4) Kuskokwim Area (5 AAC 07.100) (5) Atka/Amlia Island Area (5 AAC 11.101)
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FISHERY	STATUS
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Salmon (continued):	
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Chum salmon	Developing in the Port Clarence District (5 AAC 04.200(a))
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Shellfish:	
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King crab	Developing in the following waters: (1) Golden king crab in Kodiak Area (5 AAC 34.400) (2) Golden king crab in Northern District of the Bering Sea (5 AAC 34.905(c))
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Clams	<p>Littleneck clams are developing in the following waters: (1) Southeastern Alaska (5 AAC 38.100) (2) Yakutat Area (5 AAC 38.160) (3) Registration Area J (Westward; 5 AAC 38.400)</p> <p>Arctic surf clams, butter clams, cockle clams, eastern softshell clams, horse clams, and razor clams are developing in Registration Area J (Westward; 5 AAC 38.400)</p>
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Octopus	Developing in the following waters: (1) Yakutat Area (5 AAC 38.160) (2) Prince William Sound (5 AAC 38.200) (3) Registration Area J (Westward; 5 AAC 38.400)
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Sea cucumbers	Developing in the following waters of Registration Area J (Westward; 5 AAC 38.400): all waters west of 157° 27' W longitude
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Sea urchins	Green sea urchins and red sea urchins are developing in Registration Area J (Westward; 5 AAC 38.400)
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Shrimp	Pot-gear fisheries are developing in Registration Area J, (Westward; 5 AAC 31.500)
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Snails	(except abalone) Developing in all waters.
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Definitions:

Flatfish (in Southern Southeast Inside and Northern Southeast Inside Subdistricts)	“Flatfish” means flounders, soles, Greenland turbot, Alaska plaice, sanddabs, and dabs. Halibut is listed separately from flatfish.
Flatfish (in NMFS statistical areas 640 and 650)	“Flatfish” means flathead sole, rex sole, deep water flatfish (Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole), and shallow water flatfish (rock sole, yellowfin sole, butter sole, starry flounder, English sole, sand sole, and Alaska plaice).
Forage fish	“Forage fish” means capelin, eulachon (hooligan), smelts, deep-sea smelt, Pacific sandfish, Pacific sand lance, gunnels, pricklebacks, warbonnets, eelblennys, cockscombs, shannys, bristlemouths, lanternfishes, lightfishes, anglemouths, and krill (as defined in 5 AAC 39.212(f)).
Freshwater finfish	“Freshwater finfish” includes species such as whitefish, sheefish, Arctic char, Dolly Varden, steelhead, trout, pike, and burbot in fresh and salt water.
Groundfish	“Groundfish” means any marine finfish except salmon, herring, halibut, and osmerids (capelin, smelts, and eulachon or hooligan) (as defined in 5 AAC 39.975(21)).
Other groundfish	“Other groundfish” includes species such as skates, rays, sharks, greenlings, sculpins, eels, grenadiers, prowlfish, and ratfish.

NEW SUSTAINABLE

ALASKA

PLAN



Pulling Together to Build Our Future

Fish Tax

SB 135

Bill Title

“An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date.”

Fish Business Tax Overview

- Paid by persons or business who **process fish in Alaska** or **export fish from Alaska**
- Charged on price for raw resource or fair market value



Fish Business Tax History

- Territorial “salmon pack tax” in 1913
 - Tax base expanded to include other fish between 1913 and 1949
- Fish business license required in 1951
- Municipal sharing began in 1962
 - Increased from 10% to 50% over time

Fish Business Tax History (Continued)

- Current tax structure began in 2004
 - Shore-based facility:
 - 1% for developing species
 - 3% for established species
 - Floating facility:
 - 3% for developing
 - 5% for established
 - Salmon cannery: 4.5%
- Direct Marketing License holders pay shore-based rates

Fish Landing Tax Overview

- Levied on **unprocessed value** of a fishery resource **first landed in Alaska, but processed outside**
 - Value calculated using Statewide Average Price (SWAP)
- Mainly factory trawlers and floating processors
- 50% municipal sharing, like Business Tax



Photo courtesy Alaska Seafood

Fish Landing Tax History

- Effective 1994
- Initially 3.3% of the unprocessed value
- Now:
 - 1% for developing species
 - 3% for established species
- Exception: **pollock** subject to Landing Tax even if not landed in Alaska
 - Due to 1999 American Fisheries Act

Distribution of Fish Tax Revenue

⑩ Fish Tax Revenue

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graph TD; A[⑩ Fish Tax Revenue] -- 50% --> B[⑩ Communities and Boroughs]; A -- 50% --> C[⑩ General Fund Credits];
```

50%

50%

⑩ Communities
and Boroughs

⑩ General Fund
Credits

Fish Business Tax Revenue

Business Tax (\$ millions)	FY 2015	FY 2014	FY 2013
Total collections	44.4	53.0	45.1
Municipal share	23.1	26.5	25.0
Retained by state	21.3	26.5	20.0

- State share normally smaller than municipal share because of credits

Fish Landing Tax Revenue

Landing Tax (\$ millions)	FY 2015	FY 2014	FY 2013
Total collections	8.4	12.6	13.4
Municipal share	3.2	5.4	7.8
Retained by state	5.1	7.1	5.5

Fish Tax Proposal

- Increases Fisheries Business Tax and Fishery Resource Landing Tax by 1% for established species

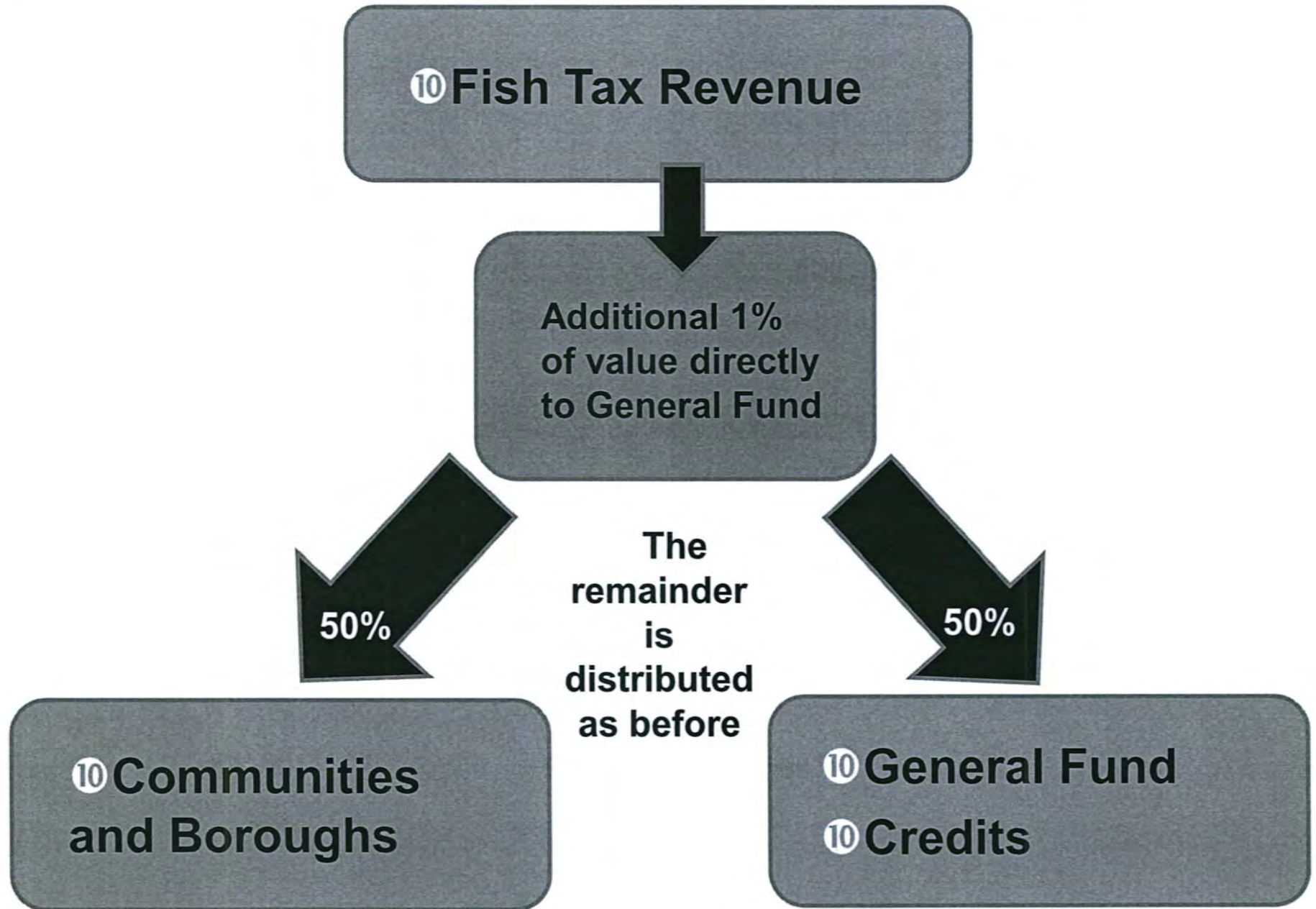
Business Tax	Current Rate	Proposed Rate
Established		
Floating	5%	6%
Salmon Cannery	4.5%	5.5%
Shore-based	3%	4%
Developing		
Floating	3%	4%
Shore-based	1%	1%

Fish Tax Proposal (Continued)

Resrc Land Tax	Current Rate	Proposed Rate
Established	3%	4%
Developing	1%	1%

- 1% tax increase would be entirely state revenue, not shared with municipalities
- Municipal sharing would continue for remaining revenue
- Requires electronic filing

Distribution Under New Fish Tax Proposal



Relative Fish Tax Rate

- Washington is the only other state with a tax specific to fish
 - 0.09% to 5.62% of value at point of landing
 - Rate depends on species

Revenue Impact

- Dept. of Revenue estimates proposed fish tax increases would raise an additional \$18 million per year
- Estimates are based on the fall 2015 revenue forecast

Implementation Cost

- Would require the Department of Revenue to update its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online and update the current tax return forms.
- One-time implementation cost of \$100,000 to recreate tax forms and reprogram and test the tax system¹
- Do not anticipate any additional costs to administer the tax program.

¹This is slightly higher than some of the costs attached to the other excise and business tax changes because of the somewhat dedicated nature of the funds and the possible additional need to adjust certain Revenue Sharing features.

Closing the Budget Gap

	(Millions)
FY16 Budget	\$ 5,200

FY17 Baseline Revenue (after proposed legislation)

AK Permanent Fund Protection Act (annual draw)	\$ 3,300
Revenue from existing taxes and fees	\$ 850
Earnings on Savings	<u>\$ 135</u>
	\$ 4,285

FY17 Spending Reductions

Continue Cuts	\$ 140
Reform O&G Tax Credits	\$ 400
Net Priority Investments	<u>(\$ 40)</u>
	\$ 500

Closing the Budget Gap (Continued)

<u>New Revenue Components (estimated)</u>	(Millions)
Mining (starting in FY 2018)	\$ 6
<i>Fishing</i>	\$ 18
Tourism	\$ 15
Motor Fuel	\$ 49
Alcohol	\$ 40
Tobacco	\$ 29
Oil and Gas	\$ 100
Income Tax (half in FY17; first full year is FY18)	<u>\$ 200</u>
	\$ 457
Total with reductions and new revenue	\$ 5,242

Impacts of Fish Tax Proposal

- Main impact is on commercial fishing operations
 - Not much of the tax burden likely to be passed on to buyers

Sectional Analysis

- Sec. 1.** Adds a \$25 or 1% tax penalty for failure to file electronically unless an exemption is received by the taxpayer
- Sec. 2.** Requires electronic submission of tax returns, license applications, and other documents submitted to the Department of Revenue. This changes the general tax statutes, AS 43.05, and will apply to all tax types administered by the department. Provides a process to request an exemption if a taxpayer does not have the technological capability to do so.
- Sec. 3.** Increases three different tax rates within the Fisheries Business Tax by one percent. The current rates range from three to five percent.
- Sec. 4.** Increases tax rate within the Fisheries Business Tax for developing fish species processed by a floating processor from 3 to 4 percent. Rate remains at 1 percent for developing fish species processed by a shore-based business.

Sectional Analysis (Continued)

- Sec. 5.** Increases tax rate within the Fisheries Business Tax for direct marketers from 3 to 4 percent. Rate remains at 1 percent for developing fish species sold by direct marketers.
- Sec. 6.** Conforming language related to the requirement to submit returns or reports electronically. This section deletes the requirement for taxpayers to submit their returns to the department in Juneau.
- Sec. 7.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.
- Sec. 8.** Increases tax rate within the Fisheries Landing Tax for fish species other than developing fish species from 3 to 4 percent. Rate remains at 1 percent for developing fish species.

Sectional Analysis (Continued)

- Sec. 9.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with municipalities per the currently existing formula.
- Sec.10.** Establishes that the revenue from the one percent tax increase is deposited in the general fund. The remaining revenue shall be shared with boroughs per the currently existing formula.
- Sec. 11.** Transitional language allowing for regulations
- Sec. 12.** Section 11 above takes effect immediately.
- Sec. 13.** Effective date of 7/1/16 for the rest of the bill including the tax rate change.

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Contact Information

Jerry Burnett
Deputy Commissioner
Department of Revenue
JerryBurnett@Alaska.gov
(907) 465-2300

Kevin Brooks
Deputy Commissioner
Department of Fish and Game,
KevinBrooks@Alaska.gov
(907) 465-4100