

HB

188

<TARGET><BILL>HB 188</BILL><SUBJECT>HB
188</SUBJECT><COMM>HL&C30</COMM></TARGET>

ALASKA LEGISLATURE
Representative Jonathan Kreiss-Tomkins

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Committees:
State Affairs, Chair
Judiciary, Vice Chair
Fisheries



Juneau, Alaska 99801 (Jan. – April)
State Capitol, Room 411
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201 Katlian Street, Ste. 103
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Representative Sam Kito III
Chair, House Labor & Commerce Committee
State Capitol 403
Juneau, AK 99801

March 6, 2018

Dear Representative Kito,

We respectfully request that HB 188, Regional Fisheries Trusts, be heard before the House Labor & Commerce Committee.

Please find the followed requested documents attached to this letter:

- HB 188 ver Y
- Sponsor Statement
- Sectional Analysis
- Summary of Changes ver U - ver Y
- Two fiscal notes from the Department of Commerce, Community, and Economic Development
- Letters, articles, and resolutions of support and opposition

We will provide names and information for testifiers at a later date.

The staffer assigned to the bill is Reid Magdanz, who can be reached at 465.3306 or reid.magdanz@akleg.gov.

Sincerely,

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

Representative Jonathan Kreiss-Tomkins

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Summary of Changes, ver U — ver L | HB 188 — Regional Fisheries Trusts

Note: Because two committee substitutes have been proposed in House Fisheries, this summary of changes is broken out into two sections: the lower section of this document describes the changes from HB 188 as introduced to HB 188 version M. Version M is the draft CS that was introduced to the committee at the start of the 2018 session. The upper section of this document describes the changes between version M and the current draft CS, version L.

Ver M — Ver L

Changes “improve access by Alaskans to fisheries” to “improve access to Alaska fisheries” in **Section 1(10)**. This conforms section 1 with the removal, in version M, of the Alaska residency requirement.

Removes **Section 17(a)(23)** in conformance with changes to AS 16.44.060(c).

Adds **Section 29** to provide that a regional fisheries trust must approve the emergency transfer of any permit that has been temporarily transferred from the fisheries trust. The emergency transferee must also be qualified under 16.44.080.

Rewords part of **Section 30(a)** (section 29 in version M), pg 13, Ins 18-20, to clarify that an individual is legally considered a temporary transferee only after being approved by the Commercial Fisheries Entry Commission (CFEC). Also adds “or AS 16.43.180(c)” to the end of the subsection in order to conform with the addition of section 29.

Slightly rewords **Section 32(c)** and **Section 32(d)** (section 31 in version M) to conform with the addition of section 35 in version L.

Adds **Section 35** to ensure that when an emergency transferee is assessed demerit points, the same points are assessed against the transferor. This is currently the case for emergency transferred permits; the addition of section 35 ensures the same standards apply to people who emergency transfer a permit from a fisheries trust under proposed AS 16.43.180(c).

Amends **Section 36** (section 34 in version M) to make explicit that demerit points cannot be applied to a fisheries trust.

Amends **Section 39(I)(1) and (I)(2)** (section 37 in version M) to clarify that a fisheries trust has discretion to request a temporary transfer be revoked if the temporary transferee's fishing privileges are suspended for longer than the remaining period of the temporary transfer. The prior version unintentionally gave this power to fisheries trusts in cases where the temporary transferee's fishing privileges were suspended for longer than the total period of the temporary transfer.

Amends **proposed AS 16.44.010(b)(2)** by replacing "state residents' ability to participate in" with "access to." This conforms this paragraph with the removal, in version M, of the Alaska residency requirement.

Amends **proposed AS 16.44.010(b)(3)** by removing "in the state." This conforms this paragraph with the removal, in version M, of the Alaska residency requirement.

Deletes **proposed AS 16.44.010(e) (version M)**. The Department of Commerce, Community, and Economic Development's (DCCED's) Division of Economic Development, where regional fisheries trusts would be administratively housed, does not conduct audits. Regional fisheries trusts will remain subject to special audits of the Division of Legislative Audit.

Amends **proposed AS 16.44.020(i)** to provide greater specification to staff compensation requirements. Instead of "reasonable," version L requires that compensation of fisheries trust staff shall not exceed that of state employees with comparable duties. This change provides clearer guidance to a fisheries trust.

Deletes **proposed AS 16.44.030(c) (version M)**. This change does not remove DCCED's authority to adopt regulations enforcing proposed AS 16.44.030, if the Department chooses to do so (that authority is still provided by section 53). But given that other sections of the bill do not provide for specific regulatory authority, we did not want the inclusion of AS 16.44.030(c) to imply that DCCED lacked regulatory authority over other aspects of fisheries trust operations.

Changes "16.44.060(a)" to "16.44.060" in **proposed AS 16.44.050(a)(8)**. This was a drafting choice that makes no substantive change.

Amends **proposed AS 16.44.050(b)(1)** to conform with the addition of AS 16.44.050(d).

Adds **proposed AS 16.44.050(d)** to allow a fisheries trust board to prohibit certain individuals from receiving temporary transfers from the fisheries trust. Version L gives a fisheries trust authority to choose to prohibit temporary transfers to anyone who already holds a limited entry permit in another fishery (in order to increase opportunity for new fishermen) or who has had their fishing privileges suspended by CFEC. AS 16.44.050(d)(2) was included in version M as AS 16.44.080(d). New subsection AS 16.44.050(d) also requires that the board apply any restrictions as blanket restrictions; the decision to prohibit a temporary transfer under 16.44.050(d) can't be made on a case-by-case basis.

Adds **proposed AS 16.44.060(b)** to clarify that no more than one fisheries trust is eligible to hold a particular type of limited entry permit. Though it has never been the intention, there are some situations (such as with statewide permits) where version M could have been interpreted to allow more than one fisheries trust to hold a particular type of limited entry permit. The added language also states that if more than one fisheries trust would otherwise be considered eligible to hold a permit type, that type of permit may only be held by a fisheries trust established in the region of the state that is home to the greatest number of holders of that permit type. For example, only a fisheries trust established in the Southeast region would be able to acquire salmon power troll permits. No other fisheries trust would be allowed to acquire salmon power troll permits, even if a Southeast fisheries trust is never established.

Amends **proposed AS 16.44.060(c)** to lighten the burden on a fisheries trust to acquire a strictly quantitatively proportional portfolio of permits, in response to comments that some types of permits (i.e. those in more entry-level fisheries) would be more appropriate for a fisheries trust to acquire. The new language states that a fisheries trust shall still endeavor to hold permits of all types within its region, but gives fisheries trusts greater flexibility to determine which permits they acquire.

Clarifies **proposed AS 16.44.060(d)** to ensure that CFEC has authority to enforce all of section 16.44.060 by adding “or receive by transfer” to pg 26, ln 6. Language in version M may not have provided adequate authority for CFEC to enforce proposed AS 16.44.060(f).

Amends **proposed AS 16.44.060(e)** to explicitly prohibit “leasing” of entry permits temporarily transferred from a fisheries trust. This brings 16.44.060(e) into alignment with existing AS 16.43.150(g), which prohibits leasing of limited entry permits and distinguishes a temporary transfer from a lease.

Amends **proposed AS 16.44.070(b)** to provide that an individual may not fish permits temporarily transferred from any fisheries trust for more than six cumulative years. Prior versions only applied the six-year cap to permits of any one type. Version L makes clear that the six-year limit is a lifetime cap on temporary transfers, regardless of permit type.

Rewords **proposed AS 16.44.070(c)**, but does not make a substantive change.

Adds language to **proposed AS 16.44.080** allowing a regional fisheries trust to require someone bidding for a permit to provide further evidence of their ability to safely and successfully participate in the fishery. The sort of things an RFT could require a bidder show under this section include insurance coverage, a market for their fish, a veteran fisherman who has agreed to serve as a mentor, or a suitable vessel and gear. This was added in response to feedback from fishermen. Subsection 16.44.080(d) of version M has been moved to AS 16.44.050(d) in version L.

Amends **Section 56** (section 54 in version M) by removing the word “land area of the” before “state” to clarify that fisheries trust regions encompass both land and water area.

Amends **Section 56(a)(1)** to provide that fisheries trust region boundaries shall be based on CFEC administrative areas as described in regulation on January 1, 2018 rather than on the effective date of section 41 of the act (section 39 in version M). The boundaries will need to be drawn prior to the effective date of section 41.

Adds **Section 56(b)(2)** to address the fact that certain CFEC salmon administrative areas include very few communities, and would therefore not function well as separate fisheries trust regions. Under version L, a fisheries trust region may not have fewer than five communities.

Ver U — ver M

Throughout version M

The term “lease” has been replaced with “temporary transfer” and “lessee” with “temporary transferee” in order to better align HB 188 with the language and structure of existing limited entry law. The procedures by which fisheries trusts temporarily transfer permits differs somewhat from the procedures by which fisheries trusts leased permits in prior versions. Most notably, the Commercial Fisheries Entry Commission (CFEC) is given a stronger oversight role of temporary transfers than of leases. Substantive changes to policy associated with the “lease” to “temporary transfer” change have been described in the section-by-section analysis below. We have not, however, identified and described instances where the language change does not result in a substantive policy difference relative to prior versions before the committee. We made this choice to preserve readability of this document and make it easier to identify substantive changes.

Section-by-section changes

Adds **Section 2** to legally distinguish regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Adds **Section 6** to account for the fact that regional fisheries trusts may now temporarily transfer permits to non-Alaskans.

Adds **Section 12** to make a newly identified conforming amendment.

Adds **Section 14** to make a newly identified conforming amendment.

Amends **Section 16** (section 12 in version U) to clarify that only individuals holding permits, not temporary transferees, may form an association to levy a hatchery assessment.

Adds two paragraphs to section **Section 17, (22)** and **(25)**, to conform with sections that require CFEC to approve the temporary transfer of limited entry permits and determine equitable methods of reissuance should a fisheries trust fail and permits revert to CFEC. Also splits paragraph (22) of version U (section 13) into two paragraphs, (23) and (24).

Removes conforming amendments to **AS 16.43.140(c)** (in section 14 of version U) that Legislative Legal deemed unnecessary in the new version.

Amends **Section 22** (section 17 of version U) to reflect that leasing of permits is prohibited in the new draft. **Section 22** now allows temporary transfer of permits.

Adds **Section 28** to provide for the emergency transfer of permits temporarily transferred from a fisheries trust.

Adds **Section 29**, which describes the procedures a regional fisheries trust must follow in order to temporarily transfer a permit.

- The fisheries trust must provide CFEC with identifying information for the permit and the temporary transferee, as well as the terms of the temporary transfer and other information CFEC requires.
- CFEC must approve or deny temporary transfers within 15 days after receiving all required information. CFEC can deny a temporary transfer if the transferee is not qualified under AS 16.44.080.

CFEC can revoke a temporary transfer if the temporary transferee's fishing privileges are suspended, if the temporary transferee doesn't pay agreed upon fees to the fisheries trust, or if the temporary transferee turns out not to be qualified to fish the permit.

A limited entry permit held by a fisheries trust may only be fished by a qualified transferee approved under this section.

Adds **Section 37**, which provides:

- If an fisheries trust is dissolved, the permits held by the fisheries trust revert to CFEC and are made available for reissuance. CFEC must determine equitable methods of reissuance that ensure the state receives fair market value for the permits (see also Section 17, paragraph (a)(25)).
- CFEC can't revoke or transfer a permit away from a fisheries trust solely due to the actions of a temporary transferee.
- If a temporary transferee's fishing privileges are suspended for longer than the period of the temporary transfer, the fisheries trust may request CFEC revoke the temporary transfer. If a suspension is shorter than the period of the temporary transfer, a fisheries trust may only request CFEC revoke the temporary transfer if the temporary transferee asks first.

Amends **proposed AS 16.44.010(a)** in **Section 39** (section 31 in version U) to provide for a "limited authorization." Only three fisheries trusts may be established in the state, in order for the program to be tested and vetted. Except for an initial period after the bill's effective date (see addition of **Section 55** below), fisheries trusts are established on a first-come, first-served basis. Requires municipalities to provide Department of Commerce, Community, and Economic Development (DCCED) with draft bylaws and a business plan for a fisheries trust when the municipalities request authorization to establish the fisheries trust.

Amends **proposed AS 16.44.010(d)** in **Section 39** (section 31 in version U) to provide that in the event a fisheries trust dissolves, the permits held by the trust revert to CFEC and may be reissued. All other rights and property of the fisheries trust pass to the state.

Rearranges language in **proposed AS 16.44.020(c)** and **(d)** in **Section 39** (section 31 in version U) to clarify how unincorporated communities may be represented on fisheries trust boards. Also makes clear that unincorporated communities may be represented on boards from the beginning if the application for a fisheries trust requests they be included. Also adds language requiring the Governor to appoint individuals with a diversity of experience relevant to the operations of a fisheries trust to the board, including at least two board members with experience in the commercial fishing industry.

Changes wording in **proposed AS 16.44.040(a)** in **Section 39** (section 31 in version U) from “fees levied under AS 16.43.160” to “permit-related fees levied under AS 16.43.160.” No substantive change.

Amends **proposed AS 16.44.050(a)(3)** in **Section 39** (section 31 in version U) to make more explicit that when borrowing funds, a fisheries trust may not pledge permits as security.

Amends **proposed AS 16.44.050(a)(6)** in **Section 39** (section 31 in version U) to provide that a fisheries trust must temporarily transfer permits according to the process described in section 29. Also removes explicit reference to “lease to own” because provisions in the new draft already allow a fisheries trust to permanently transfer a permit to a former temporary transferee. Deletes phrase about termination of a lease upon default; the new draft provides comparable authority in section 29.

Adds **proposed AS 16.44.050(a)(7)** in **Section 39** (section 31 in version U), to conform with the overall change from “lease” to “temporary transfer” and the new provisions in section 29.

Amends **proposed AS 16.44.050(b)(1)** in **Section 39** (section 31 in version U) to provide that temporary transfers, unlike leases, are subject to CFEC review and approval.

Rewords **proposed AS 16.44.050(b)(4)** in **Section 39** (section 31 in version U), related to procedures for revoking temporary transfers.

Rewords **proposed AS 16.44.050(b)(5)** in **Section 39** (section 31 in version U). No substantive change.

Amends **proposed AS 16.44.050(c)** in **Section 39** (section 31 in version U). A fisheries trust may prioritize bids based on one or more of four criteria: applicant’s historical participation in the fishery, access to other economic opportunity, record of participation in fisheries organizations and management, and expected economic contribution to the fisheries trust region. These criteria are based on court- and agency-vetted standards used by other state programs. Version U provided a much more vague allowance to prioritize bids consistent with the overall purposes of regional fisheries trusts.

Adds **proposed AS 16.44.050(d) and (e)** in **Section 39** (section 31 in version U), explicitly prohibiting a fisheries trust from holding interim-use permits, vessel permits, or quota share for a federally managed fishery, as the latter is defined in AS 16.10.360.

Amends **proposed AS 16.44.060** in **Section 39** (section 31 in version U). A fisheries trust now cannot acquire a permit in a fishery with fewer than 40 permits. The permit holding cap is now calculated as 2.5% of the permits in a given fishery, rounded to the nearest whole number rather than rounded up to the nearest whole number. The prohibition on a temporarily transferred permit being pledged, mortgaged, or encumbered in any way has been rewritten. Last, a new subsection requires that a fisheries trust must receive fair market value for any permit it permanently transfers away from the trust.

Rewords **proposed AS 16.44.070(c)** in **Section 39** (section 31 in version U) and allows that a temporarily transferred permit may be emergency transferred by a temporary transferee.

Replaces **proposed AS 16.44.070(e)** in **Section 39** (section 31 in version U). The old subsection provided that a fisheries trust could include terms in a lease agreement that provided a “lease to own” arrangement. This explicit authority is no longer necessary, as a fisheries trust is allowed to permanently transfer a permit to a former temporary transferee under AS 16.44.050(a)(4). The new **proposed AS 16.44.070(e)** addresses a different topic: making clear that fisheries trusts rather than temporary transferees are responsible for paying CFEC permit renewal fees.

Adds **proposed AS 16.44.070(f)** in **Section 39** (section 31 in version U), which allows a fisheries trust to request CFEC revoke a temporary transfer only in the select cases described in AS 16.43.190(d) and AS 16.43.960(l).

Removes **proposed AS 16.44.080(a), (c) and (e)** in **Section 39** (section 31 in version U), which required fisheries trusts to only provide permits to residents of Alaska and defined domicile. This was removed due to constitutional concerns.

Adds **proposed AS 16.44.080(a)(3) and (a)(4)** in **Section 39** (section 31 in version U), prohibiting a fisheries trust from temporarily transferring a permit to a person unable to participate in the fishery or a person who sits on a fisheries trust board (the latter was already prohibited in proposed AS 16.44.020(g); this restates the prohibition).

Adds **proposed AS 16.44.080(d)** in **Section 39** (section 31 in version U), allowing a fisheries trust to decline to temporarily transfer a permit to an individual who has previously had a temporary transfer revoked.

Adds **Sections 41 and 42** and amends **Section 43** (section 33 in version U) to provide that a temporary transferee must pay an applicable salmon enhancement tax but, due to their temporary connection to the fishery, cannot vote in an election to impose or terminate a salmon enhancement tax. Version U inadvertently exempted temporary transferees from paying salmon enhancement taxes.

Adds **Sections 44** and **45** to provide that a temporary transferee must pay a dive fishery management assessment but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a dive fishery management assessment. Version U inadvertently overlooked dive fishery management assessments.

Adds **Sections 46** and **47** to provide that a temporary transferee must pay an applicable salmon fishery assessment but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a salmon fishery assessment. Version U inadvertently overlooked salmon fishery assessments.

Replaces section 34 in version U with **Section 48** to provide that a temporary transferee must pay an applicable permit buyback assessment. Version U inadvertently exempted temporary transferees from permit buyback assessments.

Adds **Section 49** and amends **Section 50** (section 35 in version U) to provide that a temporary transferee must pay an applicable seafood development tax but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a seafood development tax. Version U inadvertently exempted temporary transferees from seafood development taxes.

Amends **Section 54** (section 39 in version U) to clarify that fisheries trust boundaries shall be based on the boundaries of CFEC salmon administrative areas. Version U did not specify exactly which boundaries to use. Section 54 also updates the year of the report to be considered under paragraph (a)(2).

Adds **Section 55**, which provides a process for determining which regions will participate in the limited authorization. Gives regions between January 1, 2019 and April 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after July 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before April 1, 2019, DCCED, in consultation with the Department of Fish & Game, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures the first regions do not rush the process of planning for a fisheries trust.

Amends **Section 56** (section 40 in version U) to provide an immediate effective date for transition provisions related to DCCED drawing regional boundaries and regions applying to establish fisheries trusts.

Amends **Section 57** to provide a later effective date in light of the new session.

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HB 188 — Regional Fisheries Trusts

Sponsor Statement

HB 188 improves Alaskans' opportunity to access Alaska fisheries and empowers Alaska communities to achieve greater economic self-sufficiency.

Alaska's commercial fisheries are a critical and sustainable source of employment, income, and cultural identity. A \$6 billion dollar industry employing over 30,000 people, fisheries have been the economic engine of Alaska's coastal communities for over a century. Commercial fishing uniquely allows self-sufficient people, businesses, and communities to flourish in places where other economic opportunity is scarce. Alaskans want — and in many places, need — access to sustainable, vibrant fisheries.

But state-issued limited entry permits which provide access to Alaska fisheries are leaving Alaska, particularly rural Alaska. The cost of running a fisheries business has climbed as fisheries have modernized and professionalized, increasing the price of entry for new and young fishermen. Rising financial barriers to entry have cost Alaska's fishing communities jobs, economic potential, and tax revenue.

Regional fisheries trusts, as envisioned by HB 188, empower Alaska's fishing communities with a tool to retain fishing permits and improve economic opportunity. Fisheries trusts can hold permits and lease them to Alaska fishermen for a limited period of time, offering a stepping stone between deckhanding and individual permit ownership. Just as you would rent an apartment before you buy a house, fisheries trusts offer people with skills and know-how an opportunity to get experience skippering a boat, make mistakes, and save some money before making the huge, potentially six-figure legal decision to buy a permit.

As with the Commercial Fishing Revolving Loan Fund, which has helped hundreds of Alaskans enter fisheries, regional fisheries trusts provide state residents a more accessible path to entering Alaska fisheries. Though not a silver bullet, trusts offer fishing communities a common-sense tool which allows responsibility, hard work, and expertise to be the measure of a fisherman's success — not their access to credit.

Similar to RSDAs, fisheries trusts are self-determining and opt-in. Two thirds of the municipalities in a region must affirmatively petition to establish a fisheries trust. Trusts are locally governed and designed with a limited scope — after a maximum of six years, a fisherman must individually purchase a permit to continue in the fishery. There is a firm cap on the number of permits a trust can acquire, to protect against distorting the permit market.

Partners behind this legislation, including this legislative office, have spent more than two years working on HB 188, building and rebuilding policy with a wide range of stakeholders, including fishermen, processors, academics, policymakers, lawyers and more. The concept was released publicly last year, for maximum transparency and input. There are still revisions to be made and work to be done.

If you have questions, comments, or concerns, we are here to answer them. Reid Magdanz in the office of Rep. Kreiss-Tomkins is staffing the legislation and available at 465.3306 or Reid.Magdanz@akleg.gov.

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HB 188 — Regional Fisheries Trusts

Sponsor Statement

The more Alaskans fishing in Alaska’s commercial fisheries, the better.

That’s the vision behind HB 188, which empowers Alaska fishing communities to improve access to the economic opportunity of fisheries right off their shores.

Alaska’s commercial fisheries are a critical and sustainable source of employment, income, and cultural identity. A \$6 billion dollar industry employing over 30,000 people, fisheries have been the economic engine of Alaska’s coastal communities for over a century. Commercial fishing uniquely allows self-sufficient people, businesses, and communities to flourish in places where other economic opportunity is scarce. Alaskans want — and in many places, need — access to sustainable, vibrant fisheries.

But the path to permit ownership has narrowed for many Alaskan fishermen. There is no shortage of Alaskans who are good at running a boat and logging 18-hour days slaying salmon, but it’s harder than ever to break into the industry. The declining number of limited entry permits in many Alaska communities and the greying of the fleet reduce opportunities to transfer knowledge and permits to fishermen starting their careers.

HB 188 gives up to three regions in Alaska the option of establishing regional fisheries trusts, to provide a mechanism to help new fishermen enter Alaska fisheries.

If — and only if — a region chooses to establish one, a regional fisheries trusts would be able to hold permits and then temporarily transfer those permits aspiring fishermen, offering a stepping stone between deckhanding and individual permit ownership.

Just as fishermen can temporarily emergency transfer limited entry permits, regional fisheries trusts can temporarily transfer permits to fishermen wanting to fish in the region. A fisherman can fish a temporarily transferred permit for up to six years.

Fisheries trusts offer fishermen the opportunity to skipper a boat and gain confidence, experience, and resources, better situating them to make the six-figure decision to finance a permit and become an independent fisherman and small business owner.

There is a firm cap on the number of permits a fisheries trust can acquire, to protect against distortion of the permit market. Limited authorization language in HB 188 restricts fisheries trusts to three regions in Alaska, in order to allow real-world vetting of the idea only in regions that choose to opt in to the opportunity.

Trusts combine the components of other, well-established tools to help improve fisheries opportunities. Similar to regional seafood development associations, fisheries trusts are self-determining and opt-in. Two thirds of the municipalities in a region must petition to establish a fisheries trust. Somewhat similar to regional nonprofit aquaculture associations, trusts are regionally governed, in order to be responsive to the needs of local communities and fishermen. Similar to and complementing the hugely successful Commercial Fishing Revolving Loan Fund, trusts connect fishermen with the resources they need to start a business as the field becomes more and more capital-intensive.

Partners around Alaska — fishermen, processors, academics, policymakers, attorneys, municipalities, state and federal agencies, and more — have spent more than three years developing HB 188, contributing time, energy, and good ideas. The concept has been public for nearly two years, to provide for maximum transparency and public input.

Fisheries trusts are not a silver bullet: they offer an innovative and common-sense tool for fishing communities to help fishermen convert their work ethic, responsibility, and fishing skills into economic opportunity.

If you have questions, comments, or concerns, our door is open. Reid Magdanz in the office of Rep. Kreiss-Tomkins is staffing the legislation and available at 465.3306 or Reid.Magdanz@akleg.gov.

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Sectional Analysis, ver Y | HB 188 — Regional Fisheries Trusts

Section 1

The Alaska Legislature recognizes that access to commercial fishing opportunities for Alaska’s coastal communities has dwindled, resulting in economic distress for fishing communities, fishermen, and the people who depend on them. This section’s legislative findings examine the economic benefits of access to commercial fisheries and proposes a new, tightly controlled path of entry to Alaska’s commercial fisheries: regional fisheries trusts.

Section 2

Conforming change to existing law. Legally distinguishes regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Section 3

Conforming change to existing law. A fisherman with a limited entry permit temporarily transferred from a regional fisheries trust (“temporary transferee under AS 16.43.190”) or emergency transferred under current law (“temporary transferee under AS 16.43.180”) must follow existing requirements that permit holders be physically present to operate stationary fishing gear.

Section 4

Conforming change to existing law. A temporary transferee may fish the commercial gear allowed by the temporarily transferred permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 5

Conforming change. Alaska residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 6

Conforming change. Non-residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 7

Conforming change. You may only buy a seven-day commercial fishing license if you do not hold a limited entry permit and are not a temporary transferee.

Section 8

Conforming change. Clarifies that the term “commercial fishing license” in AS 16.05.480, “commercial fishing license; disclosure for child support purposes,” encompasses temporarily transferred permits.

Section 9

Conforming change. A temporary transferee of a limited entry permit can deliver or land fish in the state without a separate permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 10

Conforming change. Temporary transferees can be employed by commercial fisheries businesses and can sell fish. This applies the same rules to a temporary transferee and an individual permit holder.

Section 11

If proceedings are pending to suspend someone’s commercial fishing privileges under AS 16.05.710, a regional fisheries trust may not temporarily transfer a permit to that person.

Section 12

Conforming change. A person legally fishing with a temporarily transferred permit isn’t subject to penalties under AS 16.05.723(b).

Section 13

Conforming change. Fish buyers and processors can legally purchase fish from a temporary transferee.

Section 14

Conforming change. A temporary transferee can sell the fish they catch.

Section 15

Conforming change. Fishermen with temporarily transferred permits and individual permit holders can both fish in hatchery terminal harvest areas, under the same rules.

Section 16

Conforming change. Replaces “persons” with “individuals” for clarification.

Section 17

Adds additional duties to the Commercial Fisheries Entry Commission (CFEC) necessary for it to carry out its responsibilities under the bill.

Section 18

Conforming change. A temporary transferee can legally operate commercial fishing gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 19

Conforming change. People without CFEC permits can assist temporary transferees in the operation of commercial fishing gear so long as the temporary transferee is present and also engaged in operating the gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 20

Conforming change. A temporarily transferred permit authorizes a temporary transferee to fish.

Section 21

Conforming change. A temporary transferee must have their permit in physical possession when fishing. This applies the same rules to a temporary transferee and an individual permit holder.

Section 22

Conforming change. Limited entry permits can be legally temporarily transferred by a regional fisheries trust or by an individual permit holder if the permit holder is unable to fish.

Section 23

A fisherman can transfer their limited entry permit to a fisheries trust in the event of their death. If the permit holder leaves instructions to transfer their permit to a fisheries trust, but the trust does not exist, the permit passes on as part of the permit holder's estate.

Section 24

A person with a permit temporarily transferred from a regional fisheries trust cannot will that permit to anyone in the event of their death, nor relinquish that permit to CFEC. Clarifies that a temporary transferee has the same use privileges and rights in a fishery as an individual permit holder.

Section 25

If a regional fisheries trust temporarily transfers a permit to a low-income person, the fisheries trust does not qualify for reduced permit renewal fees.

Section 26

A limited entry permit may be temporarily transferred by a regional fisheries trust in accordance with AS 16.43.190.

Section 27

A permit holder can transfer their permit to a regional fisheries trust. The same rules apply (including 60 days' notice) as for a transfer to another individual or CFEC.

Section 28

CFEC shall adopt regulations allowing people who have permits temporarily transferred from a regional fisheries trust to emergency transfer those permits if they are unable to fish.

Section 29

When a temporary transferee emergency transfers their permit, the fisheries trust that holds the permit must approve the emergency transferee. The emergency transferee is held to the terms of the temporary transfer, and must meet the same qualifications as a temporary transferee of the fisheries trust.

Section 30

Describes the procedures a regional fisheries trust must follow in order to temporarily transfer a permit.

- The fisheries trust must provide CFEC with identifying information for the permit and the temporary transferee, as well as the terms of the temporary transfer and other information CFEC requires.
- CFEC must approve or deny temporary transfers within 15 days after receiving all required information.

CFEC can revoke a temporary transfer if the temporary transferee's fishing privileges are suspended, if the temporary transferee doesn't pay agreed upon fees to the fisheries trust, or if the temporary transferee turns out not to be qualified to fish the permit.

A limited entry permit held by a fisheries trust may only be fished by a qualified individual approved under section 30.

Section 31

If the number of existing permits is below the optimum level for the fishery, provides the option for CFEC to issue additional limited entry permits to regional fisheries trusts in addition to individuals.

Section 32

Conforming change. Temporary transferees will be assessed demerit points for salmon fishing violations in the same way as individual permit holders. Temporary transferees can have their salmon fishing privileges suspended in the same way as individual permit holders.

Section 33

Conforming change. Temporary transferees will be notified of demerits for violating commercial salmon fishing laws in the same way as an individual permit holder.

Section 34

Conforming change. For both temporary transferees and individual permits holders, demerits for commercial salmon fishing law violations are additions (not substitutions) to any penalties imposed by the court system.

Section 35

Conforming change. If demerit points are assessed against an emergency transferee fishing a permit held by a fisheries trust, the demerit points also apply to the temporary transferee. This applies the same standard to individual permit holders and temporary transferees.

Section 36

If CFEC levies demerit points against a fisherman with a permit temporarily transferred from a regional fisheries trust, CFEC must notify the fisheries trust. Points cannot be assessed against a fisheries trust.

Section 37

Conforming change. Laws on the suspension of commercial salmon fishing privileges apply equally to temporary transferees as they do to individual permit holders. Additionally, if an individual's salmon fishing privileges are suspended, they cannot fish a salmon permit temporarily transferred from a regional fisheries trust.

Section 38

Laws which allow CFEC to revoke, suspend, or transfer permits from fishermen who provide false information to benefit themselves apply equally to temporary transferees and individual permit holders.

CFEC can revoke the temporary transfer of a permit to a fisherman who provides or refuses to correct false information, and can revoke entry permits held by fisheries trusts which provide or refuse to correct false information.

Section 39

If an fisheries trust is dissolved, the permits held by the fisheries trust revert to CFEC and are made available for reissuance.

CFEC can't revoke or transfer a permit away from a fisheries trust solely due to the actions of a temporary transferee.

If a temporary transferee's fishing privileges are suspended for longer than the remaining period of the temporary transfer, the RFT may request CFEC revoke the temporary transfer. If a suspension is shorter than the remaining period of the temporary transfer, an RFT may only request CFEC revoke the temporary transfer if requested by the temporary transferee.

Section 40

In AS 16.43, regional fisheries trust fall under the definition of "entity." This makes fisheries trusts subject to sanction under AS 16.43.960(a).

Section 41

Creates new chapter (AS 16.44), Regional Fisheries Trusts.

AS 16.44.10

A fisheries trust can only be formed if $\frac{2}{3}$ of the municipalities in a defined fisheries trust region jointly inform the Department of Commerce, Community, and Economic Development (DCCED) of their consensus (without a $\frac{2}{3}$ consensus, no fisheries trust can be established). The municipalities must also provide DCCED draft bylaws and a business plan for the fisheries trust.

In order to test and vet the fisheries trust program, no more than three fisheries trust may be established until further action from the legislature. Fisheries trusts will be established on a first-come, first-served basis, except in the first year following the bill's effective date (see section 40).

Each trust has a public purpose: to prevent economic distress among fishermen, to improve access to state fisheries, to empower communities to achieve economic self-sufficiency, and to promote conservation of Alaska's fisheries.

Each trust is an instrumentality of the state — administratively, a public corporation under DCCED, but with independent legal existence from the state, and governed by its own board (see 16.44.020).

DCCED will delineate fisheries trust regions in consultation with Alaska Department of Fish and Game (ADF&G). DCCED may dissolve a fisheries trust if it is insolvent. If a regional trust is dissolved, the region may later establish a new one.

AS 16.44.020

Addresses regional fisheries trust boards, membership meetings, and locations.

Each trust is governed by a board of directors: one resident from each municipality in the fisheries trust region sits on the board. Each director is appointed by the governor from a list of nominees provided by their municipality. Unincorporated communities can nominate directors for appointment if municipalities choose to include representatives of unincorporated communities in their original application to establish a fisheries trust, or if board members appointed from municipalities later choose to include unincorporated communities — see AS 16.44.050(a)(2)). If an unincorporated community has an entity that receives community assistance payments under AS 29.60.865, that entity nominates board members to the governor.

The governor must appoint board members who have a diversity of experience relevant to the operations of a fisheries trust, including at least two individuals with experience in commercial fishing.

Directors will serve staggered three-year terms, and can serve up to 12 years total. A quorum is a majority of members. Boards can elect an executive committee and hire staff. They can also share staff between trusts or with other specific regional entities such as nonprofit hatchery associations, village or regional Native corporations, Alaska regional development organizations (ARDORs), or other entities related to commercial fishing or regional services. Unless a trust shares administrative

resources with another entity and needs to be in its physical proximity, trusts must be headquartered in the community in the region with the most permits as of January 1, 2017.

Board members cannot be the temporary transferee of a permit from a trust.

Section 16.44.030

Addresses administrative expenses, compensation, and fees due to DCCED.

Administrative expenses for the trusts must be minimal. Board members may be provided reasonable compensation. To ensure trusts are self-sustaining and do not impose costs on the state, the DCCED commissioner can charge fees to trusts to reimburse the department for costs that the trusts may incur.

Section 16.44.040

Clarifies that fisheries trusts are tax exempt from state, local governments, school districts, and other political subdivisions of the state. Fisheries trusts are not exempt from paying CFEC fees on permits they hold. Temporary transferees must pay applicable fees, taxes, or assessments, such as the fisheries business tax and assessments levied under AS 43.76.

Section 16.44.050

Spells out powers of fisheries trusts, including the power to adopt bylaws, expand board membership to include unincorporated municipalities in the region, borrow money for the acquisition of limited entry permits, hold, transfer, or receive permits for fisheries in their region, temporarily transfer limited entry permits to qualified applicants, accept grants and donations, and use extra revenue on projects and programs which support commercial fishermen.

Fisheries trusts must select individuals to receive temporarily transferred permits through a competitive bid process, and must set and make public the rules governing the bidding process. Fisheries trusts must design their temporary transfer programs in a way which maintains their financial solvency, and they must invest revenue in the purchase of additional entry permits to the greatest extent possible.

A fisheries trust may choose to prioritize bids based on one or more of four criteria: applicant's historical participation in the fishery, access to other economic opportunity, record of participation in fisheries organizations and management, and expected economic contribution to the fisheries trust region. These criteria are based on court- and agency-vetted standards used by other state programs.

A fisheries trust may choose to prohibit certain individuals from receiving temporary transfers: individuals who already hold a limited entry permit (in any fishery); individuals who have had a temporary transfer revoked in the past; and individuals who have had their commercial fishing privileges suspended in the past.

A fisheries trust may not hold quota share for a federally managed permit. A fisheries trust may not

hold a state vessel permit.

Section 16.44.055

Revenue earned by a regional fisheries trust can be used only to acquire permits, operate the fisheries trust, and support programs and projects that benefit commercial fisherman.

Section 16.44.060

Fisheries trusts can acquire permits only for fisheries within their region. A fisheries trust must acquire permits of different types within its region. A fisheries trust may not acquire permits in fisheries with fewer than 40 transferable limited entry permits.

No more than one fisheries trust may hold a permit of a particular type. If more than one fisheries trust would otherwise be considered eligible to hold a permit type, that type of permit may only be held by a fisheries trust established in the region of the state that is home to the greatest number of holders of that permit type.

There is a hard cap on the number of permits a trust can hold: 2.5% of the permits in each fishery within their region. CFEC can block transfers that violate this section.

A temporarily transferred permit cannot be leased, pledged, mortgaged, or encumbered in any way.

A fisheries trust may not permanently transfer an entry permit unless the trust receives fair market value for the permit. CFEC is empowered to determine fair market value.

Section 16.44.070

Gives fisheries trusts the power to set terms for the temporary transfer of permits. A single person can't fish a temporarily transferred permit for longer than six cumulative years. Temporary transferees can't further transfer permits except as provided by emergency transfer regulations. A fisheries trust can't restrict how, when, or where a temporary transferee fishes or sells fish. Fisheries trusts are responsible for CFEC renewal fees. Fisheries trusts can only revoke temporary transfers for reasons defined in AS 16.43.190(d) and AS 16.43.960(l).

Section 16.44.080

A temporarily transferred permit may not be provided to:

- A fisherman who already holds a limited entry permit in the fishery.
- Staff or board members of a fisheries trust or staff of a regional organization which shares administrative capacity with the trust.
- An individual unable to demonstrate ability to actively participate in the fishery.
- An individual with proceedings pending against them to suspend their commercial fishing privileges.

In addition, a fisheries trust may require bidders for a permit to provide further evidence of their ability to actively, safely, and successfully participate in the fishery. Evidence may include things like

proof the bidder has a working boat and gear, has insurance, has a market for their fish, or has a relationship with an experienced fisherman who has agreed to serve as a mentor.

A fisheries trust must make a reasonable effort to ensure a temporary transferee is qualified under this section.

Section 16.44.099

Defines board, commission, commissioner, department, entry permit, fisheries trust, and fishery, as each word is used in the regional fisheries trust chapter, AS 16.44.

Section 42

Employees of fisheries trusts are in the exempt service.

Section 43

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to impose a salmon enhancement tax.

Section 44

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to terminate a salmon enhancement tax.

Section 45

A temporary transferee of a fisheries trust permit must pay an applicable salmon enhancement tax.

Section 46

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve or terminate a dive fishery management assessment. A temporary transferee is subject to an applicable dive fishery management assessment.

Section 47

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable dive fishery management assessment.

Section 48

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a salmon fishery assessment.

Section 49

A temporary transferee of a fisheries trust permit must pay an applicable salmon fishery assessment.

Section 50

A temporary transferee of a fisheries trust permit must pay an applicable permit buy-back assessment.

Section 51

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a seafood development tax. A temporary transferee is subject to an applicable seafood development tax.

Section 52

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable seafood development tax.

Section 53

Adds the duties of overseeing fisheries trusts as laid out in the bill under AS 16.44 to the official duties of the Department of Commerce, Community, and Economic Development (DCCED).

Section 54

Allows CFEC and the commissioner of DCCED to immediately adopt regulations that might be necessary to establish and regulate fisheries trusts.

Section 55

Requires the length of the terms of the first group of board directors for a fisheries trust to be determined by lot.

Section 56

DCCED and ADF&G will create fisheries trust regions based on the boundaries of CFEC salmon administrative areas and using CFEC's designations of communities local to given fisheries regions. Every community in the state shall be in a fisheries trust region. No fisheries trust region may have fewer than five communities.

Section 57

Gives regions between January 1, 2019 and April 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after July 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before April 1, 2019, DCCED, in consultation with ADF&G, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures regions do not rush the process of planning for a fisheries trust.

Section 58

Provides an immediate effective date for sections 54, 56, and 57, allowing the adoption of necessary regulations, establishment of fisheries trust regions, and applications for fisheries trusts to be established.

Section 59

Provides a July 1, 2019 effective date for the rest of the bill.

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 188
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB188-DCCED-DED-01-19-18
Title: COMM. FISH. ENTRY PERMITS; LOANS;
TRUSTS
Sponsor: KREISS-TOMKINS
Requester: (H) Fisheries

Department: Department of Commerce, Community and
Economic Development
Appropriation: Economic Development
Allocation: Economic Development
OMB Component Number: 2743

Expenditures/Revenues

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

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates					
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES								
Personal Services	324.2		324.2	324.2	324.2	324.2	324.2	324.2
Travel	30.0		30.0	30.0	30.0	30.0	30.0	30.0
Services	90.0		45.0	45.0	45.0	45.0	45.0	45.0
Commodities	32.0		2.0	2.0	2.0	2.0	2.0	2.0
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	476.2	0.0	401.2	401.2	401.2	401.2	401.2	401.2

Fund Source (Operating Only)

1004 Gen Fund (UGF)	476.2							
1005 GF/Prgm (DGF)			401.2	401.2	401.2	401.2	401.2	401.2
Total	476.2	0.0	401.2	401.2	401.2	401.2	401.2	401.2

Positions

Full-time	3.0		3.0	3.0	3.0	3.0	3.0
Part-time							
Temporary							

Change in Revenues

1005 GF/Prgm (DGF)			401.2	401.2	401.2	401.2	401.2
Total	0.0	0.0	401.2	401.2	401.2	401.2	401.2

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) 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? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/19

Why this fiscal note differs from previous version/comments:

Updated on new form for 2018 legislative session; personal services costs are updated to reflect FY2018 costs.

Prepared By: <u>Brittney Cioni-Haywood, Director</u>	Phone: <u>(907)465-2625</u>
Division: <u>Division of Economic Development</u>	Date: <u>01/19/2018</u>
Approved By: <u>Catherine Reardon, Director</u>	Date: <u>01/19/18</u>
Agency: <u>Division of Administrative Services, DCCED</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB 188

Analysis

HB 188 creates Regional Fisheries Trusts (RFT) that will own, buy, sell, and lease Limited Entry Permits (permits) to people who are domiciled in Alaska. The intent of the bill is to give easier access to permits in coastal communities that historically had more permit holders.

The Division of Economic Development would be required to oversee the program, conduct annual audit of RFT's, and provide support to the program. Three positions would be required to establish and administer the program and audit and oversee the RFTs: one Program Coordinator; one Audit & Review Analyst; and one Administrative Assistant. The number of potential RFTs is unknown at this time, and additional division support may be required as RFTs are established.

HB 188 requires the department to assess fees equal to the actual expenses incurred by the department. In the first year no RFTs would exist to pay those fees, and so general funds are used for program operations. Fee revenue would replace general fund starting in the second year.

This program would require promulgation of complex regulations. The initial start of the program would require extensive data collection, statewide travel, and public meetings. Oversight, including attendance at RFT board meetings and audits, would require travel to the RFT locations which are unknown at this time.

Personal Services:

- Program Coordinator II (full-time, range 20)
- Audit & Review Analyst III (full-time, range 23)
- Administrative Assistant I (full-time, range 12)

Travel: 15 trips at \$2.0 each. These trips include quarterly travel for the Program Coordinator for oversight and board meeting attendance to an estimated 3 RFTs and one annual trip to each location for the Audit & Review Analyst to conduct the audit.

Services: \$25.0 in legal costs to establish regulations and \$20.0 in research for the development of the regulations will be required in the first year. \$15.0 in annual department-wide support costs per position.

Commodities: \$30.0 in the first year for computer, office furniture, and other one-time needs for the three new positions. \$2.0 annually for office supplies, postage and other miscellaneous items.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 188
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB188-DCCED-DBS-04-07-17
Title: COMM. FISH. ENTRY PERMITS; LOANS;
TRUSTS
Sponsor: KREISS-TOMKINS
Requester: (H) Fisheries

Department: Department of Commerce, Community and
Economic Development
Appropriation: Banking and Securities
Allocation: Banking and Securities
OMB Component Number: 2808

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
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

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*

(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) 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: <u>Kevin Anselm, Director</u>	Phone: <u>(907)269-4157</u>
Division: <u>Banking and Securities</u>	Date: <u>04/07/2017 10:00 AM</u>
Approved By: <u>Catherine Reardon, Director</u>	Date: <u>04/07/17</u>
Agency: <u>Division of Administrative Services, DCCED</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB188

Analysis

HB 188 allows the establishment of regional fisheries trusts under AS 16.44.010.

"Trust companies" are defined in AS 06.26 and entities that operate as trusts are subject to the requirements of that statute.

The Division of Banking and Securities does not anticipate fiscal impact from this legislation.

ALASKA LEGISLATURE

Representative Jonathan Kreiss-Tomkins

Angoon · Coffman Cove · Craig · Edna Bay · Elfin Cove · Game Creek · Hollis · Hoonah · Kake · Kasaan · Klawock · Kupreanof · Naukati
Pelican · Petersburg · Point Baker · Port Alexander · Port Protection · Sitka · Tenakee Springs · Thorne Bay · Whale Pass

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Committees:
State Affairs, Chair
Judiciary, Vice Chair
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Summary of Changes, ver U — ver Y | HB 188 — Regional Fisheries Trusts

Throughout version Y

The term “lease” has been replaced with “temporary transfer” and “lessee” with “temporary transferee” in order to better align HB 188 with the language and structure of existing limited entry law. The procedures by which fisheries trusts temporarily transfer permits differs somewhat from the procedures by which fisheries trusts leased permits in prior versions. Most notably, the Commercial Fisheries Entry Commission (CFEC) is given a stronger oversight role of temporary transfers than of leases. Substantive changes to policy associated with the “lease” to “temporary transfer” change have been described in the section-by-section analysis below. We have not, however, identified and described instances where the language change does not result in a substantive policy difference relative to prior versions. We made this choice to preserve readability of this document and make it easier to identify substantive changes.

Section-by-section changes

In **Section 1(10)**, changes “improve access by Alaskans to fisheries” to “improve access to Alaska fisheries.” This conforms with the removal of the Alaska residency requirement.

Adds **Section 2** to legally distinguish regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Adds **Section 6** to account for the fact that regional fisheries trusts may now temporarily transfer permits to non-Alaskans.

Adds **Section 12** to make a newly identified conforming amendment.

Adds **Section 14** to make a newly identified conforming amendment.

Amends **Section 16** (section 12 in version U) to clarify that only individuals holding permits, not temporary transferees, may form an association to levy a hatchery assessment.

Adds two paragraphs to section **Section 17, (22)** and **(24)** (section 13 in version U), to conform with new sections that require CFEC to approve the temporary transfer of limited entry permits and determine

equitable methods of reissuance should a fisheries trust fail and permits revert to CFEC. Also rewords paragraph (22) of version U and renumbers it as paragraph (23), and amends paragraph (20) to require CFEC to share public CFEC data with a fisheries trust.

Removes conforming amendments to **AS 16.43.140(c)** (in section 14 of version U) that Legislative Legal deemed unnecessary in the new version.

Amends **Section 22** (section 17 of version U) to reflect that leasing of permits is prohibited in the new draft. **Section 22** now allows temporary transfer of permits as a particular type of transfer with retained repossession.

Adds **Sections 28** and **29** to provide for the emergency transfer of permits temporarily transferred from a fisheries trust, if the temporary transferee is unable to fish due to a medical emergency or other hardship. A regional fisheries trust must approve the emergency transfer of any permit that has been temporarily transferred from the fisheries trust. The emergency transferee must also be qualified under 16.44.080.

Adds **Section 30**, which describes the procedures a regional fisheries trust must follow in order to temporarily transfer a permit.

- The fisheries trust must provide CFEC with identifying information for the permit and the temporary transferee, as well as the terms of the temporary transfer and other information CFEC requires.
- CFEC must approve or deny temporary transfers within 15 days after receiving all required information. CFEC can deny a temporary transfer if the transferee is not qualified under AS 16.44.080.

CFEC can revoke a temporary transfer if the temporary transferee's fishing privileges are suspended, if the temporary transferee doesn't pay agreed upon fees to the fisheries trust, or if the temporary transferee turns out not to be qualified to fish the permit.

A limited entry permit held by a fisheries trust may only be fished by a qualified transferee approved under this section.

Adds **Section 35** to ensure that conforming amendments to sections 32 to 37 do not change current practice of when an emergency transferee is assessed demerit points, the same points are assessed against the transferor. Section 35 also ensures the same rules apply to people who emergency transfer a temporarily transferred permit under proposed AS 16.43.180(c).

Amends **Section 36** (section 27 in version U) to make explicit that demerit points cannot be applied to a fisheries trust.

Adds **Section 39**, which provides:

- If an fisheries trust is dissolved, the permits held by the fisheries trust revert to CFEC and are made available for reissuance. CFEC must determine equitable methods of reissuance that ensure the state receives fair market value for the permits (see also Section 17, paragraph (a)(24)).
- CFEC can't revoke or transfer a permit away from a fisheries trust solely due to the actions of a temporary transferee.
- If a temporary transferee's fishing privileges are suspended for longer than the remaining period of the temporary transfer, the fisheries trust may request CFEC revoke the temporary transfer. If a suspension is shorter than the remaining period of the temporary transfer, a fisheries trust may only request CFEC revoke the temporary transfer if the temporary transferee asks first.

Amends **proposed AS 16.44.010(a)** in **Section 41** (section 31 in version U) to provide for a "limited authorization." Only three fisheries trusts may be established in the state, in order for the program to be tested and vetted. Except for an initial period after the bill's effective date (see addition of **Section 57** below), fisheries trusts are established on a first-come, first-served basis. Requires municipalities to provide Department of Commerce, Community, and Economic Development (DCCED) with draft bylaws and a business plan for a fisheries trust when the municipalities request authorization to establish the fisheries trust.

Amends **proposed AS 16.44.010(b)(2)** by replacing "state residents' ability to participate in" with "access to." This conforms this paragraph with the removal of the Alaska residency requirement.

Amends **proposed AS 16.44.010(b)(3)** by removing "in the state." This conforms this paragraph with the removal of the Alaska residency requirement.

Amends **proposed AS 16.44.010(d)** in **Section 41** (section 31 in version U) to provide that in the event a fisheries trust is dissolved, the permits held by the trust revert to CFEC and may be reissued. All other rights and property of the fisheries trust pass to the state.

Deletes **proposed AS 16.44.010(e)** (version U). The Department of Commerce, Community, and Economic Development's (DCCED's) Division of Economic Development, where regional fisheries trusts would be administratively housed, does not conduct audits. Regional fisheries trusts will remain subject to special audits of the Division of Legislative Audit.

Rearranges language in **proposed AS 16.44.020(c)** and **(d)** in **Section 41** (section 31 in version U) to clarify how unincorporated communities may be represented on fisheries trust boards. Also makes clear that unincorporated communities may be represented on boards from the beginning if the application for a fisheries trust requests they be included. Also adds language requiring the Governor to appoint individuals with a diversity of experience relevant to the operations of a fisheries trust to the board, including at least two board members with experience in the commercial fishing industry.

Amends **proposed AS 16.44.020(i)** to provide greater specification to staff compensation requirements. Instead of "reasonable," version Y requires that compensation of fisheries trust staff shall not exceed

that of state employees with comparable duties. This change provides clearer guidance to a fisheries trust.

Deletes **proposed AS 16.44.030(c)** (version U). This change is intended to reduce confusion about DCCED's regulatory role over fisheries trusts. DCCED authority over fisheries trusts is provided by section 53; the inclusion of a specific reference to regulatory authority in only one section was leading to confusion. Discussions with DCCED are ongoing.

Changes wording in **proposed AS 16.44.040(a)** in **Section 41** (section 31 in version U) from "fees levied under AS 16.43.160" to "permit-related fees levied under AS 16.43.160." No substantive change.

Amends **proposed AS 16.44.050(a)(3)** in **Section 41** (section 31 in version U) to make more explicit that when borrowing funds, a fisheries trust may not pledge permits as security.

Amends **proposed AS 16.44.050(a)(6)** in **Section 41** (section 31 in version U) to provide that a fisheries trust must temporarily transfer permits according to the process described in section 30. Also removes explicit reference to "lease to own" because provisions in the new draft already allow a fisheries trust to permanently transfer a permit to a former temporary transferee. Deletes phrase about termination of a lease upon default; the new draft provides comparable authority in section 30.

Adds **proposed AS 16.44.050(a)(7)** in **Section 41** (section 31 in version U), to conform with the overall change from "lease" to "temporary transfer" and the new provisions in section 30.

Changes "16.44.060(a)" to "16.44.060" in **proposed AS 16.44.050(a)(8)**. This was a drafting choice that makes no substantive change.

Amends **proposed AS 16.44.050(b)(1)** in **Section 41** (section 31 in version U) to provide that temporary transfers, unlike leases, are subject to CFEC review and approval. Also adds language to conform with the addition of AS 16.44.050(d).

Rewords **proposed AS 16.44.050(b)(4)** in **Section 41** (section 31 in version U), related to procedures for revoking temporary transfers.

Rewords **proposed AS 16.44.050(b)(5)** in **Section 41** (section 31 in version U). No substantive change.

Amends **proposed AS 16.44.050(c)** in **Section 41** (section 31 in version U). A fisheries trust may prioritize bids based on one or more of four criteria: applicant's historical participation in the fishery, access to other economic opportunity, record of participation in fisheries organizations and management, and expected economic contribution to the fisheries trust region. These criteria are based on court- and agency-vetted standards used by other state programs. Version U provided a much more vague allowance to prioritize bids consistent with the overall purposes of regional fisheries trusts.

Adds **proposed AS 16.44.050(d)** to allow a fisheries trust board to prohibit certain individuals from receiving temporary transfers from the fisheries trust. Version Y gives a fisheries trust authority to choose to prohibit temporary transfers to anyone who already holds a limited entry permit in another fishery (in order to increase opportunity for new fishermen), who has had their fishing privileges suspended by CFEC, or who has had a temporary transfer revoked in the past. This subsection requires that the board apply any restrictions as blanket restrictions; the decision to prohibit a temporary transfer to an individual under 16.44.050(d) can't be made on a case-by-case basis.

Adds **proposed AS 16.44.050(e) and (f)** in **Section 41** (section 31 in version U), explicitly prohibiting a fisheries trust from holding interim-use permits, vessel permits, or quota share for a federally managed fishery, as the latter is defined in AS 16.10.360.

Amends **proposed AS 16.44.060(a)** in **Section 41** (section 31 in version U). A fisheries trust now cannot acquire a permit in a fishery with fewer than 40 permits. The permit holding cap is now calculated as 2.5% of the permits in a given fishery, rounded to the nearest whole number rather than rounded up to the nearest whole number.

Adds **proposed AS 16.44.060(b)** to clarify that no more than one fisheries trust is eligible to hold a particular type of limited entry permit. Though it has never been the intention, there are some situations (such as with statewide permits) where version U could have been interpreted to allow more than one fisheries trust to hold a particular type of limited entry permit. The added language also states that if more than one fisheries trust would otherwise be considered eligible to hold a permit type, that type of permit may only be held by a fisheries trust established in the region of the state that is home to the greatest number of holders of that permit type. For example, only a fisheries trust established in the Southeast region would be able to acquire salmon power troll permits. No other fisheries trust would be allowed to acquire salmon power troll permits, even if a Southeast fisheries trust is never established.

Amends **proposed AS 16.44.060(c)** (16.44.060(b) in version U) to lighten the burden on a fisheries trust to acquire a strictly quantitatively proportional portfolio of permits, in response to comments that some types of permits (i.e. those in more entry-level fisheries) would be more appropriate for a fisheries trust to acquire. The new language states that a fisheries trust shall still endeavor to hold permits of all types within its region, but gives fisheries trusts greater flexibility to determine which permits they acquire.

Amends **proposed AS 16.44.060(d)** (16.44.060(c) in version U) to replace "acquire" with "transfer, or receive by transfer." This is to conform with the addition of proposed AS 16.44.060(f), which places limits on a fisheries trust's ability to transfer permits away from the trust.

Rewords **proposed AS 16.44.060(e)** (16.44.060(d) in version U). The prohibition on a temporarily transferred permit being leased, pledged, mortgaged, or encumbered in any way has been rewritten.

Adds **proposed AS 16.44.060(f)** to require that a fisheries trust receive fair market value for any permit it permanently transfers away from the trust.

Amends **proposed AS 16.44.070(b)** to provide that an individual may not fish permits temporarily transferred from any fisheries trust for more than six cumulative years. Prior versions only applied the six-year cap to permits of any one type. Version Y makes clear that the six-year limit is a lifetime cap on temporary transfers, regardless of permit type.

Rewords **proposed AS 16.44.070(c)** in **Section 41** (section 31 in version U) and allows that a temporarily transferred permit may be emergency transferred by a temporary transferee. Excepting emergency transfers, a temporarily transferred permit may only be fished by the temporary transferee.

Replaces **proposed AS 16.44.070(e)** in **Section 41** (section 31 in version U). The old subsection provided that a fisheries trust could include terms in a lease agreement that provided a “lease to own” arrangement. This explicit authority is no longer necessary, as a fisheries trust is allowed to permanently transfer a permit to a former temporary transferee under AS 16.44.050(a)(4). The new **proposed AS 16.44.070(e)** addresses a different topic: making clear that fisheries trusts rather than temporary transferees are responsible for paying CFEC permit renewal fees.

Adds **proposed AS 16.44.070(f)** in **Section 41** (section 31 in version U), which allows a fisheries trust to request CFEC revoke a temporary transfer only in the select cases described in AS 16.43.190(d) and AS 16.43.960(l).

Removes **proposed AS 16.44.080(a), (c) and (e)** in **Section 41** (section 31 in version U), which required fisheries trusts to only provide permits to residents of Alaska and defined domicile. This was removed due to constitutional concerns.

Adds **proposed AS 16.44.080(a)(3) and (a)(4)**, prohibiting a fisheries trust from temporarily transferring a permit to a person unable to participate in the fishery or a person who sits on a fisheries trust board (the latter was already prohibited in proposed AS 16.44.020(g); this restates the prohibition).

Adds language to **proposed AS 16.44.080(b)** allowing a regional fisheries trust to require someone bidding for a permit to provide further evidence of their ability to safely and successfully participate in the fishery. The sort of things an RFT could require a bidder show under this section include insurance coverage, a market for their fish, a veteran fishermen who has agreed to serve as a mentor, or a suitable vessel and gear. This was added in response to feedback from fishermen.

Adds **Sections 43 and 44** and amends **Section 45** (section 33 in version U) to provide that a temporary transferee must pay an applicable salmon enhancement tax but, due to their temporary connection to the fishery, cannot vote in an election to impose or terminate a salmon enhancement tax. Version U inadvertently exempted temporary transferees from paying salmon enhancement taxes.

Adds **Sections 46 and 47** to provide that a temporary transferee must pay an dive fishery management assessment but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a dive fishery management assessment. Version U inadvertently overlooked dive fishery management assessments.

Adds **Sections 48 and 49** to provide that a temporary transferee must pay an applicable salmon fishery assessment but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a salmon fishery assessment. Version U inadvertently overlooked salmon fishery assessments.

Replaces section 34 in version U with **Section 50** to provide that a temporary transferee must pay an applicable permit buyback assessment. Version U inadvertently exempted temporary transferees from permit buyback assessments.

Adds **Section 51** and amends **Section 52** (section 35 in version U) to provide that a temporary transferee must pay an applicable seafood development tax but, due to their temporary connection to the fishery, cannot vote in an election to impose, amend, or terminate a seafood development tax. Version U inadvertently exempted temporary transferees from seafood development taxes.

Amends **Section 56** (section 39 in version U) to:

- Clarify that fisheries trust boundaries shall be based on the boundaries of CFEC salmon administrative areas. Version U did not specify exactly which boundaries to use.
- Clarifies that fisheries trust regions encompass both land and water area.
- Update the year of the report to be considered under paragraph (a)(2).
- Provide that fisheries trust region boundaries shall be based on CFEC administrative areas as described in regulation on January 1, 2018 rather than on the effective date of section 41 of the act (section 31 in version U). The boundaries will need to be drawn prior to the effective date of section 41.
- Addresses the fact that certain CFEC salmon administrative areas include very few communities, and would therefore not function well as separate fisheries trust regions. Under version Y, a fisheries trust region may not have fewer than five communities.

Adds **Section 57**, which provides a process for determining which regions will participate in the limited authorization. Gives regions between January 1, 2019 and April 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after July 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before April 1, 2019, DCCED, in consultation with the Department of Fish & Game, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures the first regions do not rush the process of planning for a fisheries trust.

Amends **Section 58** (section 40 in version U) to provide an immediate effective date for transition provisions related to DCCED drawing regional boundaries and regions applying to establish fisheries trusts.

Amends **Section 59** (section 41 in version U) to provide a later effective date in light of the new session.

ALASKA LEGISLATURE

Representative Jonathan Kreiss-Tomkins

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Sectional Analysis, ver L | HB 188 — Regional Fisheries Trusts

Section 1

The Alaska Legislature recognizes that access to commercial fishing opportunities for Alaska’s coastal communities has dwindled, resulting in economic distress for fishing communities, fishermen, and the people who depend on them. This section’s legislative findings examine the economic benefits of access to commercial fisheries and proposes a new, tightly controlled path of entry to Alaska’s commercial fisheries: regional fisheries trusts.

Section 2

Conforming change to existing law. Legally distinguishes regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Section 3

Conforming change to existing law. A fisherman with a limited entry permit temporarily transferred from a regional fisheries trust (“temporary transferee under AS 16.43.190”) or emergency transferred under current law (“temporary transferee under AS 16.43.180”) must follow existing requirements that permit holders be physically present to operate stationary fishing gear.

Section 4

Conforming change to existing law. A temporary transferee may fish the commercial gear allowed by the temporarily transferred permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 5

Conforming change. Alaska residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 6

Conforming change. Non-residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 7

Conforming change. You may only buy a seven-day commercial fishing license if you do not hold a limited entry permit and are not a temporary transferee.

Section 8

Conforming change. Clarifies that the term "commercial fishing license" in AS 16.05.480, "commercial fishing license; disclosure for child support purposes," encompasses temporarily transferred permits.

Section 9

Conforming change. A temporary transferee of a limited entry permit can deliver or land fish in the state without a separate permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 10

Conforming change. Temporary transferees can be employed by commercial fisheries businesses and can sell fish. This applies the same rules to a temporary transferee and an individual permit holder.

Section 11

If proceedings are pending to suspend someone's commercial fishing privileges under AS 16.05.710, a regional fisheries trust may not temporarily transfer a permit to that person.

Section 12

Conforming change. A person legally fishing with a temporarily transferred permit isn't subject to penalties under AS 16.05.723(b).

Section 13

Conforming change. Fish buyers and processors can legally purchase fish from a temporary transferee.

Section 14

Conforming change. A temporary transferee can sell the fish they catch.

Section 15

Conforming change. Fishermen with temporarily transferred permits and individual permit holders can both fish in hatchery terminal harvest areas, under the same rules.

Section 16

Conforming change. Replaces "persons" with "individuals" for clarification.

Section 17

Adds additional duties to the Commercial Fisheries Entry Commission (CFEC) necessary for it to carry out its responsibilities under the bill.

Section 18

Conforming change. A temporary transferee can legally operate commercial fishing gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 19

Conforming change. People without CFEC permits can assist temporary transferees in the operation of commercial fishing gear so long as the temporary transferee is present and also engaged in operating the gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 20

Conforming change. A temporarily transferred permit authorizes a temporary transferee to fish.

Section 21

Conforming change. A temporary transferee must have their permit in physical possession when fishing. This applies the same rules to a temporary transferee and an individual permit holder.

Section 22

Conforming change. Limited entry permits can be legally temporarily transferred by a regional fisheries trust or by an individual permit holder if the permit holder is unable to fish.

Section 23

A fisherman can transfer their limited entry permit to a fisheries trust in the event of their death. If the permit holder leaves instructions to transfer their permit to a fisheries trust, but the trust does not exist, the permit passes on as part of the permit holder's estate.

Section 24

A person with a permit temporarily transferred from a regional fisheries trust cannot will that permit to anyone in the event of their death, nor relinquish that permit to CFEC. Clarifies that a temporary transferee has the same use privileges and rights in a fishery as an individual permit holder.

Section 25

If a regional fisheries trust temporarily transfers a permit to a low-income person, the fisheries trust does not qualify for reduced permit renewal fees.

Section 26

A limited entry permit may be temporarily transferred by a regional fisheries trust in accordance with AS 16.43.190.

Section 27

A permit holder can transfer their permit to a regional fisheries trust. The same rules apply (including 60 days' notice) as for a transfer to another individual or CFEC.

Section 28

CFEC shall adopt regulations allowing people who have permits temporarily transferred from a regional fisheries trust to emergency transfer those permits if they are unable to fish.

Section 29

When a temporary transferee emergency transfers their permit, the fisheries trust that holds the permit must approve the emergency transferee. The emergency transferee is held to the terms of the temporary transfer, and must meet the same qualifications as a temporary transferee of the fisheries trust.

Section 30

Describes the procedures a regional fisheries trust must follow in order to temporarily transfer a permit.

- The fisheries trust must provide CFEC with identifying information for the permit and the temporary transferee, as well as the terms of the temporary transfer and other information CFEC requires.
- CFEC must approve or deny temporary transfers within 15 days after receiving all required information.

CFEC can revoke a temporary transfer if the temporary transferee's fishing privileges are suspended, if the temporary transferee doesn't pay agreed upon fees to the fisheries trust, or if the temporary transferee turns out not to be qualified to fish the permit.

A limited entry permit held by a fisheries trust may only be fished by a qualified individual approved under section 30.

Section 31

If the number of existing permits is below the optimum level for the fishery, provides the option for CFEC to issue additional limited entry permits to regional fisheries trusts in addition to individuals.

Section 32

Conforming change. Temporary transferees will be assessed demerit points for salmon fishing violations in the same way as individual permit holders. Temporary transferees can have their salmon fishing privileges suspended in the same way as individual permit holders.

Section 33

Conforming change. Temporary transferees will be notified of demerits for violating commercial salmon fishing laws in the same way as an individual permit holder.

Section 34

Conforming change. For both temporary transferees and individual permits holders, demerits for commercial salmon fishing law violations are additions (not substitutions) to any penalties imposed by the court system.

Section 35

Conforming change. If demerit points are assessed against an emergency transferee fishing a permit held by a fisheries trust, the demerit points also apply to the temporary transferee. This applies the same standard to individual permit holders and temporary transferees.

Section 36

If CFEC levies demerit points against a fisherman with a permit temporarily transferred from a regional fisheries trust, CFEC must notify the fisheries trust. Points cannot be assessed against a fisheries trust.

Section 37

Conforming change. Laws on the suspension of commercial salmon fishing privileges apply equally to temporary transferees as they do to individual permit holders. Additionally, if an individual's salmon fishing privileges are suspended, they cannot fish a salmon permit temporarily transferred from a regional fisheries trust.

Section 38

Laws which allow CFEC to revoke, suspend, or transfer permits from fishermen who provide false information to benefit themselves apply equally to temporary transferees and individual permit holders.

CFEC can revoke the temporary transfer of a permit to a fisherman who provides or refuses to correct false information, and can revoke entry permits held by fisheries trusts which provide or refuse to correct false information.

Section 39

If an fisheries trust is dissolved, the permits held by the fisheries trust revert to CFEC and are made available for reissuance.

CFEC can't revoke or transfer a permit away from a fisheries trust solely due to the actions of a temporary transferee.

If a temporary transferee's fishing privileges are suspended for longer than the remaining period of the temporary transfer, the RFT may request CFEC revoke the temporary transfer. If a suspension is shorter than the remaining period of the temporary transfer, an RFT may only request CFEC revoke the temporary transfer if requested by the temporary transferee.

Section 40

In AS 16.43, regional fisheries trust fall under the definition of "entity." This makes fisheries trusts subject to sanction under AS 16.43.960(a).

Section 41

Creates new chapter (AS 16.44), Regional Fisheries Trusts.

AS 16.44.10

A fisheries trust can only be formed if $\frac{2}{3}$ of the municipalities in a defined fisheries trust region jointly inform the Department of Commerce, Community, and Economic Development (DCCED) of their consensus (without a $\frac{2}{3}$ consensus, no fisheries trust can be established). The municipalities must also provide DCCED draft bylaws and a business plan for the fisheries trust.

In order to test and vet the fisheries trust program, no more than three fisheries trust may be established until further action from the legislature. Fisheries trusts will be established on a first-come, first-served basis, except in the first year following the bill's effective date (see section 40).

Each trust has a public purpose: to prevent economic distress among fishermen, to improve access to state fisheries, to empower communities to achieve economic self-sufficiency, and to promote conservation of Alaska's fisheries.

Each trust is an instrumentality of the state — administratively, a public corporation under DCCED, but with independent legal existence from the state, and governed by its own board (see 16.44.020).

DCCED will delineate fisheries trust regions in consultation with Alaska Department of Fish and Game (ADF&G). DCCED may dissolve a fisheries trust if it is insolvent. If a regional trust is dissolved, the region may later establish a new one.

AS 16.44.020

Addresses regional fisheries trust boards, membership meetings, and locations.

Each trust is governed by a board of directors: one resident from each municipality in the fisheries trust region sits on the board. Each director is appointed by the governor from a list of nominees provided by their municipality. Unincorporated communities can nominate directors for appointment if municipalities choose to include representatives of unincorporated communities in their original application to establish a fisheries trust, or if board members appointed from municipalities later choose to include unincorporated communities — see AS 16.44.050(a)(2)). If an unincorporated community has an entity that receives community assistance payments under AS 29.60.865, that entity nominates board members to the governor.

The governor must appoint board members who have a diversity of experience relevant to the operations of a fisheries trust, including at least two individuals with experience in commercial fishing.

Directors will serve staggered three-year terms, and can serve up to 12 years total. A quorum is a majority of members. Boards can elect an executive committee and hire staff. They can also share staff between trusts or with other specific regional entities such as nonprofit hatchery associations, village or regional Native corporations, Alaska regional development organizations (ARDORs), or other entities related to commercial fishing or regional services. Unless a trust shares administrative

resources with another entity and needs to be in its physical proximity, trusts must be headquartered in the community in the region with the most permits as of January 1, 2017.

Board members cannot be the temporary transferee of a permit from a trust.

Section 16.44.030

Addresses administrative expenses, compensation, and fees due to DCCED.

Administrative expenses for the trusts must be minimal. Board members may be provided reasonable compensation. To ensure trusts are self-sustaining and do not impose costs on the state, the DCCED commissioner can charge fees to trusts to reimburse the department for costs that the trusts may incur.

Section 16.44.040

Clarifies that fisheries trusts are tax exempt from state, local governments, school districts, and other political subdivisions of the state. Fisheries trusts are not exempt from paying CFEC fees on permits they hold. Temporary transferees must pay applicable fees, taxes, or assessments, such as the fisheries business tax and assessments levied under AS 43.76.

Section 16.44.050

Spells out powers of fisheries trusts, including the power to adopt bylaws, expand board membership to include unincorporated municipalities in the region, borrow money for the acquisition of limited entry permits, hold, transfer, or receive permits for fisheries in their region, temporarily transfer limited entry permits to qualified applicants, accept grants and donations, and use extra revenue on projects and programs which support commercial fishermen.

Fisheries trusts must select individuals to receive temporarily transferred permits through a competitive bid process, and must set and make public the rules governing the bidding process. Fisheries trusts must design their temporary transfer programs in a way which maintains their financial solvency, and they must invest revenue in the purchase of additional entry permits to the greatest extent possible.

A fisheries trust may choose to prioritize bids based on one or more of four criteria: applicant's historical participation in the fishery, access to other economic opportunity, record of participation in fisheries organizations and management, and expected economic contribution to the fisheries trust region. These criteria are based on court- and agency-vetted standards used by other state programs.

A fisheries trust may choose to prohibit certain individuals from receiving temporary transfers: individuals who already hold a limited entry permit (in any fishery); individuals who have had a temporary transfer revoked in the past; and individuals who have had their commercial fishing privileges suspended in the past.

A fisheries trust may not hold quota share for a federally managed permit. A fisheries trust may not

hold a state vessel permit.

Section 16.44.055

Revenue earned by a regional fisheries trust can be used only to acquire permits, operate the fisheries trust, and support programs and projects that benefit commercial fisherman.

Section 16.44.060

Fisheries trusts can acquire permits only for fisheries within their region. A fisheries trust must acquire permits of different types within its region. A fisheries trust may not acquire permits in fisheries with fewer than 40 transferable limited entry permits.

No more than one fisheries trust may hold a permit of a particular type. If more than one fisheries trust would otherwise be considered eligible to hold a permit type, that type of permit may only be held by a fisheries trust established in the region of the state that is home to the greatest number of holders of that permit type.

There is a hard cap on the number of permits a trust can hold: 2.5% of the permits in each fishery within their region. CFEC can block transfers that violate this section.

A temporarily transferred permit cannot be leased, pledged, mortgaged, or encumbered in any way.

A fisheries trust may not permanently transfer an entry permit unless the trust receives fair market value for the permit. CFEC is empowered to determine fair market value.

Section 16.44.070

Gives fisheries trusts the power to set terms for the temporary transfer of permits. A single person can't fish a temporarily transferred permit for longer than six cumulative years. Temporary transferees can't further transfer permits except as provided by emergency transfer regulations. A fisheries trust can't restrict how, when, or where a temporary transferee fishes or sells fish. Fisheries trusts are responsible for CFEC renewal fees. Fisheries trusts can only revoke temporary transfers for reasons defined in AS 16.43.190(d) and AS 16.43.960(l).

Section 16.44.080

A temporarily transferred permit may not be provided to:

- A fisherman who already holds a limited entry permit in the fishery.
- Staff or board members of a fisheries trust or staff of a regional organization which shares administrative capacity with the trust.
- An individual unable to demonstrate ability to actively participate in the fishery.
- An individual with proceedings pending against them to suspend their commercial fishing privileges.

In addition, a fisheries trust may require bidders for a permit to provide further evidence of their ability to actively, safely, and successfully participate in the fishery. Evidence may include things like

proof the bidder has a working boat and gear, has insurance, has a market for their fish, or has a relationship with an experienced fisherman who has agreed to serve as a mentor.

A fisheries trust must make a reasonable effort to ensure a temporary transferee is qualified under this section.

Section 16.44.099

Defines board, commission, commissioner, department, entry permit, fisheries trust, and fishery, as each word is used in the regional fisheries trust chapter, AS 16.44.

Section 42

Employees of fisheries trusts are in the exempt service.

Section 43

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to impose a salmon enhancement tax.

Section 44

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to terminate a salmon enhancement tax.

Section 45

A temporary transferee of a fisheries trust permit must pay an applicable salmon enhancement tax.

Section 46

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve or terminate a dive fishery management assessment. A temporary transferee is subject to an applicable dive fishery management assessment.

Section 47

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable dive fishery management assessment.

Section 48

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a salmon fishery assessment.

Section 49

A temporary transferee of a fisheries trust permit must pay an applicable salmon fishery assessment.

Section 50

A temporary transferee of a fisheries trust permit must pay an applicable permit buy-back assessment.

Section 51

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a seafood development tax. A temporary transferee is subject to an applicable seafood development tax.

Section 52

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable seafood development tax.

Section 53

Adds the duties of overseeing fisheries trusts as laid out in the bill under AS 16.44 to the official duties of the Department of Commerce, Community, and Economic Development (DCCED).

Section 54

Allows CFEC and the commissioner of DCCED to immediately adopt regulations that might be necessary to establish and regulate fisheries trusts.

Section 55

Requires the length of the terms of the first group of board directors for a fisheries trust to be determined by lot.

Section 56

DCCED and ADF&G will create fisheries trust regions based on the boundaries of CFEC salmon administrative areas and using CFEC's designations of communities local to given fisheries regions. Every community in the state shall be in a fisheries trust region. No fisheries trust region may have fewer than five communities.

Section 57

Gives regions between January 1, 2019 and April 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after July 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before April 1, 2019, DCCED, in consultation with ADF&G, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures regions do not rush the process of planning for a fisheries trust.

Section 58

Provides an immediate effective date for sections 54, 56, and 57, allowing the adoption of necessary regulations, establishment of fisheries trust regions, and applications for fisheries trusts to be established.

Section 59

Provides a July 1, 2019 effective date for the rest of the bill.



(/)

Posted February 21, 2016 12:01 am

By LINDA BEHNKEN, EDWARD DAVIS, DUNCAN FIELDS and NORMAN VAN VACTOR (/linda-behnken-edward-davis-duncan-fields-and-norman-van-vactor)

FOR THE JUNEAU EMPIRE

My Turn: Banking on Alaska's fishing future

 Comments  54 Share

Many people our age have written wills. Have you? It's a good idea, of course, because wills preserve family harmony while planning for ways our youth can prosper.

Many in the fishing industry feel the same. As fishing leaders gathered in Juneau this week for the United Fishermen of Alaska board meeting, Symphony of Seafood and other events, we have to look past our industry's near-term challenges and focus on our collective "will" to ensure Alaska's local fishing legacy lives on.

Local permit ownership – keeping the family assets in the family, if you're thinking in terms of a will – is essential to a thriving fleet and sustainable local economies.

We know our fleet is greying. The average age of fishing permit holders in Alaska is 50, a rise of 10 years since 1980. The number of Alaska residents under the age of 40 holding fishing permits has fallen to 17 percent in 2013. Aging trends are especially pronounced in rural fishing communities.

Commercial fishing is the lifeblood of dozens of Alaskan communities. Clearly, we need to think about passing our fishing industry on to the next generation of fishermen.

Vast numbers of fishing permits have left Alaska communities in recent years. Between 1975 and 2014, Alaska's rural fishing communities felt the net loss of more than 2,300 (limited entry) fishing permits (27.8 percent). Since the implementation of the halibut and

sablefish IFQ program in 1995, the number of fishermen in small Gulf of Alaska fishing communities holding quota in these fisheries has declined by 50 percent. In the Bristol Bay salmon fishery, local permit ownership declined by 50 percent between 1975 and 2014.

This isn't exactly the same as selling family treasures in a garage sale, but it does feel like our Alaskan "family" is losing out.

The average limited entry permit costs as much as an upscale home — and involves a lot more risk. Fish abundance and prices fluctuate annually. An engine breakdown before a critical opening can cost a new fisherman the opening, the season and the permit. Both upscale homes and permits are out of reach of many young or new fishermen. This means that new fishermen are unable to enter into commercial fisheries happening right outside their door.

Loss of fishing access degrades a community's economic opportunities, heritage, infrastructure and health. This leads to an inability to keep the value and economic benefit of Alaska's fish resources within Alaska communities, businesses and families.

Alaska must make a concerted effort to help preserve local right to fish. Some state legislators are proposing a fish permit bank that creates a way for communities to buy permits and lease them to new fishermen who otherwise could not afford them. It would offer several types of fishing permits that would be proportional and reflective of regional fisheries.

By owning permits and leasing them to entry-level local fishermen year-in and year-out, permit banks work to launch young and new fishermen, create resiliency in their strategies and help them become profitable for the long term.

Alaska needs to create strong local Alaskan fishing economies. To get there, Alaska needs diversified fishing businesses, a multi-age fleet demographic that includes new entrants and mentors, an ongoing commitment to resource stewardship, and a resilient community of fishermen working together.

This week's UFA meeting included 40 member groups from throughout Alaska and the Pacific Coast. Let's "write our will" and find ways to strengthen local fishing businesses, protect Alaska's fishing resources, and keep fishing as a way of life in Alaska by facilitating entry for younger fishermen.

Local fishing permit banks are one way our family legacy — our shared Alaskan fishing heritage and economy — can be passed on for generations to come.

• Linda Behnken of Sitka, Edward Davis of Hoonah, Duncan Fields of Kodiak and Norman Van Vactor of Dillingham are long-time leaders in the commercial fishing industry.



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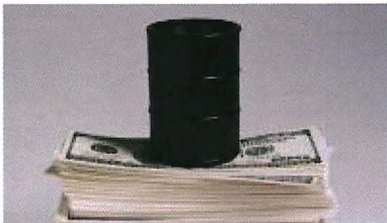
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Alaska Dispatch News

Opinions

Graying of the fleet has Alaska looking for young hands on deck

 Author: Ann Robertson | Opinion  Updated: January 13  Published January 13

Alaska's fisheries provide lucrative opportunities for those who choose to make their living on the water. For aspiring entrants to the fishing industry, however, these opportunities have become more difficult to seize, costing Alaska's economy and erecting hurdles for those laboring to build their own local fishing businesses.

According to "Turning the Tide," a new report published by the University of Alaska Fairbanks, Alaska's resident fishing fleet is dwindling while simultaneously growing older. Across the resident fleet, the average age of permit holders has increased from 40 to 50 since 1980 as fewer young people don rain gear and hit the deck. In the Kodiak archipelago, the number of under-40 permit holders has declined 84 percent over four decades.

[Alaska's fishing fleet is graying, and that's not a good thing. A new report suggests answers.]

While the resident fleet grows gray hair, fishing permits are marching south to the Lower 48 states. Permit holdings in Alaska's rural communities have declined by 30 percent. In Hydaburg, power troll permit holdings have decreased from a historic high of 20 permits, in 1976, to 4 permits today. King Cove fishermen held 41 drift gillnet permits in the late 1970s; today, they hold 14. In Bristol Bay, nonresidents hold more than half of all drift gillnet permits. Communities like Dillingham and Naknek have seen local permit holdings slump while entry costs to fishing rise, especially for permits and capable vessels, which can cost upwards of \$150,000 — each.

Significant non-resident permit holdings erode economic value for Alaska as wages earned from harvesting Alaska fish steadily flow down south. Venerable fisheries journalist Laine Welch reported that in 2015, Alaska fishermen took home \$602 million in earnings, while Washington's skippers and crew earned \$902 million harvesting Alaska's fish. For a state mired in a multi-year economic slump, Alaska needs to keep its fishing income at home, where it can sustain local schools, small businesses, mechanics, and fishing supply stores — the main streets of our coastal communities. To tackle this problem, Alaskans must devise innovative ways to strengthen and develop our resident fishing fleet.

Financial tools for local entrants to Alaska's commercial fisheries already exist. The Commercial Fishing Revolving Loan Fund has been immensely successful turning resident deckhands into skippers, helping fishermen obtain permits or boats, and financing upgrades to vessels. But for aspiring skippers who don't have the credit, collateral, or cosigner to secure a permit loan, regional fisheries trusts can fill a critical gap.

Regional fisheries trusts will provide temporary permit access to aspiring skippers starting their own fishing business. Building on the regional management framework used by the Commercial Fisheries Entry Commission and the Department of Fish and Game, individual regions will be able to establish a fisheries trust if two-thirds of the communities in that region opt in. Once established, regional fisheries trusts will be overseen by a board of directors nominated by the region's municipalities, and will be allowed to hold no more than 2.5 percent of limited entry permits in any fishery. Trust boards will be empowered to use preference criteria, like demonstrated crewmember experience, for selecting applicants and awarding temporary transfers of permits. Local control and regional autonomy will be key to the success of fisheries trusts, ensuring that trusts are connected to the needs of their fishing communities.

Gradual paths to permit ownership already exist in the emergency medical transfer (EMT) market, where young fishermen with access to a vessel lease permits from ill or injured fisherman for a single season. But EMTs are subject to year-to-year unpredictability and come at high cost. By offering temporary access to a limited entry permit for a stable multi-year term, regional fisheries trusts will provide new captains with a secure and predictable path to get their start, improving local access to Alaska's commercial fisheries.

There is no scarcity of hardworking young deckhands and skippers in Alaska. This was abundantly clear at the Alaska Young Fishermen's Summit in Anchorage last month, where young fishermen lobbed questions at industry veterans on topics like financing, vessel maintenance, and the Gordian knot that is fisheries management. As the financial barriers facing new entrants to Alaska's commercial fisheries shift, so should the tools available for new entrants to begin building their fishing operations from the deck up. Regional fisheries trusts are a stepping stone to permit ownership for fishermen getting their start in a tough and unforgiving industry, and ultimately promise to boost the number of permit holders — and fishing wages — in Alaska's fishing communities.

Ann Robertson is a Juneau deckhand participating in a Young Fishing Fellowship through the Alaska Marine Conservation Council.

The views expressed here are the writer's and are not necessarily endorsed by the Anchorage Daily News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email commentary@adn.com. Send submissions shorter than 200 words to letters@adn.com or [click here](#) to submit via any web browser.

Comments

Alaska Dispatch News

Business/Economy

Alaska's fishing fleet is graying, and that's not a good thing. A new report suggests answers.

✍ Author: Lisa Demer ⓘ Updated: 5 hours ago 📅 Published 18 hours ago



With the 10,197 foot volcano Mount Redoubt towering above in the distance, the 42-foot drift gillnetter "Sosueme" nears the mouth of the Kasilof River during a sunny day in June 2005. (BILL ROTH / ADN archive 2005)

This summer, working as a deckhand on her father's fishing boat in Cook Inlet, Georgeanna Heaverley realized she was right where she wanted to be.

Heaverley, 29, a Soldotna resident and recent University of Alaska Fairbanks graduate in physics, was coming into her own as a deckhand on the fishing vessel Benjana, named for her brother, Benjamin, and herself.

"Being in the middle of Cook Inlet is an incredible experience and something I do not take for granted. It's like nothing else," she said last week. Sometimes, the work seems almost primal.

"The other piece of it is you are feeding the world."

Young fishermen and women like her are an increasingly rare commodity, despite the general health of Alaska's commercial fisheries, according to a series of fishing reports.

For four years, a research team has been examining the graying of Alaska's fleet and what to do about it.

The most recent report, out last week, is called "Turning the Tide." It recommends five steps to reverse what it calls troubling trends of an aging fleet, and a loss of access for rural residents to fish as a career. That goal also underpinned a conference that brought Heaverley to Anchorage, the Young Fishermen's Summit.

Three organizations are leading the studies: UAF's College of Fisheries and Ocean Sciences, Alaska Sea Grant – a partnership between UAF and the federal government to help coastal resources and economies – and the Alaska Marine Conservation Council, a nonprofit that supports fishing communities and works to preserve marine ecosystems.

The average age of a state commercial fishing permit holder now tops 50, up by 10 years from a generation ago, according to state data cited in the new report. Back in 1975, half of rural permit holders who fished locally were 40 or under. Now it's about a quarter.

It's very expensive to get into commercial fishing and to acquire the permit, boat, nets and other essential gear, said Paula Cullenberg, executive director of Alaska Sea Grant and the lead author of "Turning the Tide."

Young people at the summit talked about the near impossibility of becoming a fishing captain. How can a 25-year-old get a \$100,000 loan for something as risky as fishing? some asked.

At the same time, the number of permits held by rural residents who fish waters near their communities has dropped by 30 percent, researchers found. In Bristol Bay, it's worse, with half of the permits gone.

"When permits leave the community, then young people don't have as much exposure to fishing," Cullenberg said. "They don't have role models. They don't have family members who are fishing that they can go work for on the boat. They don't have opportunities for crew member jobs."

Since the state began limiting entry to commercial fisheries in 1975, the number of permits held by local people in rural fishing communities has dropped by almost 2,500, the report said.

Many permits now are held by former Alaskans who have moved out of state, taking their fishing rights with them to Seattle or elsewhere, according to the report.

It's a misconception that most permits lost to Alaska were sold to people out of state, the researchers said.

The new study looked at Maine, Cape Cod, Iceland, Norway, Canada and New Zealand and other places for ideas to help Alaska fishing communities. The researchers suggest these strategies:

— Allow low-cost, low risk ways for people to get into commercial fishing. Commercial fishing in Iceland, for instance, is through quotas consolidated among few owners – corporate fishing that has squeezed out many individual fishermen, the report said. In response, the country now allows individual fishermen to apply for free shares, or quota, of a particular fishery. Iceland also allows local fishermen to catch a certain amount 14 hours a day, four days a week, without having any quota. (That came after the United Nations Human Rights Committee found that the quota system violated the human right to work, the report says.)

— Establish mentorships or youth permits – starting as young as middle school. Recruit crew members from high schools and place them with "high quality captains."

— Create districts in which fishing rights or permits must stay, something that Norway and Canada have tried.

— Support on-shore seafood processing and fishing infrastructure such as cold storage units and industrial parks for welders, mechanics and boat builders. Some communities offer seasonal jobs in boat repair, but with the right structure, that could work year-round, the report said.

— Establish a statewide task force to work on the issues.

Meanwhile, some young fishermen are trying to hold on to what they have.

Allysa Apalayak, 29, of Manokotak near Dillingham, said she and her sister inherited a Bristol Bay drift fishing permit from their father. But they don't have a boat – or the needed experience – and haven't used the permit in three years. They were able to let someone else fish under it the first year, through a temporary, emergency transfer.

"We are in fear of losing it," she said. She came to the fishermen's summit, put on by Sea Grant, for help. There were sessions on the business of fishing and the mechanics of it, on fisheries management and marketing. She said she has a sense of what to do next and may try to get financing for a vessel.

Dillingham's Kristina Andrew is 30 and a Bristol Bay commercial driftnet permit holder since 2012. She said she bought it for under \$100,000 and had financial help from a loan program run by Bristol Bay Economic Development Corp. She doesn't have a boat, but can use her permit on someone else's vessel, either as the sole permit or as a secondary one that allows a bigger catch.

"There's something very peaceful and very primitive about being out there, and just being able to disconnect from all of it," Andrew says. And at the end of the day, if the catch is good, she's helped to produce something she can see and touch, another rarity in the modern world.

Heaverley graduated with her physics degree in May and figured on getting a tech job, maybe in the Lower 48.

But on the water this year for her third season, she felt she finally had a handle on the skills for fishing a drift gillnet. She was doing work that mattered to her family. Now she wants to keep fishing in Alaska.

"I feel an obligation in the best way to step up and take over, or this industry suffers," she said.

About this Author

Lisa Demer

Lisa Demer has been a reporter more than three decades and covers general assignments. She's based in Anchorage. She spent three years covering Western Alaska based in Bethel. Reach her at 907-257-4345.



ANCSA REGIONAL ASSOCIATION

Bringing Together Regional Corporation Presidents and CEOs

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President
Alaska Federation of
Natives

Alaska Legislature
State Capitol
Juneau, AK 99801

February 13, 2018

Alaska Legislators,

As an association of Alaska Native Regional Corporation CEOs, our collective mission is to promote and foster the continued growth and economic strength of the Alaska Native Regional Corporations on behalf of our more than 127,000 shareholders.

It is with this mission in mind that we stand together in support of HB 188, which authorizes the establishment of regional fisheries trusts. Our shareholders commercial fish all over Alaska, from gillnetters in Kotzebue Sound to drift netters in Bristol Bay and the Alaska Peninsula to seiners and trollers in Southeast.

Commercial fishing is an economic driver and cultural touchstone for both interior and coastal Alaska communities. But over the last thirty years, we have seen the barriers to entering commercial fishing grow for our shareholders and all aspiring fishermen. Vibrant commercial fishing fleets once filled harbors in our regions; today too many harbors sit half-full or close to empty. Regional fisheries trusts as envisioned by HB 188 hold promise as a tool to help refill those harbors and bring fishing income, fishing jobs, and economic opportunity back to our communities.

While other tools, such as the Commercial Fishing Revolving Loan Fund (CF RLF), help Alaska's fisherman engage in Alaska's fisheries, regional fisheries trusts fill a unique need. Fisheries trusts would be allowed to acquire a small number of permits off the open market, then temporarily transfer these permits to up-and-coming fishermen, allowing them to build the experience and cash flow necessary to secure a loan and purchase a permit for themselves.

We believe this stepping stone will prove particularly valuable for fishermen in smaller communities, where other economic opportunities and the corresponding ability to build a credit history are limited. Fisheries trusts would be opt-in, established only upon regional consensus, and would be governed — as our corporations are — by local boards.

Fisheries trusts will provide our shareholders with access to the fisheries resources off their shores, and improve economic opportunity in our communities. We strongly encourage the legislature's support for HB 188.

Sincerely,

ANCSA REGIONAL ASSOCIATION



Aaron Schutt
Chair



Kim Reitmeier
Executive Director

**KODIAK ARCHIPELAGO RURAL REGIONAL LEADERSHIP FORUM
RESOLUTION 04-2017**

**A RESOLUTION SUPPORTING STATE OF ALASKA LEGISLATION IMPROVING
ALASKANS' ACCESS TO ALASKA FISHERIES**

WHEREAS, limited entry commercial fisheries are the economic backbone of Alaska's coastal communities, from Southeast to Southwest;

WHEREAS, Alaska communities, fishermen, and fishing families depend on commercial fisheries as a uniquely viable economic opportunity in regions where other economic opportunities are limited;

WHEREAS, out-migration of permits has hit rural Alaska communities hardest, leading to fewer jobs, lost economic activity, and interrupting the transmission of specialized skills and knowledge which emerging fishermen learn from established members of their fleet;

WHEREAS, prospective Alaska fishermen, especially from small communities, face significant barriers to entry and need additional options for accessing the credit and financing necessary to enter commercial fisheries;

WHEREAS, regional fisheries trusts as demonstrated in other regions have great potential to help Alaska fishing communities generate economic opportunity, invest in local commercial fisheries, and ensure continuity of fishing culture;

THEREFORE BE IT RESOLVED that the Kodiak Archipelago Rural Regional Leadership Forum strongly supports legislation, including HB 188, improving access to Alaska fisheries in order to stem the loss of Alaska fishing permits from coastal communities, help emerging fishermen access economic opportunity, and reinvigorate the cultural and economic vitality of fishing communities across Alaska.

PASSED AND ADOPTED by the 47 leaders from Akhiok, Kodiak, Larsen Bay, Old Harbor, Ouzinkie and Port Lions attending the Kodiak Archipelago Rural Regional Leadership Forum on April 27, 2017.

IN WITNESS THERETO:



Marty Shuravloff, Chairman

CFEC Administrative Areas



From the office of Rep. Kreiss-Tomkins,
based on 20 AAC 05.230, CFEC salmon administrative regions.

**City Of Ouzinkie
RESOLUTION 2018-05**

**A RESOLUTION SUPPORTING LEGISLATION IMPROVING ALASKANS'
ACCESS TO ALASKA FISHERIES**

WHEREAS, limited entry commercial fisheries are the economic backbone of all of Alaska's coastal communities, from Southeast to Southwest; and,

WHEREAS, the "graying of the fleet" – the increasing average age of Alaska's fishermen – is endangering the ability to pass on experience, knowledge, resources, culture, and value of fisheries to younger generations of Alaskans; and,

WHEREAS, the out-migration of Alaska fishing permits to nonresidents who do not live or invest in our coastal communities deprives those communities of economic activity; and,

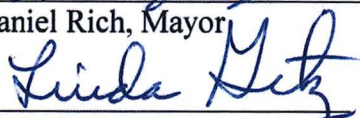
WHEREAS, the lack of economic opportunity in Alaskan communities from the loss of local fishing permits contributes to extreme levels of unemployment, lack of local tax base, and high rates of alcohol and drug abuse and other social ills; and,

WHEREAS, the legislation to improve Alaskans' access to Alaska fisheries has been collaboratively worked on for the previous 14 months with stakeholders from across Alaska;

NOW THEREFORE BE IT RESOLVED; that the City of Ouzinkie supports legislation improving Alaskans' access to Alaska fisheries to stem the loss of Alaska fishing permits from coastal communities, provide young Alaskans better means of economic opportunity, and reinvigorate the cultural and economic vitality of fishing communities across Alaska.

PASSED and APPROVED by a duly constituted quorum of the Ouzinkie City Council this 2nd day of March 2018.

SIGNED 
Daniel Rich, Mayor

ATTEST 
Linda Getz, Clerk Emeritus

City of Larsen Bay
PO Box 08
Larsen Bay, AK 99624
Phone: 907.847.2211
Fax: 907.847.2239
Email: cityoflarsenBay@gmail.com

Resolution NO. 17-10

A RESOLUTION SUPPORTING THE STATE OF ALASKA LEGISLATION IMPROVING ALASKANS' ACCESS TO ALASKA FISHERIES

WHEREAS, limited entry commercial fisheries are the economic backbone of Alaska's coastal communities, from Southeast to Southwest; and

WHEREAS, Alaska Communities, fishermen, and fishing families depend on commercial fisheries as a uniquely viable economic opportunity in regions where other economic opportunities are limited; and

WHEREAS, out-migration of permits has hit rural Alaska communities the hardest, leading to fewer jobs, lost economic activity, and interrupting the transmission of specialized skills and knowledge which emerging fishermen learn from established members of their fleet; and


WHEREAS, prospective Alaska fishermen, especially from small communities, face significant barriers to entry and need additional options for accessing the credit and financing necessary to enter commercial fisheries; and

WHEREAS, regional fisheries trusts as demonstrated in other regions have great potential to help Alaska fishing communities generate economic opportunity, invest in local commercial fisheries, and ensure continuity of fishing culture; and

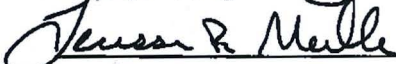
THEREFORE, BE IT RESOLVED that the CITY OF LARSEN BAY strongly supports legislation, including HB 188, improving access to Alaska fisheries in order to stem the loss of Alaska fishing permits from coastal communities, help emerging fishermen access economic opportunity, and reinvestigate the cultural and economic vitality of fishing communities across Alaska.

BE IT FURTHER RESOLVED that the CITY OF LARSEN BAY requests that the NPFMC consider a precautionary approach to mitigate impacts of federal ground fish fisheries to the Tanner crab stocks to address these uncertainties.

PASSED and APPROVED by a duly constituted quorum of the City of Larsen Bay this 10th day of May 2017.



Mayor, Alice Aga



City Clerk, Teresa Muller

5-11-17

Date

5/11/17

Date

Native Village of Ouzinkie

Ouzinkie Tribal Council

P.O. Box 130

Ouzinkie, Alaska 99644

Ph. 907-680-2259 Fax 907-680-2214

Resolution 2016-3

A RESOLUTION SUPPORTING LEGISLATION IMPROVING ALASKANS' ACCESS TO ALASKA FISHERIES

WHEREAS, limited entry commercial fisheries are the economic backbone of all of Alaska's coastal communities, from Southeast to Southwest;

WHEREAS, the "graying of the fleet" — the increasing average age of Alaska's fishermen — is endangering the ability to pass on experience, knowledge, resources, culture, and value of fisheries to younger generations of Alaskans;

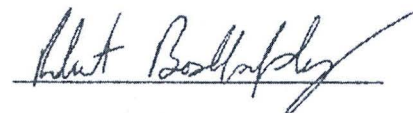
WHEREAS, the out-migration of Alaska fishing permits to nonresidents who do not live or invest in our coastal communities deprives those communities of economic activity;

WHEREAS, the lack of economic opportunity in Alaskan communities from the loss of local fishing permits contributes to extreme levels of unemployment, lack of local tax base, and high rates of alcohol and drug abuse and other social ills;

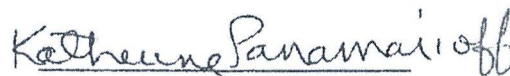
WHEREAS, the legislation to improve Alaskans' access to Alaska fisheries has been collaboratively worked on for the previous 14 months with stakeholders from across Alaska;

THEREFORE BE IT RESOLVED that the Native Village of Ouzinkie supports legislation, such as HB 366, improving Alaskans' access and supports legislation improving Alaskans' access to Alaska fisheries to stem the loss of Alaska fishing permits from coastal communities, provide young Alaskans better means of economic opportunity, and reinvigorate the cultural and economic vitality of fishing communities across Alaska.

Approved and adopted at a council meeting, a quorum being present, on February 29, 2016



Robert Boskofsky, Sr., President



Katherine Panamarioff, Secretary

January 28, 2016

To the Members of the Alaska Legislature:

We are young fishermen from across Alaska. As fishermen, we are rooted in, dedicated to and reliant on the health of our coastal communities and marine ecosystems. And they rely on us — to be good providers and marine stewards.

Our generation faces many challenges to building successful fishing businesses. Some of these we accept as the fishing way of life, but other challenges are new and daunting: higher-than-ever costs to enter our fisheries, increasingly restrictive financing options, stock declines — and the continued outmigration of permits and quota from Alaska communities. These issues have compounding consequences: the loss of our economic self-sufficiency, professional development, food security, and heritage.

As leaders and policy makers you have the opportunity to consider concrete options for improving and protecting community access to local fisheries. It is imperative that Alaska develop long-term tools for anchoring fishing access in communities and in Alaska, an essential piece of the state's economic stability and community well being. Permit banks are one option, and a strong and practical mechanism to revitalize fishing communities. As the future leaders of Alaskan fisheries, we urge you to consider this and other viable tools for ensuring a strong fishing future for Alaska's coastal communities.

Despite the challenges we face, we continue to build our businesses. Fishing is integral to our livelihood and to Alaska's well being. Please help us to ensure that the next generation of Alaskans has access to Alaska's fisheries.

Sincerely,

Name: Elsa Sebastian
Hometown: Sitka
Fishery: SE Power Troll

Name: Hannah Heimbuch
Hometown: Homer
Fishery: Cook Inlet Drift, Gut Longline

Name: Thomas Emerson
Hometown: Juneau
Fishery: Power - Troll

Name: Alec Schramck
Hometown: Petersburg
Fishery: Power troll/Cucumber Dive

Name: Iris Nash
Hometown: Juneau AK
Fishery: Salmon Trolling

Name: Chris Nash
Hometown: Juneau AK
Fishery: Salmon Trolling

Name: Kristy Crump
Hometown: Valdez, AK
Fishery: PWS purse seining

Name: David Fleming
Hometown: Anchorage AK
Fishery: ~~PWS~~ setnet

Name: Alexander Smith
Hometown: Aleknagik Ave
Fishery: Bristol Bay

Name: Hunter Davis
Hometown: Juneau
Fishery: SE SEINE / CRAB

Name: Aaron Johnston
Hometown: Eagle River, AK
Fishery: Bristol Bay

Name: Jared Oien
Hometown: Ketchikan, AK
Fishery: Southeast Salmon

Name: Sean Hawk
Hometown: Ketchikan
Fishery: Troll / LL

Name: Billy Hayden
Hometown: Homer
Fishery: Direct markets

Name: Steve Johnson
Hometown: Sitka / Wrangell
Fishery: Tendy

Name: Patrick Lone
Hometown: Homer
Fishery: Tender / longline

Name: Darren Platt
Hometown: Kodiak
Fishery: Salmon, Herring

Name: Hugh Fleming
Hometown: Petersburg
Fishery: S.E. Seine / BB Drift

Name: Tori Connor
Hometown: Petersburg
Fishery: S.E. PWS Seim - Long Line
SETTLE

Name: Melissa Nagamine
Hometown: Ketchikan
Fishery: SE SEINE

Name: SOMMERS COLE
Hometown: JUNEAU, AK
Fishery: SE GILLNET

Name: Amanda Johnston
Hometown: Homer, AK
Fishery: Bristol Bay

Name: Brant Widness
Hometown: Ketchikan, AK
Fishery: Troll / Dive

Name: Amy Schaub
Hometown: Homer
Fishery: SEINE / LONGLINE

Name: Margaret Borsch
Hometown: Homer
Fishery: gillnet and setnet Bristol Bay

Name: Jonah N. Yakunin
Hometown: Nikolaevsk, AK
Fishery: gillnet and Longline

Name: Bernina Venuti
Hometown: Dillingham, AK
Fishery: Bristol Bay

Name: Gary Cline
Hometown: Dillingham, AK
Fishery: Bristol Bay Salmon

Name: Forest Sebastian
Hometown: PSG
Fishery: Troll

Name: _____
Hometown: _____
Fishery: _____

Name: Hayley Hoover
Hometown: Cordova AK
Fishery: DRIFT GILLNET

Name: _____
Hometown: _____
Fishery: _____

Name: Andrew Scudder
Hometown: Boise, ID
Fishery: PWS Seine

Name: _____
Hometown: _____
Fishery: _____

Name: MARIE BROWN
Hometown: Juneau, AK
Fishery: Bristol Bay Sockeye

Name: _____
Hometown: _____
Fishery: _____

Name: Melroy Munn
Hometown: Gwin Hills
Fishery: North Pacific Fishery

Name: _____
Hometown: _____
Fishery: _____

Name: Carina Nichols
Hometown: SITKA
Fishery: troll

Name: _____
Hometown: _____
Fishery: _____

Name: Darin Gilman
Hometown: Cordova, AK
Fishery: PWS

Name: _____
Hometown: _____
Fishery: _____

Name: SOPHIE NETHERCUT
Hometown: SITKA
Fishery: Salmon troll

Name: _____
Hometown: _____
Fishery: _____

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Hometown: _____
Fishery: _____



Bering Sea Fishermen's Association

821 N Street, Suite 103

Anchorage, Alaska 99501

(907) 279-6519 or (888) 927-2732

FAX (907) 258-6688

www.bsfaak.org

February 21, 2018

Representative Jonathan Kreiss-Tomkins
State Capitol, Room 411
Juneau, Alaska 99801

RE: Support for HB 188

Dear Representative Kreiss-Tomkins,

Bering Sea Fishermen's Association (BSFA) supports House Bill (HB) 188, which authorizes the establishment of regional fisheries trusts. After observing the effort you poured into HB 188, we are confident that regional fisheries trusts will help restore local fishermen's participation and access to Alaska's fisheries. We believe regional fisheries trusts are carefully designed to address the economic, cultural, and social consequences of limited entry permits leaving Alaska's rural and coastal communities.

BSFA began in 1979 with 150 fishermen from over 30 villages in western Alaska ranging from Bristol Bay to Kotzebue Sound. These fishermen united to become more involved in new fisheries that were developing directly off their coastline, and to build an organization that was concerned with helping local fishermen gain full economic benefits from Alaska's fisheries.

We have worked diligently to earn the opportunity to serve 192 communities and just over 125,000 Alaska residents. Today BSFA is directed by a 14-member board made up of fishermen from Bristol Bay, the Yukon, Kuskokwim, Norton Sound, Kotzebue and St. Paul. On behalf of our large constituency, BSFA works to defeat obstacles impeding our fishermen's livelihoods.

HB 188 falls directly in line with this purpose, to benefit the fishermen that we serve as well as others around the state of Alaska. Commercial fishing is an economic, cultural, and social cornerstone for our fishermen. A thriving fleet, full of local permit holders, is essential to the communities our fishermen call home.

Over the last thirty years, we have seen barriers to entering commercial fishing grow for aspiring fishermen around Alaska. In the past, boats with names of Alaska communities etched onto the side filled our harbors. Now, these same local harbors sit half-full, or even empty.

Regional fisheries trusts, as envisioned by HB 188, are a tool to help bring boats back to those harbors. The ability to acquire a small number of permits on the open market, to then temporarily transfer to up-and-coming fishermen, meets a unique need. The return of permits to Alaska's rural

Serving western Alaska small boat fisheries since 1980

and coastal communities will also bring fishing income, jobs, and economic growth back to these communities.

We expect passage of HB 188 to facilitate local participation in commercially important state water fisheries, provide important entry opportunities for new fishermen and increase revenue flow into Alaska communities.

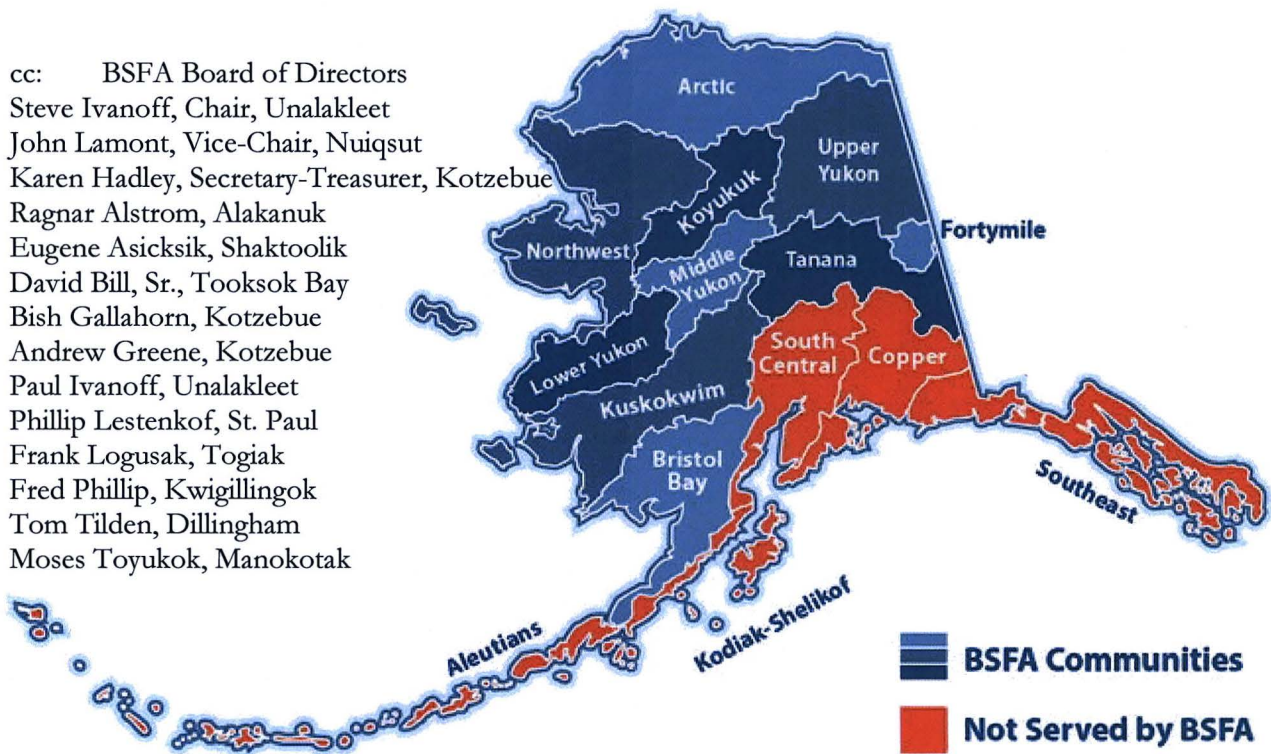
BSFA is pleased to support HB 188. Our coastal communities have a vested interest in the successful implementation of regional fisheries trusts and BSFA looks forward to the bill's passage.

Sincerely,


Karen Gillis
Executive Director
karen@bsfaak.org

Communities Served by Bering Sea Fishermen's Association

cc: BSFA Board of Directors
Steve Ivanoff, Chair, Unalakleet
John Lamont, Vice-Chair, Nuiqsut
Karen Hadley, Secretary-Treasurer, Kotzebue
Ragnar Alstrom, Alakanuk
Eugene Asicksik, Shaktoolik
David Bill, Sr., Tooksok Bay
Bish Gallahorn, Kotzebue
Andrew Greene, Kotzebue
Paul Ivanoff, Unalakleet
Phillip Lestenkof, St. Paul
Frank Logusak, Togiak
Fred Phillip, Kwigillingok
Tom Tilden, Dillingham
Moses Toyukok, Manokotak





Alaska Longline

FISHERMEN'S ASSOCIATION

Post Office Box 1229 / Sitka, Alaska 99835 907.747.3400 / FAX 907.747.3462

April 2, 2017

Dear Legislator,

The Alaska Longline Fishermen's Association (ALFA) SUPPORTS HB 188: An Act establishing community fishing trusts.

ALFA is a Sitka-based organization of independent fishermen committed to sustainable fisheries and thriving fishing communities. Our members support science-based fisheries management through collaborative research, advocacy and innovation. We work to safeguard ocean health and improve the economic viability of small boat fishing.

Commercial fishing is the economic driver of Alaska's communities; commercial fishing also provides residents of rural communities with access to important subsistence resources, supporting household economics and community culture. The dependence of communities on commercial fishing increases in the remote and isolated coastal areas stretching along the Gulf of Alaska and Bering Sea coasts.

Fishing permits and quota are leaving Alaska, especially leaving Alaska's rural coastal communities. Between 1975 and 2014, Alaska's rural communities experienced a net loss of over 2,300 limited entry permits. Federal quota has also become concentrated into fewer hands and migrated from rural communities. Because few alternative employment opportunities exist in these communities, losing access means losing livelihood and ultimately losing community.

Six billion dollars worth of fisheries resources are harvested off Alaska's coast each year. Non-residents have an important role in that harvest, but Alaska community residents depend on access to that valuable resource—and that access is increasingly out of reach.

The cost of access to some of Alaska's fisheries has doubled, quadrupled, and then doubled again since limited access programs were implemented. Young fishermen, especially fishermen from rural areas, lack the necessary capital and collateral to obtain loans. Even when funding is available, the risk new fishermen face is staggering.

Community fishing trusts are an essential part of addressing these issues. Fishing trusts anchor access in communities and provide an affordable entry level for new fishermen. As proposed in HB 188, community fishing trusts would obtain limited entry permits than lease these permits to resident fishermen for a limited amount of time. As a result, new fishermen would initially face only the cost of buying a boat and fishing gear, then tackle the cost of a permit after building equity in their boat, gaining experience, and weathering the first few fishing seasons. During the start-up time, fishing trusts can mentor young fishermen in sound fishing and business practices, further lowering the risks they face and supporting their eventual success. In short, fishing trusts anchor access in communities, lower entry costs and reduce risks faced by new fishermen. From ALFA's perspective, community fishing trusts are an essential step toward reversing the loss of fishery access.

ALFA has been actively working since 2009 to address the loss of fishery access through a risk sharing arrangement that supports intergenerational transfer of federal fisheries quota to residents of Alaska's communities. Although we are making steady progress, we recognize the erosion of access far outstrips our current capacity. A sea change is needed, and community fishing trusts are an essential part of that change. Important to ALFA is the concept behind this bill that establishes fishery trusts as an entry level opportunity designed to launch independent fishermen into permit ownership, rather than permanent lease arrangements. Our members would not be comfortable without that provision. We recognize some changes and improvements will be made to HB 188 as it moves through the process, but highlight that provision as important to our support.

In sum, ALFA members urge the Committee to recognize the economic, social and cultural importance of HB 188 to Alaska in general and Alaska's rural communities in particular. We urge you to support HB 188 and to work toward timely implementation.

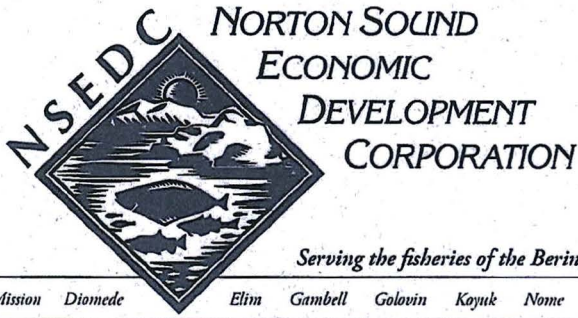
Thank you for the opportunity to comment and for your commitment to Alaska's fisheries.

Sincerely,



Alaska Longline Fishermen's Association
834 Lincoln Street Room 23
Sitka, AK 99835
(907) 738-3615 (cell)
(907) 747-3400 (office)

www.alfafish.org



Brevig Mission Diomede Elim Gambell Golovin Koyuk Nome Saint Michael Savoonga Shaktoolik Stebbins Teller Unalakleet Wales White Mountain

May 18, 2017

Representative Jonathan Kreiss-Tomkins
State Capitol, Room 411
Juneau, AK 99801
Representative.Jonathan.Kreiss-Tomkins@akleg.gov

RE: Support for HB 188

Dear Representative Kreiss-Tomkins,

I am pleased to provide this letter of support on behalf of the Norton Sound Economic Development Corporation (NSED C) for your efforts to introduce and implement the Regional Fisheries Trust program through House Bill (HB) 188. Access to fishing opportunity is paramount to the economic and social success of coastal Alaska residents, and we appreciate the solution-based approach to addressing this growing problem that this bill provides.

NSED C is the northernmost of the Community Development Quota (CDQ) organizations, representing 15 communities in the Norton Sound/Bering Strait region. A fundamental purpose of the program we're organized under is to ensure sustained participation in regional fisheries by residents of our communities. NSED C has and continues to make significant investments with this focus, including construction and operation of multiple processing facilities and a tender vessel fleet to support resident fishermen. We also offer a robust loan program to provide opportunity for entry-level and seasoned fishermen alike.

The Regional Fisheries Trust program envisioned in HB 188 would complement NSED C and other CDQ organizations' efforts in the western coastal communities of the Bering Sea, as well as fisheries-dependent communities in the Gulf of Alaska. Loss of fishery permits from adjacent communities is a concern that all of Alaska should share, and the Regional Fisheries Trust program shows significant promise to restoring opportunity to those who need it most. Rural coastal communities stand to benefit greatly from retention and restoration of access to fisheries, and we're happy to support your efforts.

Sincerely,

Janis Ivanoff
President & Chief Executive Officer

Dan Harrelson
Board Chairman

"NSED C will participate in the Bering Sea fisheries to provide economic development through education, employment, training and financial assistance to our member communities."



Aleutian Pribilof Island Community Development Association (APICDA)

302 Gold Street, Suite 202 | Juneau, Alaska 99801 | Phone: (907) 586-0161 | Fax: (907) 586-0165
717 K Street | Anchorage, Alaska 99501 | (907) 929-5273 | Fax: (907) 929-5275 | www.apicda.com

April 21, 2017

Representative Jonathan Kreiss-Tomkins
State Capitol, room 411
Juneau, AK 99801
Ph: 907-465-3732
Representative.Jonathan.Kreiss-Tomkins@akleg.gov

RE: Support for HB 188

The Aleutian Pribilof Island Community Development Association (APICDA) supports the introduction of HB 188. We believe that advancing this bill will help restore local participation in commercially important state water fisheries, provide important entry opportunities for new fishermen and increase revenue flow into Alaska communities.

APICDA is a Community Development Quota (CDQ) organization that works with six remote coastal communities to support long term economic sustainability through increasing direct participation and local investment in fisheries in the Bering Sea and Aleutian Islands. For over 25 years, we have worked in partnership with our communities to invest in shore-side processing plants, vessels, quota and permit purchases, local support infrastructure, workforce development and scholarship programs. These investments have resulted in meaningful employment and social programs in areas where very limited economic opportunities exist.

CDQ constituents are heavily invested in both state and federal water fisheries. Alaska's salmon fisheries provide the most-wide reaching and direct opportunities for participation in our sector's 65 communities. Some CDQ regions have witnessed significant ownership shifts in limited entry permits to out of state residents, increases in permit and lease costs and reductions in the number of permits available for sale. We believe that the formation of a fisheries trust could provide an important path, particularly for entry level and returning fishermen, by helping them gain access to sufficient experience and or the capital needed to purchase fishing privileges. We also believe that HB 188 sets appropriate limitations on permit acquisitions and eligibility requirements to minimize negative market impacts on existing and future permit holders.

The creation of fisheries trusts will result in meaningful benefits to Alaska's coastal communities and residents and we support moving this bill forward.

Sincerely,

Larry Cotter
Chief Executive Officer, APICDA



300 Alimaq Drive
Kodiak, Alaska 99615
Office: (907) 486-6014
Fax: (907) 486-2514

February 21, 2017

Representative Jonathan Kreiss-Tomkins
State Capitol Room 411
Juneau, AK 99801

Re: Support for Alaska HB188 to establish Regional Fisheries Trusts

Dear Representative Kreiss-Tomkins:

On behalf of the Afognak Native Corporation, I am writing to express our support for Alaska HB 188 that seeks to establish Regional Fisheries Trusts. Afognak Native Corporation is an ANCSA village corporation, headquartered in Kodiak with the majority of our Shareholders residing in Port Lions, Kodiak, and the Anchorage area. Fisheries and access to marine resources have been the core economy and cultural foundation for our Shareholders in our homeland for countless generations. Our people have relied on strong fisheries and resident fishermen for our community to thrive. Given the importance of fisheries to our peoples and culture, Afognak Native Corporation is in support of creating Regional Fisheries Trusts.

Access to commercial fisheries has decreased in many places over the last 40 years, including in the Kodiak archipelago. One of the major challenges we face is a dynamic dubbed, "the graying of the fleet" relating to challenges we have in supporting younger fishermen into the field. Community and individual access to capital creates significant barriers to entry, which have devastating impacts on our rural, Island economies. Consider this statistic from the 2017 Turning the Tide Report, "In the rural villages of the Kodiak Archipelago, for example, there's been over an 80% decrease in young salmon seine permit holders creating a crisis for community sustainability" (p. 12).

In addition to the graying of the fleet, our fishermen struggle with "diversification" or the need to sustain their incomes by accessing multiple fisheries with different types of fish. Though addressing diversification would need to involve stewards of federal as well as state fisheries, this legislation would be a step to acting on issues that undermine rural fisheries access, which is fundamental to the well-being of rural communities. For example, due in part to decreased access to commercial fisheries in our region, we face severe outmigration, which affects our ability to keep our schools and health clinics open, solicit outside investment in rural infrastructure, and sustain our communities.

Thank you for leading this effort and for the time invested to shape the legislation in a way that addresses some of the core issues facing our rural communities.

Respectfully,

A handwritten signature in black ink that reads "Alisha Drabek".

Alisha Drabek, Executive Vice President
Afognak Native Corporation



With Spirit and Strength

February 21, 2018

Representative Jonathan Kreiss-Tomkins
120 4th Street, Room 411
Juneau, Alaska 99801-1182

RE: Support for House Bill 188

Dear Representative Kreiss-Tomkins,

The Aleutian Pribilof Islands Association, Inc. (APIA) is the regional non-profit consortium for the thirteen Aleut Tribes, providing a wide range of direct services including: health, public safety, cultural heritage, and educational and vocational support. Our region is primarily dependent on the fisheries of the North Pacific and Bering Sea, even as the many changes in fisheries regulations, productivity, and access have changed over the years. Today, these changes have created challenges for local youth to follow their parents career path in to the various fisheries.

APIA supports HB 188 as a positive step to support local fishermen and our regional economy through improved access to fishing permits. Our region would be an ideal host to one of the three initial trusts; however, the benefit to Alaska's entry fishermen will certainly lead to the program's expansion. APIA looks forward to this important opportunity to improve economic access.

Thank you for your consideration and please contact Community Environment and Safety Manager Karen Pletnikoff at karenp@apiai.org or (907)276-2700 with any questions.

Sincerely,


Dimitri Philemonof, President/CEO

UNITED SOUTHEAST ALASKA GILLNETTERS

Box 2196, Petersburg AK 99833 * (253) 237-3099 * usag.alaska@gmail.com * akgillnet.org

April 15, 2017

Representative Louise Stutes
Chair, House Fisheries Committee
State Capitol Room 416
Juneau, AK 99801-1182
sent via email

Dear Chairwoman Stutes, Representative Kreiss-Tomkins (Sponsor) and Committee Members:

United Southeast Alaska Gillnetters (USAG) OPPOSES House Bill 188, "*Commercial Fishing Entry Permits; Loans; Trusts*".

House Bill 188 proposes to change the Limited Entry Act. Since 1975, limited entry has effectively restricted access to valuable state resources, ensuring regulated fisheries management. The Limited Entry Act and Commercial Fisheries Entry Commission (CFEC) successfully guide our world-renowned fisheries and should remain as is.

HB188 says Trusts '*will empower communities to prevent economic distress among fishermen*'. Individual fishermen leasing a Trust-owned permit could certainly have alleviated economic distress but we don't understand how that will transfer among fishermen or communities.

This Bill says Trusts '*will empower communities to promote fisheries conservation*'. We don't understand how Trusts would make this possible.

This Bill says Trusts '*will empower communities to realize greater economic self-sufficiency*'. The idea that this bill would bring economic self-sufficiency to communities is false. Adding a handful of regionally-leased limited entry permits will not stimulate a local economy; adding a few seasonal jobs will not have a measurable impact on a local economy. Harvested fish will likely be sold to processors located in other communities and the fishermen who lease these permits will probably buy their gear and maintenance necessities from established businesses in larger towns or "down south." Essentially, such Trusts will help and empower a few individual fishermen to establish themselves yet it misleading to state trusts will empower communities.

At times, this Bill uses the terms ‘communities’ and ‘trusts’ interchangeably. As written, it is designed for Trusts to be financially self-sufficient but a Trust is a sole entity and its state of self-sufficiency does not translate to another entity, such as a community.

Additionally, the Bill raises other financial questions such as how will these Trusts be funded? HB188’s Fiscal Note says the general fund will pay for a Trust’s first year but its second year will be funded by fees generated by the Trust. It seems like in order for a Trust to be financially self-sufficient they will need to charge fishermen some pretty hefty fees, which would have the reverse affect this bill desires, as the fishermen leasing permits cannot get ahead because of Trust fees. How much money is each Trust expected to spend/need each year? And how much in fees are Trusts expecting to generate for each permit?

Section 16.44.030 says, “*board members may be provided reasonable compensation*”. What constitutes ‘reasonable’? Fishermen leasing permits from Trusts will be paying for this and other costs.

Section 16.44.050 describes the powers of Trusts, sets some loose guidelines and leads to more questions. What might a ‘competitive bid process’ or ‘lease terms’ look like? This and other critical processes should be more developed with special care given to potential conflict of interest issues instead of leaving it up to a volunteer (or reasonably compensated) board. Include transparent measures throughout all processes. This Section also says Trusts can borrow money to buy permits. Where would this money come from and how would such buying processes work? “*Trusts must set lease terms which maintain their financial solvency, and they must invest lease revenue in the purchase of additional entry permits to the greatest extent possible*”. Again, fishermen leasing permits will be paying for this, which may challenge the fisherman’s financial solvency depending on the terms. Pressure to keep the Trust solvent could lead board members towards compromising behavior.

HB88 also states: “*the department may modify or change the boundaries of the regions for good reason.*” What is good reason and when can this change occur?

In the online documents tab of this Bill there are many supporting documents yet some of these are not specifically supporting this HB188, which is misleading. While there are similarities to last year’s HB366 of Community Permit Banks, of which some of these letters refer, HB188 is not HB366 and support for one doesn’t necessarily mean support for the other.

We want to see our industry thrive and perpetuate! Our members constantly work towards this by providing good jobs, teaching business and mechanical skills, transferring fishing knowledge, loaning money and more to those of the next generation that show adequate motivation and abilities.

United Southeast Alaska Gillnetters represents the interests of 473 salmon gillnet permit holders and their families. Our board members span Southeast Alaska and into Puget Sound. They are constantly talking to other gillnetters about current issues, including the concept of Regional Fisheries Trusts. These conversations are not generating positive reactions. We believe strongly that limited entry is working and shouldn't be changed. Young or new people wanting to get into fishing can easily find a crew job where they will learn how to fish and will earn money to eventually buy their own operation if they choose. Successful loan programs, including the state's, greatly support new and young fishermen.

Please do not advance HB188.

Thank you for your consideration,



Cynthia Wallesz
Executive Director

CC: Representative Kreiss-Tomkins

- - -

The mission of United Southeast Alaska Gillnetters is to protect, serve and enhance the gillnet fleet of southeast Alaska. We represent the interests of 473 salmon gillnet permit holders and their families.



Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

Phone: 907-586-6652

Email: seafa@gci.net

Fax: 907-523-1168

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

May 9, 2017

House Fisheries Committee
Representative Stutes, Chair
Alaska State Legislature
Juneau, AK 99811

RE: OPPOSE HB 188

Southeast Alaska Fishermen's Alliance (SEAFA) has followed the progression of this bill but had not formally commented to date but felt the need to after the May 5 letter to the House Fisheries Committee regarding Constitutional Considerations. While those are important considerations it does not deal with the issue that we are most concerned about. SEAFA fears that by allowing leasing of permits through a community fisheries trust will undermine the case law with IRS and permits will end up being considered property rights that are able to be attached and taken by the IRS. We have other concerns in addition to this major one.

Southeast Alaska Fishermen's Alliance is a membership based fishing association that represents our members involved in salmon, crab, shrimp and long line fisheries of Southeast Alaska as well as members participating in the Gulf of Alaska longline fisheries and Prince William Sound salmon fisheries.

Sincerely,

Kathy Hansen
Executive Director

Bristol Bay Fishermen's Association

P.O. Box 60131
Seattle, WA 98160
Phone/Fax (206) 542-3930



February 26, 2018

Representative Louise Stutes
Chair, House Fisheries Committee
State Capitol, Room 406
Juneau AK, 99801

Via email to: Representative.Louise.Stutes@akleg.gov
cc: Fisheries Committee Members

Re: Opposition to CS HB 188 (Version L), and Offering and Supporting a Better Idea.

Dear Representative Stutes and Members of the House Fisheries Committee,

I am president of the Bristol Bay Fishermen's Association (BBFA). It is the largest and oldest voluntary association of commercial fishers in Bristol Bay.

BBFA opposes HB 188. It would create Regional Fisheries Trusts (RFT) that will own, buy, sell, and lease Limited Entry Permits for commercial salmon fishing. The bill would –

- (1) establish approximately sixteen regions in Alaska based on existing boundaries of administrative areas used by the Commercial Fisheries Entry Commission to assign limited entry permits for salmon fishing;¹
- (2) allow municipalities in each region to apply to the Department of Commerce, Community and Economic Development (DCCED) for approval of a "public corporation and instrumentality of the state" called a "regional fisheries trust," operated by a board of directors appointed by the governor selecting one from each municipality in the region, and any staff;²
- (3) allow DCCED to approve up to three trusts out of approximately sixteen regions;³
- (4) authorize each trust to borrow funds,⁴ and seek and use public funds, grants and gifts, to acquire or purchase limited entry commercial salmon fishing permits, pay board members and staff, and pay for facilities and operations;⁵
- (5) require each fund to:
 - (a) "establish criteria for the temporary transfer" of acquired permits so as to "ensure the solvency and financial strength of the fisheries trust," which implies that a transferee would pay fees or remunerate the trust to ensure its solvency and financial strength;⁶
 - (b) select individuals lacking permits to receive a temporary transfer of a permit for up to six years, based on competitive bids and other criteria, and who in return would pay other

¹ See CS HB 188, version L, § 56(a)(1); see also AS 16.43.200, and CFEC administrative areas at 20 AAC 05.230 and gear registration areas at 5 AAC 39.129(d).

² CS HB 188, version L, § 16.44.010(a) and (d), § 16.44.020.

³ CS HB 188, version L, § 16.44.010(a).

⁴ CS HB 188, version L, § 16.44.050(a)(3).

⁵ CS HB 188, version L, § 16.44.050(a)(5).

⁶ CS HB 188, version L, § 16.44.050(b)(2).

fees to the state associated with the permit, which would be appropriated to the trust, less any costs of DCCED;⁷

- (6) provide that a trust may not hold more than 2.5 percent of the permits issued for a region, and may not sell a permit unless it receives fair market value.⁸

In sum, the trusts, as “instrumentalities of the state,” would receive money and other assets by at least six means: (1) borrowing funds, (2) public funds and grants, (3) private grants and gifts, (4) competitive bids of transferees for a permit, (5) fees and other remuneration paid by transferees to a trust under the terms of a transfer, and (6) fees associated with the permit paid to the state, less costs of DCCED, and appropriated to the respective trusts. All these funds and assets would be tax exempt.⁹ All would be used to acquire the maximum number of permits allowed,¹⁰ pay directors of the trusts at rates comparable to those of the highest paid elected officials in the region,¹¹ pay staff at rates of comparable state officials,¹² pay expenses, and acquire real and personal property. Although the trusts could only hold 2.5 percent of permits at any given time, nothing in HB 188 prevents the trusts from churning permits -- buying permits when the value is down, putting them into transferee status when useful or profitable to do so, and selling them when the value is high. Thus, HB 188 appears to be a scheme to (1) achieve profits for the trusts, salaries and benefits for their directors and staff, permits for a few temporary transferees, (2) do so at public expense through use of public funds and subsidies based in state and federal tax law, and (3) shield the profits and assets from taxation.

DISCUSSION

Alaska’s salmon fisheries are the envy of the world because commercial fishers, not corporations, own the permits. Commercial fishers are self-employed business people, not employees or contractors of corporations. We fish for our families, children’s educations, health care, etc. That is why we fight to protect salmon, habitat and fisheries. Those who fish elsewhere for corporations do so less and lose their fisheries.

We understand the goal of trying to encourage residents of depressed areas to participate in fisheries. However, HB 188 would turn fishermen into “temporary transferees” under contract to corporations. I’ll explain why HB 188 is not a good idea and offer a better one.

A. HB 188 should be discarded for several reasons.

CS HB 188, version L, is apparently the twelfth draft of HB 188, not counting similar unsuccessful legislation (HB 366) in the 29th Legislature. The problems within HB 188 cannot be solved because its foundation is ill-thought-out.

1. HB 188 would create regional fisheries trusts and allow them to use public funds and state and federal tax law to subsidize the trusts’ acquisition of permits.

The regional fisheries trusts would be public corporations, presumably nonprofit, authorized to borrow funds, and seek gifts or grants from federal, state and municipal governments, or any other

⁷ CS HB 188, version L, § 16.44.055.

⁸ CS HB 188, version L, § 16.44.060(a) and (f).

⁹ CS HB 188, version L, § 16.44.040.

¹⁰ CS HB 188 version L, § 16.44.050(a)(8).

¹¹ CS HB 188 version L, § 16.44.030(a).

¹² CS HB 188 version L, § 16.44.020(i).

source, including grants and gifts of money, permits and other assets from individuals, businesses and charities.¹³ All this subsidizes the trusts through public funds and federal and state tax laws. For example, if a trust were a charitable nonprofit, then a commercial fisher who gives a permit to the trust could deduct a portion of the value of the permit on his or her federal tax return.

The public has more important uses for federal and state taxes than to use or deduct them to subsidize corporations which seek to turn a dollar on acquiring and temporarily transferring fishing permits to a few dozen or few hundred individuals. No benefit for the greater public occurs from using public funds and tax law for such private gain. HB 188 would take from the greater public and provide no benefit to the greater public. HB 188 would benefit a handful of trust corporations, their directors and staff, and a few individuals who would temporarily fish a permit.

If the legislature uses public funds and tax policy for what HB 188 seeks to achieve, a public agency should do it, not corporations with over-populated, over-paid boards and staff, all feeding at the public till.

2. Four facts indicate that the driving force behind HB 188 is a desire of regional businesses to participate in the purchase and sale of permits, more than a desire to help fishermen.

First, HB 188 bars a trust from spending any money on “programs and projects that benefit commercial fishermen” until “after” the trust acquires “the maximum number of entry permits allowed under {the proposed} AS 16.44.060(a).”¹⁴ That bars spending one cent on comments to state or federal government, including to the Board of Fisheries, ADF&G, DNR, DEC, the governor, legislature, Congress, or on bringing or defending law suits, or on opposing or supporting projects like Pebble mine, until “after” the trust acquires the maximum number of entry permits allowed. Aside from whether that bar violates constitutional rights of a trust corporation to free speech, peaceable assembly, and petitioning government, the main objective is to get the maximum number of permits out of the hands of commercial fishers and into the trusts. Otherwise there would be no reason to bar other activities that benefit commercial fishers.¹⁵ Any fisheries trust that voluntarily encumbers its First Amendment rights to support fishermen, fish and habitat deserves no support.

Second, HB 188 provides that “for a fishery that is conducted in more than one fisheries trust region, only the fisheries trust in the fisheries trust region with the greatest number of resident permit holders for the fishery may acquire and temporarily transfer a permit for the fishery.”¹⁶ That disproves that claim that the objective of HB 188 is to help residents who are not permit holders, because if that claimed objective were true, then the bill would provide just the opposite -- that for a fishery that is conducted in more than one fisheries trust region, only the fisheries trust in the fisheries trust region with the greatest number of residents who are not permit holders for the fishery may acquire and temporarily transfer a permit for the fishery. Based on these facts, one can only conclude that HB 188 looks deceptive.

¹³ See CS HB 188 version L, § 16.44.050(a)(3) and (5).

¹⁴ CS HB 188 version L, § 16.44.050(a)(8).

¹⁵ CS HB 188 (version L), § 16.44.010(b)(4), would make promoting resource conservation a purpose of a trust, but the proposed § 16.44.050(a)(8) bars a trust from doing so until after it has acquired the maximum number of permits. That bar implies that the drafters of HB 188 care more about getting permits into the hands of the trusts than conservation.

¹⁶ CS HB 188, version L, § 16.44.060(b).

Third, HB 188 provides that the fisheries trusts, operating as instrumentalities of the State of Alaska –

may also share resources and staff with a regional [aquaculture] association qualified under AS 16.10.380(a), an Alaska Native village or regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement Act), a regional development organization as defined in AS 44.33.896, or another entity created for a purpose related to commercial fishing in the fisheries trust region.¹⁷

Due to three inconsistencies, that sentence makes no sense. (1) Native village and regional corporations are not “created for a purpose related to commercial fishing,” so there is no reason related to commercial fishing to include them. (2) AS 44.33.896 defines “regional development organization” as –

a nonprofit organization or nonprofit corporation formed to encourage economic development within a particular region of the state that includes the entire area of each municipality within that region and that has a board of directors that represents the region's economic, political, and social interests.

Nothing in that definition suggests that such regional development organizations are uniformly “created for a purpose related to commercial fishing.” In places like Cook Inlet and Southeast Alaska where allocation disputes exist between commercial and sport fisheries, such organizations cannot act only in behalf of commercial fishing. (3) The same is true of aquaculture associations. Under AS 16.10.380(a) they too must represent and serve all user groups that seek to belong to the association, not just commercial fishing. The risks of conflicts of interest between the trusts focused solely on commercial fishing and entities having other interests is obvious. It appears that entities not created for purposes related to commercial fishing, such as Native corporations and regional development organizations, are seeking to get into the purchase and sale of limited entry permits.

Fourth, that brings us to matters of conflict of interest. The proposed § 16.44.020(g) would prohibit a board member of a fishery trust from receiving a temporarily transferred permit but does not prohibit a family member from doing so. Ordinary conflict-of-interest standards reach board members, family members of board members, and business partners of board members. HB 188 still invites conflicts of interest. We raised that concern in our 2017 comments, but it was ignored. If the people who are drafting HB 188 cannot reconcile themselves to ordinary standards for conflict of interest, then we cannot believe that their objective is to help people become commercial fishers. Otherwise, HB 188 would contain conventional standards for conflicts of interest, but it does not.

3. HB 188 needs a hard look by accountants because the costs in relation to benefits appear out of balance.

HB 188 and a fiscal note address costs. If one considers the Bristol Bay region, as an example, it has about 3000 salmon permits and thirty communities. Each community could have a director on the board of a regional trust.¹⁸ Each director could be paid “not to exceed the median rate of compensation” of elected municipal officials of the three most populated municipalities in the region, presumably Dillingham, King Salmon and Naknek.¹⁹ Although the directors would have fewer duties than officials running a local government, the cost of paying as many as 30 directors appears out of proportion to the benefits of temporarily transferring permits to 50 to 75 people (up to 2.5 percent of 3000 permits). All

¹⁷ CS HB 188, version L, § 16.44.020(j).

¹⁸ CS HB 188 version L, § 16.44.020(b) and (c).

¹⁹ See CS HB 188 version L, § 16.44.030(a).

that compensation must be added to the cost of acquiring the permits. Next, the costs of operations, facilities, and staff paid at the rate of state employees also must be added. Then, DCCED has added a fiscal note of about a half million dollars for three staff positions, paid with general funds in FY 2019, and reimbursements from the trusts of roughly that amount in each of the out-years which are added costs too. Thus, the total costs in relation to benefits to temporary transferees appear out of balance. The legislature would be wise to have accountants take a hard look at the bill.

B. A better idea is to focus on the Bristol Bay drainages and the state's most valuable fisheries.

We recommend companion state and federal legislation.

The state legislation that would have two elements. First, it would designate most state lands in the Kvichak and Nushagak drainages as a critical habitat area under AS 16.20.500 et seq., managed by the Alaska Department of Fish and Game, closed to new mining claims, but allow development of pre-existing claims if doing so would be "no danger" to fisheries and "compatible" with the critical habitat area. The "no danger" to fisheries standard is existing law, at AS 38.05.142, and was enacted by the voters by initiative in 2014 for approval of mining metallic sulfide deposits (such as the Pebble deposit) in the drainages of the Bristol Bay Reserve established by AS 38.05.140(f). The compatibility test, at AS 16.20.500, is the current standard for uses such as mining within a critical habitat area. Second, the state legislation would establish a program similar to HB 188, operated by ADF&G, and by which residents of villages within or adjacent to the critical habitat area could obtain the benefits sought by HB 188, and more, including actual acquisition of permits, if the associated ANCSA village corporation agrees to conserve riparian lands and stream beds of anadromous streams consistent with the critical habitat area. That creates a clear public benefit for the use of public funds and tax advantages.

The companion federal legislation would increase and target the availability of federal funds to acquire mining claims or mineral interests at metallic sulfide deposits, such as the Pebble deposit, within the state critical habitat area, if the minerals were incapable or impractical to develop because of state or federal law or agency decisions, or because of economics. That would use federal dollars to benefit the state, and its most valuable commercial fisheries, by protecting habitat and public uses of public resources.

This idea of companion state and federal legislation would create public benefits for the use of public funds and tax policy to subsidize the program sought by HB 188. We would be pleased to work with the sponsor of HB 188 to pursue this idea.

CONCLUSION

For these reasons, I encourage the House Fisheries Committee to hold, rather than advance, HB 188, and I encourage the sponsor to work with the Bristol Bay Fishermen's Association to pursue the better idea outlined above. Thank you for considering these comments. If given the opportunity, I will be pleased to testify and answer your questions.

Regards,



David Harsila,
BBFA President

Bristol Bay Fishermen's Association

(formerly AIFMA)

P.O. Box 60131

Seattle, WA 98160

Phone/Fax (206) 542-3930



April 17, 2017

Representative Louise Stutes
Chair, House Fisheries Committee
State Capitol Room 406
Juneau AK, 99801

Via email to: Representative.Louise.Stutes@akleg.gov
and Reid.Harris@akleg.gov

Re: Comments on HB 188.

Dear Representative Stutes and Members of the House Fisheries Committee,

I am president of the Bristol Bay Fishermen's Association (BBFA). Our association, formerly known as the Alaska Independent Fishermen's Marketing Association, organized in Alaska in 1966, is incorporated under Alaska law as a fishermen's cooperative, and represents holders of limited entry permits for commercial salmon fishing in Bristol Bay. I am writing on their behalf regarding HB 188.

HB 188 is similar to HB 366 in the last legislature. For both policy and legal reasons, we opposed HB 366, and we oppose HB 188 now. We continue to recognize that such legislation has the understandable goal of trying to encourage residents of economically depressed areas of Alaska to lease or buy commercial fishing permits in those areas. However, HB 188 is bad policy and employs unlawful means of accomplishing its ends. I'll address policy matters and then legal matters, with the assistance of counsel.

A. Matters of Policy.

1. Public funds should not be used to subsidize acquisition of limited entry permits either by a regional fisheries trust or a person to whom the trust transfers the permit.

Under HB 188, regional fisheries trusts could use public funds obtained from federal, state and municipal governments under the proposed Sec. 16.05.050(a)(5) to purchase limited entry permits under the proposed amended AS 16.43.170(b), which would allow transfer of permits to regional fisheries trusts. Then, the proposed AS 16.05.050(a)(6) allows the trusts to lease the permits to residents of the area covered by the regional trust under terms that, according to the proposed statute, may include transfer of the permits to the lessee. In other words, government funds could be used to subsidize acquisition of permits in a discriminatory manner based on place of residency.

As a matter of policy, public funds should not subsidize acquisition of limited entry permits to harvest a common-use public resource, when the subsidy occurs in the context of discrimination based on local residency or economic status. The reason such subsidies are not good policy is that they have nothing whatsoever to do with the purposes of limited entry, which are to conserve the fishery resources and prevent economic distress among fishermen who would otherwise face an unregulated excess of permits competing for a finite resource.

2. HB 188 allows a regional fisheries trust to loan public funds to a person who acquires a subsidized permit, but does not require repayment of the loan.

The proposed Section 16.44.050 states the powers and duties of the regional fisheries trusts and these include "all powers necessary to carry out the purposes of [the trusts]." We should not forget that HB 188 began as HB 366 in the prior legislature, and that bill would have established regional fishery "banks". The trusts, like banks,

can loan funds under the above clause, including public funds acquired from government. Yet, nothing requires repayment to the trusts, let alone to government.

3. HB 188 allows a person who acquires a subsidized permit to sell the permit at the first opportunity to make a profit at public expense.

HB 188 is open to scamming of public funds. All a person needs to do is acquire a subsidized permit and sell it at the first opportunity for a profit. If the trust had acquired the permit with public funds, then the trust and the lessee/purchaser are simply scamming public funds. At this point you can see that HB 188, like HB 366 before it, remains poorly thought out.

Such schemes abuse government and donors and unjustly enrich unscrupulous applicants. That is poor public policy. Moreover, an applicant who buys from a permit bank could sell the permit to an out-of-state or out-of-region buyer, and doing so would then re-create the very same problem HB 188 is trying to solve. Therefore, HB 188 does not accomplish its goal and does not solve the problem it tries to solve.

4. HB 188 does not prevent unqualified persons from scamming public funds.

Nothing in HB 188 prevents a lessee from entering into side agreements with those not qualified to be lessees. For example, a lessee could have a side agreement with an unqualified person that specifies that the unqualified person lends funds to the lessee to purchase a subsidized permit from a trust, and that in return the lessee will repay the loan and pay to the unqualified person half the profits made upon a prompt sale by the lessee/purchaser. In other words, HB 188 does not prevent abuse of public funds in this manner.

5. Public funds should not be used for what banks and traditional lenders would not do.

The State of Alaska is foolishly wedded to the notion that public funds should be used for functions that banks and other lenders traditionally do. That notion has resulted in the legislature wasting vast amounts of public funds on mega-projects banks would not finance. This is no different, just on a smaller scale. If banks would not lend to a lessee, then government should not do so.

6. HB 188 fails to prevent the fishery trusts from colluding with processors to defeat the interests of fishermen in negotiating a fair price.

Nothing in HB 188 prevents the board of a trust from colluding with a particular processor (or processors) to lease permits to applicants who would agree to sell fish to that processor or those processors. Such collusion would allow processors to gain greater control of a fishery and to defeat the ability of fishermen to negotiate fair prices. Therefore, the bill is counter-productive to the goal of preventing economic distress among commercial fishers and creating economic benefits for them and local communities. It is also counterproductive to the Alaska statutes under which cooperatives, such as the Bristol Bay Fishermen's Association, are incorporated to assist fishermen in obtaining fair prices.

7. HB 188 lacks even the most standard conflict-of-interest provisions.

The proposed Sec. 16.44.020(g) prohibits a board member of a fishery trust from leasing a permit for the trust but does not even prohibit a family member of that board member from doing so. Ordinary conflict-of-interest standards reach board members, family members of board members, and business partners of board members. HB 188 invites corruption.

8. HB 188 needs to prevent trusts from supporting activities contrary to sound fisheries conservation.

Because the powers and duties of the trusts, in the proposed Section 16.44.050, include "all powers necessary to carry out the purposes of [the trusts]," these powers could include financing private fish hatcheries. For decades, fishery scientists around the country, including at ADF&G, have known that hatcheries can too often interfere with wild stocks and cause decreased productivity over time. Accordingly, in 1992 the legislature enacted AS 16.05.730 which establishes a priority for wild fish stocks over enhanced stocks by requiring sustained yield management of wild fish over hatchery fish. HB 188 should not allow an unbridled description of the powers and duties of the boards of the fisheries trusts, contrary to science and existing law.

9. HB 188 needs to conform to law governing trusts and perhaps banking.

HB 188 purports to establish a means to create “trusts”. However, that is a misnomer because they are not trusts in a legal sense. The beneficiaries are not ascertainable. HB 188 does not state a fiduciary duty running to any beneficiary. Because the beneficiaries cannot be ascertained, there is no legal right for anyone to sue the trusts for breach of a fiduciary duty.

Also, we should remember that HB 188 started out as HB 366 which purported to establish “banks,” and that HB 188 simply strikes substitutes trusts for banks. That does nothing to solve problems. Because HB 188 grants unlimited powers to the trusts, they could operate somewhat like banks by loaning money and investing. So, HB 188 needs to be reconsidered with respect to whether the unlimited powers raise issues with banking law.

B. Legal Issues.

1. HB 188 probably creates an unconstitutional special privilege of fishery.

Article VIII, Section 15, of the Alaska Constitution provides:

No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

After we addressed this issue in our comments on HB 366, the office of Legislative Legal Services issues a memorandum which addresses this issue.¹ The memorandum, at p. 2, correctly states that *State v. Ostrosky*, 667 P.2d 1184 (Alaska 1983) and *Johns v. Commercial Fisheries Entry Commission*, 758 P.2d 1256, 1266 (Alaska 1988) stand for the proposition that the limited entry system must entail the “least possible infringement” on the common use clause (Art. VIII, § 3) and the no exclusive right of fishery clause (Art. VIII, § 15). However, the memorandum ignores the more recent case, *Vanek v. State*, 193 P.3d 283, 290 (Alaska 2008). It establishes that any impingement on the prohibition of exclusive rights or special privileges of fishery that “is not required by the purposes of limited entry” is not allowed. Those purposes are stated in Article VIII, § 15. They are “resource conservation,” “prevent[ion] [of] economic distress,” and the “efficient development of aquaculture.” *Id.* Therefore, any special privilege of fishery is unconstitutional if it is not required by those purposes.

The subsidized scheme of HB 188 creates a special privilege for some people to acquire or lease a subsidized limited entry permit. That limited entry permit is the “key” that unlocks the door to commercial fishing. On the face of HB 188, those who lease or acquire from a trust a subsidized permit clearly will have a “special privilege” of accessing and entering a commercial fishery at less cost than those who obtain permits on the conventional market.

Although the proposed Sec. 16.44.010 in HB 188 claims that the purposes of the regional fisheries trusts include “prevention of economic distress among fishermen and those dependent on them for a livelihood” and “resource conservation,” these claims are mere window-dressing. First, nothing in HB 188 promotes conservation, so that claim is manifestly false window-dressing. Second, AS 16.43.290 provides for the optimum number of entry permits for each fishery, and *Johns v. Commercial Fisheries Entry Commission*, 758 P.2d at 1266 unequivocally states that “t]he optimum number provision of the Limited Entry Act is the mechanism by which limited entry is meant to be restricted to its constitutional purposes.” In other words, that number is what seeks to prevent economic distress among fishermen and help conserve the resources. Subsidized permits do not do so. Therefore, the claim that HB 188 does so is false window-dressing meant to cover-up that fact that it

¹ Legal Services, Div. of Legal and Res. Services, Legislative Affairs Agency, State of Alaska, Memo to Rep. Kreiss-Tomkins, from A. Bullard, re Constitutional Questions re CSHB 366 (Apr. 5, 2016), available at http://www.akleg.gov/basis/get_documents.asp?session=30&docid=16320.

is outside those purposes of Article VIII, sec. 15. Besides, HB 188 does not address fishermen. It addresses prospective, would-be fishermen.

Furthermore, the memorandum from legislative Legal Services asserts that HB 188 is intended to reduce financial barriers for state residents seeking to participate in the state's commercial fisheries, "perhaps 'decreasing the 'impingement' of the existing limited entry system."² If it were true that HB 188 decreases impingement of the existing system, then the existing system would not be the "least possible infringement." That would mean that the existing system would be unconstitutional, which it is not, and that Article VIII, section 15 requires the system proposed by HB 188, which of course it does not.

Finally, an attorney, Mr. Brennan, submitted comments which claim HB 188 is constitutional but do not state why he reaches that conclusion and do not analyze Article VIII, sec. 15. His letter is unhelpful.

2. HB 188 violates the Equal Protection Clause of Section 1 of Article I of the Alaska Constitution by allowing some persons to benefit from the system but not others who are similarly situated.

Our comments on HB 366 raised the issue of whether it creates a method that allows some persons to benefit from the system but not others who are economically similarly situated, and therefore violates equal protection. Tellingly, the Legal Services memorandum does not address this issue. Instead, it addresses a different issue, i.e., whether allowing the trusts to lease permits but not others to do so violates equal protection.

Article I, Section 1, of the Alaska Constitution provides in part that "all persons are equal and entitled to equal rights, opportunities, and protection under the law." It requires analysis using a "sliding scale approach instead of the tiered approach of federal equal protection analysis." *State, by and through the Departments of Transportation and Labor v. Ensearch Alaska Construction, Inc.*, 787 P.2d 624, 631 (Alaska 1989). This sliding scale analysis "often provides greater protection to individual rights than does the U.S. Constitution." *Id.* The first task is to determine the importance of the individual interest impaired by the challenged enactment. *Id.* "[T]he right to engage in an economic endeavor within a particular industry is an 'important' right for state equal protection purposes." 787 P.2d at 632.

While the goal of HB 188 of trying to encourage residents of economically depressed areas to lease or buy permits is important, it conceals the "underlying objective of economically assisting one class over another," which the Court has held to be an "illegitimate" objective. 787 P.2d at 634. Therefore, HB 188 violates the equal protection clause of the Alaska Constitution by economically assisting one class of citizens over another.

Although proponents of HB 188 claim it is similar to the Commercial Fishing Revolving Loan Fund, that claim is false because the Fund does not assist one class over another, while HB 188 does.

CONCLUSION

For these reasons, I encourage the House Fisheries Committee to hold, rather than advance, HB 188. Thank you for considering these comments. If given the opportunity, I would be pleased to testify.

Regards,



David Harsila
BBFA President

² Legal Services, Memorandum, *supra*, at pp. 2-3.

UNITED SOUTHEAST ALASKA GILLNETTERS

Box 2196, Petersburg AK 99833 * (253) 237-3099 * usag.alaska@gmail.com * akgillnet.org

April 15, 2017

Representative Louise Stutes
Chair, House Fisheries Committee
State Capitol Room 416
Juneau, AK 99801-1182
sent via email

Dear Chairwoman Stutes, Representative Kreiss-Tomkins (Sponsor) and Committee Members:

United Southeast Alaska Gillnetters (USAG) OPPOSES House Bill 188, "*Commercial Fishing Entry Permits; Loans; Trusts*".

House Bill 188 proposes to change the Limited Entry Act. Since 1975, limited entry has effectively restricted access to valuable state resources, ensuring regulated fisheries management. The Limited Entry Act and Commercial Fisheries Entry Commission (CFEC) successfully guide our world-renowned fisheries and should remain as is.

HB188 says Trusts '*will empower communities to prevent economic distress among fishermen*'. Individual fishermen leasing a Trust-owned permit could certainly have alleviated economic distress but we don't understand how that will transfer among fishermen or communities.

This Bill says Trusts '*will empower communities to promote fisheries conservation*'. We don't understand how Trusts would make this possible.

This Bill says Trusts '*will empower communities to realize greater economic self-sufficiency*'. The idea that this bill would bring economic self-sufficiency to communities is false. Adding a handful of regionally-leased limited entry permits will not stimulate a local economy; adding a few seasonal jobs will not have a measurable impact on a local economy. Harvested fish will likely be sold to processors located in other communities and the fishermen who lease these permits will probably buy their gear and maintenance necessities from established businesses in larger towns or "down south." Essentially, such Trusts will help and empower a few individual fishermen to establish themselves yet it misleading to state trusts will empower communities.

At times, this Bill uses the terms 'communities' and 'trusts' interchangeably. As written, it is designed for Trusts to be financially self-sufficient but a Trust is a sole entity and its state of self-sufficiency does not translate to another entity, such as a community.

Additionally, the Bill raises other financial questions such as how will these Trusts be funded? HB188's Fiscal Note says the general fund will pay for a Trust's first year but its second year will be funded by fees generated by the Trust. It seems like in order for a Trust to be financially self-sufficient they will need to charge fishermen some pretty hefty fees, which would have the reverse affect this bill desires, as the fishermen leasing permits cannot get ahead because of Trust fees. How much money is each Trust expected to spend/need each year? And how much in fees are Trusts expecting to generate for each permit?

Section 16.44.030 says, "*board members may be provided reasonable compensation*". What constitutes 'reasonable'? Fishermen leasing permits from Trusts will be paying for this and other costs.

Section 16.44.050 describes the powers of Trusts, sets some loose guidelines and leads to more questions. What might a 'competitive bid process' or 'lease terms' look like? This and other critical processes should be more developed with special care given to potential conflict of interest issues instead of leaving it up to a volunteer (or reasonably compensated) board. Include transparent measures throughout all processes. This Section also says Trusts can borrow money to buy permits. Where would this money come from and how would such buying processes work? "*Trusts must set lease terms which maintain their financial solvency, and they must invest lease revenue in the purchase of additional entry permits to the greatest extent possible*". Again, fishermen leasing permits will be paying for this, which may challenge the fisherman's financial solvency depending on the terms. Pressure to keep the Trust solvent could lead board members towards compromising behavior.

HB88 also states: "*the department may modify or change the boundaries of the regions for good reason.*" What is good reason and when can this change occur?

In the online documents tab of this Bill there are many supporting documents yet some of these are not specifically supporting this HB188, which is misleading. While there are similarities to last year's HB366 of Community Permit Banks, of which some of these letters refer, HB188 is not HB366 and support for one doesn't necessarily mean support for the other.

We want to see our industry thrive and perpetuate! Our members constantly work towards this by providing good jobs, teaching business and mechanical skills, transferring fishing knowledge, loaning money and more to those of the next generation that show adequate motivation and abilities.

United Southeast Alaska Gillnetters represents the interests of 473 salmon gillnet permit holders and their families. Our board members span Southeast Alaska and into Puget Sound. They are constantly talking to other gillnetters about current issues, including the concept of Regional Fisheries Trusts. These conversations are not generating positive reactions. We believe strongly that limited entry is working and shouldn't be changed. Young or new people wanting to get into fishing can easily find a crew job where they will learn how to fish and will earn money to eventually buy their own operation if they choose. Successful loan programs, including the state's, greatly support new and young fishermen.

Please do not advance HB188.

Thank you for your consideration,

A handwritten signature in black ink that reads "Cynthia Wallesz". The signature is written in a cursive, flowing style.

Cynthia Wallesz
Executive Director

CC: Representative Kreiss-Tomkins

- - -

The mission of United Southeast Alaska Gillnetters is to protect, serve and enhance the gillnet fleet of southeast Alaska. We represent the interests of 473 salmon gillnet permit holders and their families.



Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

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Email: seafa@gci.net

Fax: 907-523-1168

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

May 9, 2017

House Fisheries Committee
Representative Stutes, Chair
Alaska State Legislature
Juneau, AK 99811

RE: OPPOSE HB 188

Southeast Alaska Fishermen's Alliance (SEAFA) has followed the progression of this bill but had not formally commented to date but felt the need to after the May 5 letter to the House Fisheries Committee regarding Constitutional Considerations. While those are important considerations it does not deal with the issue that we are most concerned about. SEAFA fears that by allowing leasing of permits through a community fisheries trust will undermine the case law with IRS and permits will end up being considered property rights that are able to be attached and taken by the IRS. We have other concerns in addition to this major one.

Southeast Alaska Fishermen's Alliance is a membership based fishing association that represents our members involved in salmon, crab, shrimp and long line fisheries of Southeast Alaska as well as members participating in the Gulf of Alaska longline fisheries and Prince William Sound salmon fisheries.

Sincerely,

Kathy Hansen
Executive Director

LAW OFFICES
BRENNAN ■ HEIDEMAN
A PROFESSIONAL CORPORATION

FROM THE DESK OF:
JAMES T. BRENNAN
ATTORNEY AT LAW
jbrennan@law-alaska.com

April 11, 2017

Representative.Louise.Stutes@akleg.gov

Representative Louise Stutes
Chairperson, House Fisheries Committee

Re: HB 188; Act to Establish Regional Fisheries Trust

Dear Representative Stutes:

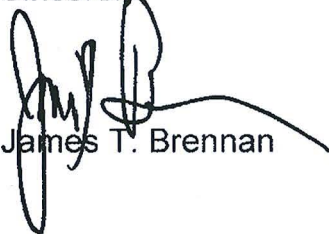
I am an Anchorage attorney and have been engaged in civil practice in Alaska since 1977. My varied practice has included fisheries law and constitutional law, and I have had substantial appellate experience, including numerous appearances in the Alaska Supreme Court.

I have reviewed HB 188 in detail, including its provisions concerning formation of regional fisheries trusts to hold commercial fishing entry permits and to authorize leases of such permits to persons engaged in various Alaska salmon fisheries and gear types. I have specifically reviewed these provisions for their compliance with various federal and state constitutional provisions which might be raised to challenge the fisheries trust system to be established by HB 188.

In my opinion, the provisions of HB 188 are consistent with both the federal and Alaska constitutions, and would withstand constitutional challenge.

If you have any questions concerning this, please do not hesitate to contact me.

Sincerely,



James T. Brennan

JTB:tw
JTBGEN

30-LS0389\L
Bullard
2/22/18

CS FOR HOUSE BILL NO. 188()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE KREISS-TOMKINS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to commercial fishing entry permits; establishing regional fisheries**
 2 **trusts and fisheries trust regions; relating to the duties of regional fisheries trusts to**
 3 **hold, temporarily transfer, and revoke transfers of commercial fishing entry permits;**
 4 **relating to the duties of the Alaska Commercial Fisheries Entry Commission and the**
 5 **Department of Commerce, Community, and Economic Development; and providing for**
 6 **an effective date."**

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 9 to read:

10 **LEGISLATIVE FINDINGS.** The legislature finds that

11 (1) the state has an ownership and stewardship interest in the fish that
 12 originate in state waters and return to spawn;

13 (2) art. VIII, sec. 15, of the Constitution of the State of Alaska, authorizes the

1 state to limit entry into a fishery for the purposes of resource conservation and preventing
2 economic distress among fishermen and those dependent on them for a livelihood;

3 (3) to promote the conservation of fisheries and the economic health and
4 stability of commercial fishing in the state, the state began limiting entry into commercial
5 fisheries in 1975;

6 (4) since 1975, there has been a substantial and well-documented decline in
7 the number of limited entry permits held by residents of many Alaska communities;

8 (5) the decline in the number of limited entry permits represents lost jobs, lost
9 economic opportunity, and other economic distress among fishermen, their dependents, and
10 their communities;

11 (6) the state has a compelling interest in promoting the economic self-
12 sufficiency of its communities and ensuring their economic health and vitality;

13 (7) fishing is the most viable economic opportunity in numerous Alaska
14 communities;

15 (8) access to commercial fishing opportunities reduces economic distress and
16 contributes to economic self-sufficiency by providing jobs, income, a local tax base, and
17 greater access to subsistence and other fisheries;

18 (9) access to many commercial fisheries in the state requires significant
19 financial resources, posing a barrier to Alaskans desiring to participate in the state's
20 commercial fisheries;

21 (10) state-chartered regional fisheries trusts would empower communities to
22 prevent economic distress among fishermen, promote fisheries conservation, improve access
23 to Alaska fisheries, and realize greater economic self-sufficiency by providing a tightly
24 controlled, additional path of entry into the state's commercial fisheries.

25 * **Sec. 2.** AS 06.26.040(b) is amended to read:

26 (b) This section does not prohibit the use of the **word "trust" by a regional**
27 **fisheries trust established under AS 16.44 or the** words "trust" or "trust company"
28 in the name of a corporation that is in existence as of January 1, 2003, and that is not
29 subject to this chapter if the corporation was originally organized under the laws of
30 this state and has not, since the date of its original organization, amended or restated
31 its articles of incorporation to delete from its name the words "trust" or "trust

1 company."

2 * **Sec. 3.** AS 16.05.253(a) is amended to read:

3 (a) The Board of Fisheries may require **an individual** [A PERSON] who
4 holds a limited entry permit or an interim-use permit under AS 16.43 **or who is a**
5 **temporary transferee under AS 16.43.180 or 16.43.190** to be physically present at a
6 beach or riparian fishing site during the operation of net gear or other stationary
7 fishing gear at the site, except when the permit holder **or temporary transferee** is at
8 or traveling to or from the location of

9 (1) a sale of fish caught in the gear; or

10 (2) other stationary gear of the permit holder **or temporary**
11 **transferee.**

12 * **Sec. 4.** AS 16.05.480(a) is amended to read:

13 (a) A person engaged in commercial fishing shall obtain a commercial fishing
14 license and shall retain the license in possession and readily available for inspection
15 during fishing operations. An entry permit or interim-use permit entitles the holder, **or**
16 **individual to whom the entry permit is temporarily transferred under**
17 **AS 16.43.180 or 16.43.190,** to participate as a gear operator in the fishery for which
18 the permit is issued and to participate as a crewmember in any fishery. A crewmember
19 fishing license is not transferable and entitles the holder to participate as a
20 crewmember in any fishery.

21 * **Sec. 5.** AS 16.05.480(g) is amended to read:

22 (g) A resident engaged in commercial fishing who is 11 years of age or older
23 and who does not hold an entry permit or an interim-use permit **or who is not a**
24 **temporary transferee under AS 16.43.180 or 16.43.190** shall, except as provided in
25 (i) of this section, pay a fee of \$60 for an annual crewmember fishing license. A
26 resident engaged in commercial fishing who is less than 11 years of age and who does
27 not hold an entry permit or an interim-use permit **or who is not a temporary**
28 **transferee under AS 16.43.180 or 16.43.190** shall pay an annual fee of \$5.

29 * **Sec. 6.** AS 16.05.480(h) is amended to read:

30 (h) A nonresident engaged in commercial fishing who is 11 years of age or
31 older and who does not hold an entry permit or an interim-use permit **or who is not a**

1 temporary transferee under AS 16.43.180 or 16.43.190 shall, except as provided in
2 (i) of this section, pay a base fee of \$60 for an annual crewmember fishing license,
3 plus an amount, established by the department by regulation, that is as close as is
4 practicable to the maximum allowed by law. A nonresident engaged in commercial
5 fishing who is less than 11 years of age and who does not hold an entry permit or an
6 interim-use permit or who is not a temporary transferee under AS 16.43.180 or
7 16.43.190 shall pay an annual base fee of \$5 plus an amount, established by the
8 department by regulation, that is as close as is practicable to the maximum allowed by
9 law.

10 * Sec. 7. AS 16.05.480(i) is amended to read:

11 (i) Notwithstanding (g) and (h) of this section, a resident or nonresident
12 engaged in commercial fishing who does not hold an entry permit or an interim-use
13 permit or who is not a temporary transferee under AS 16.43.180 or 16.43.190 may
14 obtain one seven-day crewmember fishing license under this subsection annually. An
15 individual [A PERSON] who obtains a seven-day license is not eligible for another
16 seven-day license in the same license year; however, if an individual [A PERSON]
17 who obtains a seven-day license pays the full fee for an annual crewmember fishing
18 license under (g) or (h) of this section during the same license year, the individual
19 [PERSON] is entitled to receive a refund of the fee for the seven-day license. The
20 department shall adopt regulations establishing a refund procedure. During the period
21 for which the seven-day license is valid, an individual [A PERSON] who holds a
22 seven-day license may not engage in fishing with a rod and reel while present on a
23 commercial fishing vessel. The fee for a seven-day license is \$30.

24 * Sec. 8. AS 16.05.480(j) is amended to read:

25 (j) In this section, "commercial fishing license" includes an entry permit and
26 an interim-use permit issued under AS 16.43, an entry permit temporarily
27 transferred under AS 16.43.180 or 16.43.190, and a crewmember fishing license.

28 * Sec. 9. AS 16.05.675(a) is amended to read:

29 (a) An individual [A PERSON] who does not hold a limited entry permit or
30 interim-use permit issued under AS 16.43 or a fish transporter permit issued under
31 AS 16.05.671 or who is not a temporary transferee under AS 16.43.180 or

1 **16.43.190** may not deliver or land fish in the state unless the **individual** [PERSON]

2 (1) holds a valid federal permit to operate commercial fishing gear in
3 the fishery conservation zone; and

4 (2) has been issued a landing permit by the Alaska Commercial
5 Fisheries Entry Commission.

6 * **Sec. 10.** AS 16.05.680(a) is amended to read:

7 (a) It is unlawful for a person, or an agent or representative of the person,

8 (1) to employ, in the harvesting, transporting, or purchasing of fish, a
9 fisherman who [NEITHER] is **not** licensed under AS 16.05.480, **who** [NOR] is **not**
10 the holder of a permit issued under AS 16.43, **or who is not a temporary transferee**
11 **under AS 16.43.180 or 16.43.190;**

12 (2) to purchase fish from a person who is not

13 (A) the holder of a limited entry, interim-use, or landing permit
14 issued under AS 16.43 **or who is not a temporary transferee under**
15 **AS 16.43.180 or 16.43.190;**

16 (B) a fish transporter who is selling the fish as the agent of the
17 holder of a limited entry, interim-use, or landing permit issued under AS 16.43
18 **or who is a temporary transferee under AS 16.43.180 or 16.43.190;** or

19 (C) exempt under AS 16.05.660; or

20 (3) to purchase fish from an association other than one to which a
21 permit has been issued under AS 16.05.662.

22 * **Sec. 11.** AS 16.05.710 is amended by adding a new subsection to read:

23 (e) If proceedings to suspend commercial fishing privileges or licenses under
24 this section are pending against an individual, a regional fisheries trust established
25 under AS 16.44.010 may not temporarily transfer a permit to the individual under
26 AS 16.43.190.

27 * **Sec. 12.** AS 16.05.723(b) is amended to read:

28 (b) If a person is convicted under this section of one of the following offenses,
29 then, in addition to the penalties imposed under (a) of this section, the court may
30 impose a fine equal to the gross value of the fish found on board or at the fishing site
31 at the time of the violation:

- 1 (1) commercial fishing in closed waters;
 2 (2) commercial fishing during a closed period or season;
 3 (3) commercial fishing with unlawful gear, including a net, pot, tackle,
 4 or other device designed or employed to take fish commercially; or
 5 (4) commercial fishing without a limited entry permit holder or
 6 temporary transferee under AS 16.43.180 or 16.43.190 on board if the holder or
 7 temporary transferee is required by law or regulation to be present.

8 * Sec. 13. AS 16.10.265(a) is amended to read:

9 (a) An individual may not, while acting as a fish processor or primary fish
 10 buyer, or as an agent, director, officer, member, or employee of a fish processor, of a
 11 primary fish buyer, or of a cooperative corporation organized under AS 10.15,
 12 intentionally or knowingly make an original purchase of fish from a seller who [DOES
 13 NOT HOLD]

14 (1) does not hold a landing permit, an entry permit, or an interim-use
 15 permit; [OR]

16 (2) is not a temporary transferee under AS 16.43.180 or 16.43.190;
 17 or

18 (3) does not hold a fish transporter permit under AS 16.05.671.

19 * Sec. 14. AS 16.10.267(a) is amended to read:

20 (a) When a fisherman sells fish, the fisherman shall possess

21 (1) a landing permit, entry permit, or interim-use permit issued, [OR]
 22 transferred [TO THE FISHERMAN] under AS 16.43, or temporarily transferred
 23 under AS 16.43.180 or 16.43.190, or other document authorized by regulation to be
 24 used in place of an entry permit or interim-use permit; and

25 (2) an identification card that has been issued to the fisherman by a
 26 state or federal agency or other organization designated by the Department of Public
 27 Safety and that bears a photograph of the fisherman.

28 * Sec. 15. AS 16.10.455(b) is amended to read:

29 (b) A hatchery permit holder may, by a majority vote of the membership of
 30 the hatchery permit holder's board, elect to harvest surplus salmon produced at a
 31 facility in a terminal harvest area established for that facility through the common

1 property fishery. At the request of the hatchery permit holder and if the commissioner
2 of fish and game determines that there are no allocative issues involved, and after
3 reasonable consultation with affected commercial fishermen and the organizations of
4 affected commercial fishermen, the commissioner may adopt regulations governing
5 the harvest of surplus salmon in a terminal harvest area when the hatchery permit
6 holder elects to harvest surplus salmon produced at a facility through a common
7 property fishery. The regulations must specify the terms, conditions, and rules under
8 which the common property fishery in the terminal harvest area shall be conducted,
9 including requirements for hold inspections and reporting of harvests and sales of
10 salmon taken in the terminal harvest area. Following adoption of regulations by the
11 department, each year before March 10, the hatchery permit holder's board, by a
12 majority vote of the board's membership, may determine whether the hatchery will
13 operate under the regulations adopted under this subsection during the current calendar
14 year, and shall notify the department if the hatchery intends to operate under the
15 regulations adopted under this subsection. The Board of Fisheries may adopt
16 regulations under AS 16.05.251 regarding a fisheries management plan governing
17 operations under this subsection in a terminal harvest area, including allocation plans.
18 Participation in the fishery must be open to all interim-use permit holders, [AND]
19 entry permit holders, and individuals to whom entry permits are temporarily
20 transferred under AS 16.43.180 or 16.43.190 [WHO HOLD PERMITS] to operate a
21 type of gear that may be used in the fishing district in which the terminal harvest area
22 is located if that type of gear is authorized by regulation to be used in the terminal
23 harvest area. An interim-use permit holder, [OR AN] entry permit holder, or
24 individual to whom an entry permit is temporarily transferred under
25 AS 16.43.180 or 16.43.190 who takes salmon in a common property fishery in a
26 terminal harvest area may sell the salmon to any fish buyer or processor who is
27 licensed to do business in the state.

28 * **Sec. 16.** AS 16.10.540(a) is amended to read:

29 (a) An association of individuals [PERSONS] who hold entry permits under
30 AS 16.43, that consists of at least 51 percent of the individuals who hold [PERSONS
31 HOLDING] entry permits and actively participate in the [PARTICIPATING IN A]

1 fishery to be benefited by a hatchery program, may levy and collect an assessment
2 from among its members for the purpose of securing and repaying a loan made under
3 AS 16.10.510.

4 * **Sec. 17.** AS 16.43.100(a) is amended to read:

5 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

6 (1) regulate entry into the commercial fisheries for all fishery resources
7 in the state;

8 (2) establish priorities for the application of the provisions of this
9 chapter to the various commercial fisheries of the state;

10 (3) establish administrative areas suitable for regulating and
11 controlling entry into the commercial fisheries;

12 (4) establish, for all types of gear, the maximum number of entry
13 permits for each administrative area;

14 (5) designate, when necessary to accomplish the purposes of this
15 chapter, particular species for which separate interim-use permits or entry permits will
16 be issued;

17 (6) establish qualifications for the issuance of entry permits;

18 (7) issue entry permits to qualified applicants;

19 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
20 and 16.43.225;

21 (9) establish, for all types of gear, the optimum number of entry
22 permits for each administrative area;

23 (10) administer the buy-back program provided for in AS 16.43.310
24 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
25 number of entry permits;

26 (11) provide for the transfer and reissuance of entry permits to
27 qualified transferees;

28 (12) provide for the transfer and reissuance of entry permits for
29 alternative types of legal gear, in a manner consistent with the purposes of this
30 chapter;

31 (13) establish and administer the collection of the annual fees provided

1 for in AS 16.43.160;

2 (14) administer the issuance of commercial fishing vessel licenses
3 under AS 16.05.490;

4 (15) issue educational entry permits to applicants who qualify under
5 the provisions of AS 16.43.340 - 16.43.390;

6 (16) establish reasonable user fees for services;

7 (17) issue landing permits under AS 16.05.675 and regulations adopted
8 under that section;

9 (18) establish and collect annual fees for the issuance of landing
10 permits that reasonably reflect the costs incurred in the administration and
11 enforcement of provisions of law related to landing permits;

12 (19) establish a moratorium on entry into commercial fisheries as
13 provided in AS 16.43.225;

14 (20) when requested by a regional development organization formed
15 under former AS 44.33.895 or a regional fisheries trust established under
16 AS 16.44.010, provide to the organization or trust, without charge, public information
17 contained in the commission's data with respect to relevant fisheries, including limited
18 fisheries, fishery participants, and limited entry permit holders' harvests and earnings;
19 [AND]

20 (21) administer, when necessary to accomplish the purposes of this
21 chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 -
22 16.43.521;

23 (22) approve the temporary transfer of entry permits from
24 regional fisheries trusts established under AS 16.44.010 to qualified individuals
25 under AS 16.44.080;

26 (23) prohibit the transfer of an entry permit to or from a regional
27 fisheries trust established under AS 16.44.010 if the acquisition of the entry
28 permit by the trust would violate AS 16.44.060;

29 (24) after dissolution of a fisheries trust established under
30 AS 16.44.010, determine and apply equitable methods of reissuance of entry
31 permits held by that fisheries trust to ensure the state receives fair market value

1 for the permits.

2 * **Sec. 18.** AS 16.43.140(a) is amended to read:

3 (a) A person may not operate gear in the commercial taking of fishery
4 resources if the person does not hold [WITHOUT] a valid entry permit or a valid
5 interim-use permit or the person is not an individual who is a temporary
6 transferee under AS 16.43.180 or 16.43.190 [ISSUED BY THE COMMISSION].

7 * **Sec. 19.** AS 16.43.140(b) is amended to read:

8 (b) A permit is not required of a crewmember or other person assisting in the
9 operation of a unit of gear engaged in the commercial taking of fishery resources as
10 long as the holder of the entry permit or [THE] interim-use permit or the temporary
11 transferee under AS 16.43.180 or 16.43.190 for that particular unit of gear is at all
12 times present and actively engaged in the operation of the gear.

13 * **Sec. 20.** AS 16.43.150(a) is amended to read:

14 (a) Except as may be otherwise provided under AS 16.43.270(d), an entry
15 permit authorizes the permittee, or individual to whom an entry permit is
16 temporarily transferred under AS 16.43.180 or 16.43.190, to operate a unit of gear
17 within a specified fishery.

18 * **Sec. 21.** AS 16.43.150(b) is amended to read:

19 (b) The holder of an entry permit or a temporary transferee under
20 AS 16.43.180 or 16.43.190 shall have the permit in possession at all times when
21 engaged in the operation of gear for which it was issued.

22 * **Sec. 22.** AS 16.43.150(g) is amended to read:

23 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215, 44.81.225,
24 and 44.81.231 - 44.81.250, an entry permit may not be

25 (1) pledged, mortgaged, leased, or encumbered in any way;

26 (2) transferred with any retained right of repossession or foreclosure,
27 or on any condition requiring a subsequent transfer, unless the permit is temporarily
28 transferred under AS 16.43.180 or 16.43.190; or

29 (3) attached, distrained, or sold on execution of judgment or under any
30 other process or order of any court, except as provided in AS 16.43.170(g) and (h).

31 * **Sec. 23.** AS 16.43.150(h) is amended to read:

1 (h) Unless an entry permit holder has expressed a contrary intent in a will that
2 is probated, the commission shall, upon the death of the permit holder, transfer the
3 permanent permit by right of survivorship directly to the surviving spouse or, if no
4 spouse survives, to a natural person **or a regional fisheries trust established under**
5 **AS 16.44.010** designated by the permit holder on a form provided by the commission.
6 If no spouse survives and if the person **or regional fisheries trust** designated on the
7 form, if any, does not survive **or continue to exist**, the permit passes as part of the
8 permit holder's estate. A designation under this subsection must be acknowledged
9 before a person authorized to administer an oath under AS 09.63.010 or must be
10 witnessed by two persons who are qualified under AS 13.12.505 to witness the will of
11 the permit holder. Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and
12 44.81.231 - 44.81.250, the permit is exempt from the claims of creditors of the estate.

13 * **Sec. 24.** AS 16.43.150 is amended by adding new subsections to read:

14 (j) Subsections (h) and (i) of this section do not apply to a temporary
15 transferee under AS 16.43.190.

16 (k) A temporary transferee under AS 16.43.180 or 16.43.190 has the same use
17 privilege or right in a fishery that is available to an individual holding an entry permit
18 or valid interim-use permit under this chapter.

19 * **Sec. 25.** AS 16.43.160(d) is amended to read:

20 (d) The holder of a permit whose household income, assets, and financial
21 resources fall within the eligibility standards for the food stamp program under 7
22 U.S.C. 2011 - 2025, as amended, is subject to an annual base fee for the issuance or
23 renewal of an entry permit or an interim-use permit that is equal to 50 percent of the
24 annual base fee that the permit holder would otherwise pay under (c) of this section. In
25 addition to the reduced annual base fee under this subsection, a nonresident who
26 qualifies for a reduced fee under this subsection shall pay the annual nonresident
27 surcharge established under (c) of this section. **This subsection does not apply to a**
28 **temporary transferee under AS 16.43.190.**

29 * **Sec. 26.** AS 16.43.170(a) is amended to read:

30 (a) Except as provided in AS 16.10.333 - 16.10.338 and [IN] AS 44.81.231 -
31 44.81.250, entry permits and interim-use permits are transferable only through the

1 commission as provided in this section, AS 16.43.180, and 16.43.190 [AS 16.43.180]
2 and under regulations adopted by the commission. An involuntary transfer of an entry
3 permit in a manner inconsistent with the statutes of this state and the regulations of the
4 commission is void.

5 * **Sec. 27.** AS 16.43.170(b) is amended to read:

6 (b) Except as provided for temporary transfers under AS 16.43.180 and
7 16.43.190 and permit holders subject to [IN] (e) of this section, the holder of an
8 entry permit may transfer the permit to another person, to a regional fisheries trust
9 under AS 16.44, or to the commission upon 60 days' [DAYS] notice of intent to
10 transfer under regulations adopted by the commission. Not [NO] sooner than 60 days
11 nor later than 12 months from the date of notice to the commission, the holder of an
12 entry permit may transfer the permit. If the proposed transferee, other than the
13 commission or a regional fisheries trust, can demonstrate the present ability to
14 participate actively in the fishery, and the transfer does not violate any provision of
15 this chapter or regulations adopted under this chapter, and if a certificate for the permit
16 under AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the
17 commission shall approve the transfer and reissue the entry permit to the transferee if
18 [PROVIDED THAT] neither party is prohibited by law from participating in the
19 transfer.

20 * **Sec. 28.** AS 16.43.180(a) is amended to read:

21 (a) The commission shall adopt regulations providing for the temporary
22 emergency transfer of entry permits, including temporary emergency transfer of
23 temporarily transferred permits under AS 16.43.190, and interim-use permits when
24 illness, disability, death, required military or government service, or other unavoidable
25 hardship prevents the permit holder or temporary transferee from participating in the
26 fishery. To alleviate hardship pending a final determination of the permit holder's
27 eligibility for an entry permit, the commission shall adopt regulations providing for the
28 temporary emergency transfer of an interim-use permit issued under AS 16.43.210(b)
29 or 16.43.225.

30 * **Sec. 29.** AS 16.43.180 is amended by adding a new subsection to read:

31 (c) If a temporary transferee under AS 16.43.190 is prevented from

1 participating in a fishery under (a) of this section, the commission shall approve the
2 temporary emergency transfer of the permit fished by the transferee to another
3 individual, if

4 (1) the terms of the temporary emergency transfer agreement between
5 the emergency transferee and the regional fisheries trust allow the emergency
6 transferee to fish the permit on the same terms as the individual prevented from
7 participating in the fishery; and

8 (2) the individual is

9 (A) selected by the temporary transferee who is prevented from
10 participating in the fishery;

11 (B) approved by the regional fisheries trust that holds the
12 permit; and

13 (C) qualified under this chapter and AS 16.44.080.

14 * **Sec. 30.** AS 16.43 is amended by adding a new section to article 2 to read:

15 **Sec. 16.43.190. Regional fisheries trusts; temporary transfer of entry**
16 **permits.** (a) When an entry permit is transferred to a regional fisheries trust
17 established under AS 16.44.010, the commission shall record the regional fisheries
18 trust as the permit holder. An entry permit held by a regional fisheries trust may only
19 be fished by an individual qualified under AS 16.44.080(a) and approved as a
20 temporary transferee by the commission under (c) of this section or AS 16.43.180(c).

21 (b) Before an individual qualified under AS 16.44.080 may fish an entry
22 permit held by a regional fisheries trust, the regional fisheries trust shall provide the
23 commission with

24 (1) information identifying the permit to be temporarily transferred;

25 (2) the name, and other reasonable identifying information requested
26 by the commission, of the individual;

27 (3) the terms of the temporary transfer, including the length of the
28 transfer period and compensation; and

29 (4) any other information that the commission may require by
30 regulation.

31 (c) Unless the commission finds that an individual does not qualify for transfer

1 of an entry permit under this chapter or AS 16.44.080, the commission shall approve
 2 the temporary transfer of an entry permit held by a regional fisheries trust to the
 3 individual on the terms provided to the commission under (b)(3) of this section within
 4 15 days after receipt of all information required, or requested, by the commission
 5 under this section.

6 (d) The commission shall revoke the temporary transfer of an entry permit
 7 held by a regional fisheries trust if

8 (1) requested by a regional fisheries trust under AS 16.43.960(I); or

9 (2) a temporary transferee

10 (A) fails to compensate the fisheries trust as provided by the
 11 terms of the temporary transfer provided to the commission under (b) of this
 12 section; or

13 (B) is not qualified under this chapter or AS 16.44.080.

14 * Sec. 31. AS 16.43.330(a) is amended to read:

15 (a) When the number of outstanding entry permits for a fishery is less than the
 16 optimum number established under AS 16.43.290, the commission shall issue new
 17 entry permits to applicants who are presently able to engage actively in the fishery or,
 18 subject to AS 16.44.060, to regional fisheries trusts established under
 19 AS 16.44.010 until the optimum number is reached.

20 * Sec. 32. AS 16.43.850 is amended to read:

21 **Sec. 16.43.850. Point system.** (a) For the purpose of identifying frequent
 22 violators of commercial fishing laws in salmon fisheries, the commission shall adopt
 23 regulations establishing a uniform system for the suspension of commercial salmon
 24 fishing privileges by assigning demerit points for convictions for violations of
 25 commercial fishing laws in salmon fisheries that are reported to the commission under
 26 AS 16.43.880. The commission shall assess demerit points against an individual who
 27 holds an entry permit or interim-use permit or who is a temporary transferee
 28 under AS 16.43.180 or 16.43.190 [A PERMIT HOLDER] for each violation of
 29 commercial fishing laws in a salmon fishery in accordance with (b) and (c) of this
 30 section. The commission shall assess points against an individual who holds a permit
 31 or who is a temporary transferee under AS 16.43.180 or 16.43.190 [HOLDER] for

1 the salmon fishery in which the violation of commercial fishing laws occurred.

2 (b) The commission shall assess demerit points against **an individual who**
3 **holds a permit or who is a temporary transferee under AS 16.43.180 or 16.43.190**
4 [HOLDER] for a conviction of a violation of commercial fishing laws in a salmon
5 fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 -
6 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 -
7 16.10.790 for the following violations in accordance with this schedule:

- 8 (1) fishing in closed waters 6 points;
- 9 (2) fishing during closed season or period 6 points;
- 10 (3) fishing with more than the legal amount of gear 4 points;
- 11 (4) fishing with gear not allowed in fishery 6 points;
- 12 (5) fishing before expiration of transfer period 6 points;
- 13 (6) interfering with commercial fishing gear 4 points;
- 14 (7) fishing with more than the legal amount of
15 gear on vessel 4 points;
- 16 (8) improper operation of fishing gear 4 points;
- 17 (9) permit holder **or permit temporary transferee**
18 not present when required 4 points;
- 19 (10) fishing with underlength or overlength vessel 6 points;
- 20 (11) wanton waste of fishery resources 4 points.

21 (c) Notwithstanding (b) of this section, if **the** [A PERMIT HOLDER'S] first
22 conviction of a violation of commercial fishing laws in a salmon fishery in a 36-month
23 period **for an individual who is a permit holder or a temporary transferee under**
24 **AS 16.43.180 or 16.43.190** is a conviction under AS 16.05.722, the number of demerit
25 points assessed against the permit holder **or temporary transferee** for the violation
26 must be one-half of the points assessed for the violation under (b) of this section.

27 (d) The commission shall suspend **the** [A PERMIT HOLDER'S] commercial
28 salmon fishing privileges **of an individual who is a permit holder or a temporary**
29 **transferee under AS 16.43.180 or 16.43.190** for a salmon fishery for a period of

- 30 (1) one year if the permit holder **or temporary transferee**
31 accumulates 12 or more points during any consecutive 36-month period as a result of

1 convictions for violations of commercial fishing laws in the salmon fishery;

2 (2) two years if the permit holder or temporary transferee
3 accumulates 16 or more points during any consecutive 36-month period as a result of
4 convictions for violations of commercial fishing laws in the salmon fishery;

5 (3) three years if the permit holder or temporary transferee
6 accumulates 18 or more points during any consecutive 36-month period as a result of
7 convictions for violations of commercial fishing laws in the salmon fishery.

8 * **Sec. 33.** AS 16.43.855(a) is amended to read:

9 (a) Notice of each assessment of points shall be given to the permit holder or
10 the temporary transferee under AS 16.43.180 or 16.43.190. Notice shall also be
11 given to the permit holder or temporary transferee before the expiration of a
12 suspension of commercial salmon fishing privileges under AS 16.43.850(d) that
13 subsequent violations of commercial fishing laws in the salmon fishery may result in
14 further suspensions of the permit. The notice may be given by first class mail.

15 * **Sec. 34.** AS 16.43.855(c) is amended to read:

16 (c) The assessment of points against a permit holder or temporary transferee
17 under AS 16.43.180 or 16.43.190 by the commission under AS 16.43.850 - 16.43.895
18 is in addition to, and not in substitution for, other provisions of this title and is not a
19 substitute for any penalty imposed by a court.

20 * **Sec. 35.** AS 16.43.855(d) is amended to read:

21 (d) Subject to (e) of this section, if [IF] points are assessed against an
22 individual temporarily transferred [A PERMIT HOLDER WHO HOLDS] a
23 commercial fishing permit for a salmon fishery under AS 16.43.180 [UNDER AN
24 EMERGENCY TRANSFER APPROVED BY THE COMMISSION UNDER
25 AS 16.43.180], the same number of points shall also be assessed against the transferor
26 of the permit or the temporary transferee from whom the permit was transferred
27 under AS 16.43.180(c). Points assessed against the transferor of the permit under this
28 subsection shall be included in calculations made under AS 16.43.850(d).

29 * **Sec. 36.** AS 16.43.855 is amended by adding a new subsection to read:

30 (e) If the commission assesses points under (d) of this section against an
31 individual to whom a permit is temporarily transferred under AS 16.43.180 or

1 16.43.190, the commission

2 (1) shall provide notice of the assessment of points to the regional
3 fisheries trust that temporarily transferred the permit; and

4 (2) may not assign any point against the regional fisheries trust.

5 * **Sec. 37.** AS 16.43.860 is amended to read:

6 **Sec. 16.43.860. Suspension.** (a) A permit holder or individual to whom a
7 permit is temporarily transferred under AS 16.43.180 or 16.43.190 whose
8 commercial salmon fishing privileges for a salmon fishery are suspended under
9 AS 16.43.850 - 16.43.895 may not obtain an entry permit or interim-use permit for
10 that salmon fishery during the period of the suspension of the privileges. During the
11 period for which the permit holder's or temporary transferee's privilege to obtain an
12 entry permit or interim-use permit for a salmon fishery is suspended under this
13 section, the commission may not issue a permit card to the permit holder or
14 temporary transferee for that fishery.

15 (b) A permit holder or individual to whom a permit is temporarily
16 transferred under AS 16.43.180 or 16.43.190 whose privilege of obtaining a
17 commercial fishing permit for a salmon fishery is suspended under AS 16.43.850 -
18 16.43.895 may not

19 (1) engage in the salmon fishery under a crewmember license; [OR]

20 (2) be a temporary transferee for the salmon fishery under
21 AS 16.43.180 or 16.43.190; or

22 (3) lease or rent the individual's [PERMIT HOLDER'S] interest in a
23 boat to another person if the boat would be used in the salmon fishery for which the
24 permit holder's or temporary transferee's fishing privileges are suspended.

25 (c) If, during the period for which the commission has suspended the [A
26 PERMIT HOLDER'S] commercial fishing privileges of a permit holder or
27 individual to whom a permit is temporarily transferred under AS 16.43.180 or
28 16.43.190 for a salmon fishery [ARE SUSPENDED], the commission establishes a
29 limited entry system for the salmon fishery, the permit holder or temporary
30 transferee shall be eligible to obtain an entry permit for that fishery to the extent that
31 the permit holder or temporary transferee qualifies for the entry permit under

1 regulations adopted by the commission. If the permit holder or temporary transferee
2 qualifies for an entry permit for the fishery, the commission shall withhold issuance of
3 the entry permit until the period of the suspension imposed under AS 16.43.850 -
4 16.43.895 has expired.

5 (d) The commission may not transfer a commercial fishing permit for a
6 salmon fishery under an emergency transfer under AS 16.43.180 if, at the time of the
7 application for the emergency transfer, the [PERMIT HOLDER'S] commercial salmon
8 fishing privileges of the permit holder or temporary transferee for the salmon
9 fishery have been suspended.

10 * Sec. 38. AS 16.43.960(a) is amended to read:

11 (a) Except as provided in (k) of this section, the [THE] commission may
12 revoke, suspend, or transfer all entry or interim-use permits, vessel entry permits, or
13 vessel interim-use permits held by a person or entity who knowingly provides or
14 assists in providing false information, or fails to correct false information provided to
15 the commission for the purpose of obtaining a benefit for self or another, including the
16 issuance, renewal, duplication, [OR] transfer, or temporary transfer under
17 AS 16.43.180 or 16.43.190 of an entry or interim-use permit, vessel license, vessel
18 entry permit, or vessel interim-use permit. The commission may also revoke the
19 temporary transfer of a permit under AS 16.43.190 to an individual who
20 knowingly provides or assists in providing false information, or fails to correct
21 false information provided, to the commission for the purpose of obtaining a
22 benefit for self or another. The commission may suspend, as appropriate, that
23 person's, [OR] entity's, or temporary transferee's eligibility to hold or receive a
24 temporary transfer of an entry or interim-use permit, vessel entry permit, or vessel
25 interim-use permit for a period not to exceed three years, and may impose an
26 administrative fine of not more than \$5,000 on the person or entity whose officers,
27 employees, representatives, or agents knowingly provide or assist in providing false
28 information, or fail to correct false information provided, to the commission for the
29 purpose of obtaining a benefit.

30 * Sec. 39. AS 16.43.960 is amended by adding new subsections to read:

31 (k) An entry permit held by a regional fisheries trust

1 (1) shall revert to the commission and be made available for reissuance
2 if the regional fisheries trust that holds the permit is dissolved under AS 16.44.010(d);

3 (2) may not be revoked or transferred away from the regional fisheries
4 trust solely because of the actions of an individual to whom the permit is temporarily
5 transferred under AS 16.43.190.

6 (D) If the commercial fishing privileges of an individual who is a temporary
7 transferee under AS 16.43.190 are suspended for a period

8 (1) longer than the remaining period of the individual's temporary
9 transfer term provided to the commission under AS 16.43.190(b)(3), the regional
10 fisheries trust that holds the permit may request that the commission revoke the
11 temporary transfer; or

12 (2) shorter than the remaining period of the individual's temporary
13 transfer term provided to the commission under AS 16.43.190(b)(3), the regional
14 fisheries trust that holds the permit may request that the commission revoke the
15 temporary transfer only if requested by the temporary transferee.

16 * **Sec. 40.** AS 16.43.990(3) is amended to read:

17 (3) "entity" means a corporation, company, partnership, firm,
18 association, organization, joint venture, trust, society, regional fisheries trust under
19 AS 16.44, or other legal entity other than a natural person;

20 * **Sec. 41.** AS 16 is amended by adding a new chapter to read:

21 **Chapter 44. Regional Fisheries Trusts.**

22 **Sec. 16.44.010. Establishment and purpose of a regional fisheries trust.** (a)

23 The department may authorize a municipality or municipalities to establish a regional
24 fisheries trust if there is not already a fisheries trust established in that region and at
25 least two-thirds of the municipalities within the fisheries trust region, acting jointly,
26 apply to the department with a business plan and bylaws for the proposed fisheries
27 trust that comply with the requirements of this chapter. The department may not
28 authorize more than three regional fisheries trusts. If there are more applicants to form
29 regional fisheries trusts than available authorizations, the department shall authorize
30 eligible trusts in the order in which the applications were received.

31 (b) The purposes of a regional fisheries trust established under (a) of this

1 section are to

2 (1) prevent economic distress among fishermen and those persons
3 dependent on them for a livelihood;

4 (2) improve access to state fisheries by creating opportunities for those
5 persons with limited alternative economic options and sources of income;

6 (3) empower communities to achieve economic self-sufficiency; and

7 (4) promote resource conservation.

8 (c) The department, in consultation with the Department of Fish and Game,
9 shall establish fisheries trust regions. The department may modify or change the
10 boundaries of the regions for good reason.

11 (d) Each fisheries trust established under (a) of this section is a public
12 corporation and instrumentality of the state within the Department of Commerce,
13 Community, and Economic Development. The exercise by a fisheries trust of the
14 powers conferred under this chapter is considered to be for a public purpose. For
15 administrative purposes, the fisheries trusts are in the department, but each fisheries
16 trust has a separate and independent legal existence from the state and shall be
17 governed by a board established under AS 16.44.020. Upon the dissolution of a
18 fisheries trust, the rights and property of the fisheries trust, other than a limited entry
19 permit held by the fisheries trust, pass to the state. A limited entry permit held by a
20 fisheries trust at the time of the fisheries trust's dissolution reverts to the commission
21 and may be reissued under AS 16.43.100(a)(25).

22 (e) The department may dissolve a fisheries trust if the fisheries trust becomes
23 insolvent. However, nothing in this subsection precludes municipalities in that region
24 from establishing another fisheries trust under (a) of this section.

25 **Sec. 16.44.020. Regional fisheries trust board; membership; meetings;**
26 **location.** (a) Each regional fisheries trust shall be governed by a board of directors,
27 composed of members appointed by the governor under this section.

28 (b) The governor shall appoint one individual from each municipality wholly
29 or partially located within the fisheries trust region established by the department
30 under AS 16.44.010(c) to serve as a member of a fisheries trust board. The governor
31 shall choose each member appointed under this subsection from a list of nominees

1 provided by each municipality.

2 (c) If municipalities request in an application submitted under
3 AS 16.44.010(a), or a board votes under AS 16.44.050(a)(2), that the board of
4 directors for that region's fisheries trust include directors from each unincorporated
5 community within the fisheries trust region, the governor shall appoint one individual
6 from each unincorporated community wholly or partially within the fisheries trust
7 region to serve as a member of the board of directors of the regional fisheries trust. In
8 each unincorporated community wholly or partially within the fisheries trust region, a
9 single entity or village council eligible to receive a community assistance payment
10 under AS 29.60.865 shall provide the list of nominees from which the governor shall
11 appoint an individual to serve as a member of a regional fisheries trust board of
12 directors.

13 (d) The governor shall appoint individuals to the board of a fisheries trust
14 under (b) and (c) of this section who have a diversity of experience relevant to the
15 operations of a fisheries trust established under this chapter, including, for each board,
16 at least two individuals who have experience in the commercial fishing industry. Each
17 appointed individual must be a resident of the municipality or unincorporated
18 community from which the individual was appointed.

19 (e) Except as provided under AS 16.44.050(a)(2), a member of a board of a
20 regional fisheries trust shall serve for a term of three years. A member shall hold
21 office for the term of the appointment and until a successor has been appointed and
22 qualified. A member is eligible for reappointment. A vacancy on a board occurring
23 other than by expiration of term shall be filled in the same manner as the original
24 appointment but for the unexpired term only. Terms must be staggered so that one-
25 third, or as close to one-third as practicable, of the terms expire each year. A member
26 may not serve more than 12 cumulative years on the board.

27 (f) A majority of the members of a board constitutes a quorum for the
28 transaction of business and the exercise of the powers and duties of the board except
29 for certain board actions relating to the board's membership under AS 16.44.050(a)(2).

30 (g) A member of a board may not be a temporary transferee of an entry permit
31 held by a fisheries trust.

1 (h) The members of a board shall annually elect from among themselves a
2 chair and vice-chair and other board officers as may be provided in the bylaws of the
3 fisheries trust. The members of the board may elect to create an executive governance
4 committee and provide that committee some of the board's powers under this chapter.

5 (i) The board of each fisheries trust may hire staff qualified to assist the board
6 in carrying out the provisions of this chapter. If staff is hired, staff compensation may
7 not exceed compensation provided to state employees with comparable duties.

8 (j) A fisheries trust may share resources, including staff, with other fisheries
9 trusts established under this chapter if the sharing arrangement is approved by the
10 board of each participating fisheries trust. A fisheries trust may also share resources
11 and staff with a regional association qualified under AS 16.10.380(a), an Alaska
12 Native village or regional corporation established under 43 U.S.C. 1606 (Alaska
13 Native Claims Settlement Act), a regional development organization as defined in
14 AS 44.33.896, or another entity created for a purpose related to commercial fishing in
15 the fisheries trust region.

16 (k) Unless a fisheries trust is sharing resources with one or more other entities
17 under (j) of this section, a fisheries trust shall be administratively headquartered in the
18 community in its region with the greatest number of entry permits on January 1, 2017.

19 **Sec. 16.44.030. Administrative expenses, compensation, and fees due the**
20 **department.** (a) A member of a fisheries trust board may be provided reasonable
21 compensation. However, the compensation may not exceed the median rate of
22 compensation provided to the elected members of the municipal governments of the
23 three most populated municipalities within the fisheries trust region. For the purposes
24 of this subsection, "compensation" does not include reasonable per diem and travel
25 expenses for necessary fisheries trust business purposes.

26 (b) The administrative expenses of a fisheries trust must be reasonable and
27 minimized to enhance the ability of the fisheries trust to acquire entry permits and to
28 return maximum benefit to the persons and region served by the fisheries trust.

29 (c) The commissioner shall assess fisheries trust fees for the department's
30 actual expenses necessarily incurred by the department in connection with its duties
31 under this chapter relating to the fisheries trust.

1 **Sec. 16.44.040. Exemption from taxation.** (a) Except for permit-related fees
2 levied under AS 16.43.160, the real and personal property of a fisheries trust
3 organized under this chapter and its assets, income, and receipts are declared to be
4 devoted to an essential public and governmental function and purpose, and the
5 property, assets, income, receipts, and other interests of the fisheries trust are exempt
6 from taxes and special assessments of the state or a political subdivision of the state,
7 including municipalities, school districts, public utility districts, and other
8 governmental units.

9 (b) Nothing in this section relieves an individual who has a temporarily
10 transferred entry permit held by a fisheries trust from applicable fees, taxes, or
11 assessments.

12 **Sec. 16.44.050. Powers and duties of a regional fisheries trust.** (a) In
13 addition to all powers necessary to carry out the purposes of this chapter, a fisheries
14 trust may

15 (1) adopt, amend, and repeal bylaws for its organization, management
16 of its internal affairs, and the conduct of its business consistent with the provisions of
17 this chapter;

18 (2) if two-thirds of the board members appointed from the
19 municipalities in the region under AS 16.44.020(b) affirmatively vote to approve the
20 action, expand or reduce the membership of the fisheries trust board of directors by
21 allowing or prohibiting individuals from unincorporated communities in the region to
22 serve as directors;

23 (3) subject to AS 16.44.060(e), borrow funds;

24 (4) subject to the limitations of AS 16.43 and this chapter, hold,
25 transfer, or receive the transfer of an entry permit for a fishery within the fisheries
26 trust region;

27 (5) accept gifts or grants from a federal agency or an agency or
28 instrumentality of the state, a municipality, a private organization, or another source,
29 including the transfer of an entry permit for a regional fishery or a gift or grant for the
30 acquisition of an entry permit within a specific fishery located in the fisheries trust
31 region;

1 (6) subject to AS 16.43.190 and AS 16.44.070, temporarily transfer an
2 entry permit held by the fisheries trust to an individual qualified under AS 16.44.080;

3 (7) request that the commission revoke the temporary transfer of a
4 permit under AS 16.43.190(d); and

5 (8) after a fisheries trust acquires the maximum number of entry
6 permits allowed under AS 16.44.060, use revenue and other funds to support programs
7 and projects that benefit commercial fishermen within the fisheries trust region.

8 (b) In a manner consistent with AS 16.44.010(b), a fisheries trust shall

9 (1) subject to the commission's approval under AS 16.43.190, select
10 individuals qualified under (d) of this section and AS 16.44.080 by competitive bid to
11 receive temporary transfers of entry permits held by the fisheries trust;

12 (2) establish criteria for the temporary transfer of entry permits
13 acquired by the fisheries trust that ensure the solvency and financial strength of the
14 fisheries trust;

15 (3) temporarily transfer entry permits held by the fisheries trust in
16 accordance with criteria established by the fisheries trust under (2) of this subsection;

17 (4) upon the commission's revocation of a temporary transfer under
18 AS 16.43.190, cancel the temporary transfer of the permit to the individual; and

19 (5) make public the criteria for the temporary transfer of entry permits
20 established under (2) of this subsection and provide copies to the department and the
21 commission.

22 (c) Subject to criteria adopted under (b)(2) of this section, a fisheries trust may
23 prioritize bids for the temporary transfer of entry permits under (b)(1) of this section
24 based on an individual's

25 (1) history of participation in the fishery for which the temporarily
26 transferred entry permit would apply;

27 (2) access to economic opportunities other than commercial fishing;

28 (3) record of participation in commercial fishing organizations and
29 fisheries management; or

30 (4) expected economic contribution to the fisheries trust region if the
31 bidder is awarded a temporarily transferred entry permit under this chapter.

1 (d) Subject to criteria applicable to all bidders, a fisheries trust may elect not
2 to temporarily transfer permits to individuals who

- 3 (1) hold limited entry permits;
4 (2) have had a temporary transfer revoked by the commission; or
5 (3) have had their commercial fishing privileges suspended under this
6 title.

7 (e) A fisheries trust may not hold a quota share for a federally managed
8 fishery or an interim-use or vessel permit issued under AS 16.43.

9 (f) In this section, "quota share" has the meaning given in AS 16.10.360.

10 **Sec. 16.44.055. Disposition of proceeds.** Fees associated with the temporary
11 transfer of an entry permit held by a fisheries trust and other fisheries trust revenue,
12 less any fees due the department under AS 16.44.030(c), may be appropriated to a
13 fisheries trust to be used

- 14 (1) to pay for the fisheries trust's operations;
15 (2) to finance the acquisition of additional permits; and
16 (3) subject to AS 16.44.050(a), to support programs and projects that
17 benefit commercial fishermen within the fisheries trust region.

18 **Sec. 16.44.060. Acquisition, holding, and transfer of entry permits.** (a)
19 Subject to (b) of this section, a fisheries trust may only acquire an entry permit for a
20 fishery that is conducted in the fisheries trust region. A fisheries trust may not

21 (1) acquire or hold a limited entry permit for a fishery for which the
22 commission has issued 40 or fewer total transferrable entry permits; or

23 (2) hold more than two and one-half percent of the total number of
24 transferrable entry permits issued for a fishery in the fisheries trust region, rounded to
25 the nearest whole number.

26 (b) For the purposes of (a) of this section, a fishery is conducted in a fisheries
27 trust region if the boundaries of that fishery's administrative area include an area
28 inside the fisheries trust region. However, for a fishery that is conducted in more than
29 one fisheries trust region, only the fisheries trust in the fisheries trust region with the
30 greatest number of resident permit holders for the fishery may acquire and temporarily
31 transfer a permit for the fishery.

1 (c) Subject to (a) of this section, and to the extent reasonably possible, a
2 fisheries trust shall hold limited entry permits of each type issued within its region as
3 necessary to offer the opportunity for individuals to participate in all fisheries
4 conducted in the fisheries trust region.

5 (d) The commission shall ensure that a fisheries trust complies with the
6 requirements of this section. A fisheries trust may not transfer, or receive by transfer,
7 an entry permit if the commission finds that the transfer violates the requirements of
8 this section.

9 (e) An entry permit held by a fisheries trust and temporarily transferred under
10 this chapter may not be leased, pledged, mortgaged, or encumbered in any way.

11 (f) A fisheries trust may not transfer an entry permit unless the fisheries trust
12 receives fair market value for the permit.

13 **Sec. 16.44.070. Terms for the temporary transfer of entry permits held by**
14 **a regional fisheries trust.** (a) A fisheries trust shall establish terms for the temporary
15 transfer of entry permits held by the fisheries trust in a manner that is consistent with
16 the purposes provided by AS 16.44.010(b).

17 (b) The period for the temporary transfer of an entry permit held by a fisheries
18 trust may not exceed six years, and an individual may not receive a temporarily
19 transferred entry permit or permits for a cumulative period of more than six years,
20 regardless of whether the years are consecutive.

21 (c) An entry permit held by a fisheries trust may be fished only by a temporary
22 transferee approved by the commission under AS 16.43.180(c) or 16.43.190.

23 (d) A fisheries trust may not impose terms that limit a temporary transferee's
24 time, place, manner, or method of fishing or selling fish.

25 (e) Terms for the temporary transfer of an entry permit under this section must
26 provide that the fisheries trust shall pay the fees required under AS 16.43.160 and that
27 the temporary transferee shall pay all taxes and assessments relating to the entry
28 permit and the use of that permit.

29 (f) A fisheries trust may request that the commission revoke the temporary
30 transfer of an entry permit under this chapter only as provided by AS 16.43.190(d) and
31 16.43.960(I).

1 **Sec. 16.44.080. Qualified temporary transferees.** (a) A fisheries trust may
2 not temporarily transfer a permit to an individual who

3 (1) already holds a limited entry or interim-use permit for the fishery
4 for which the temporarily transferred permit would apply;

5 (2) is employed by a fisheries trust under AS 16.44.020(i) or of another
6 entity that shares resources with the fisheries trust under AS 16.44.020(j);

7 (3) is not able to demonstrate an ability to participate actively and
8 safely in the fishery for which the temporarily transferred permit would apply; or

9 (4) is a member of a board of a regional fisheries trust established
10 under AS 16.44.020.

11 (b) A fisheries trust shall make reasonable efforts to verify an individual's
12 qualifications under this section. Reasonable efforts under this subsection may include
13 requiring an applicant to provide evidence of the ability to participate actively, safely,
14 and successfully in the fishery, which may include an applicant's

15 (1) possession of a suitable vessel and appropriate gear;

16 (2) ability to procure appropriate insurance coverage;

17 (3) arrangement with a buyer to purchase fish caught commercially by
18 the individual; and

19 (4) relationship with an experienced fisherman who has agreed to act
20 as the applicant's mentor.

21 (c) If proceedings are pending to suspend an individual's commercial fishing
22 privileges, the individual may not receive a temporarily transferred entry permit under
23 this chapter.

24 **Sec. 16.44.099. Definitions.** In this chapter,

25 (1) "board" means the board of a regional fisheries trust;

26 (2) "commission" means the Alaska Commercial Fisheries Entry
27 Commission;

28 (3) "commissioner" means the commissioner of commerce,
29 community, and economic development;

30 (4) "department" means the Department of Commerce, Community,
31 and Economic Development unless specifically provided otherwise;

1 (5) "entry permit" or "permit" means a commercial fishing entry
2 permit issued under AS 16.43;

3 (6) "fisheries trust" means a regional fisheries trust established under
4 AS 16.44.010;

5 (7) "fishery" has the meaning given in AS 16.05.940.

6 * Sec. 42. AS 39.25.110(11) is amended to read:

7 (11) the officers and employees of the following boards, commissions,
8 and authorities:

9 (A) [REPEALED

10 (B)] Alaska Permanent Fund Corporation;

11 ~~(B)~~ [(C)] Alaska Industrial Development and Export Authority;

12 ~~(C)~~ [(D)] Alaska Commercial Fisheries Entry Commission;

13 ~~(D)~~ [(E)] Alaska Commission on Postsecondary Education;

14 ~~(E)~~ [(F)] Alaska Aerospace Corporation;

15 ~~(F)~~ [(G)] REPEALED

16 (H)] Alaska Gasline Development Corporation and subsidiaries

17 of the Alaska Gasline Development Corporation;

18 (G) a regional fisheries trust established under

19 AS 16.44.010;

20 * Sec. 43. AS 43.76.015(f) is amended to read:

21 (f) In this section, "eligible interim-use permit and entry permit holder" means
22 an individual who, 90 days before the date ballots must be postmarked to be counted
23 in an election under this section, is listed in the records of the Alaska Commercial
24 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry
25 permit that [WHICH] authorizes the individual to fish commercially in an
26 administrative area established by the Alaska Commercial Fisheries Entry
27 Commission under AS 16.43.200, which is included, in whole or in part, in the region
28 in which the election is held. An individual to whom an entry permit is
29 temporarily transferred under AS 16.43.190 is not eligible to vote in an election
30 under AS 43.76.001 - 43.76.040.

31 * Sec. 44. AS 43.76.020 is amended by adding a new subsection to read:

(c) In this section, "eligible interim-use permit and entry permit holders" has the meaning given in AS 43.76.015.

* Sec. 45. AS 43.76.040 is amended to read:

Sec. 43.76.040. Definitions [DEFINITION]. In AS 43.76.001 - 43.76.040, unless the context otherwise requires,

(1) "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding a transfer to a person engaged solely in interstate transportation of goods for hire; and

(2) "person holding a limited entry permit under AS 16.43" includes an individual to whom a limited entry permit is temporarily transferred under AS 16.43.190, but does not include a regional fisheries trust established under AS 16.44.010.

* Sec. 46. AS 43.76.160(g) is amended to read:

(g) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal holder of an interim-use permit for dive gear or an entry permit for dive gear that authorizes the individual to fish commercially in the administrative area for the species of fishery resource for which the dive fishery management assessment is to be approved, amended, or terminated. An individual to whom an entry permit is temporarily transferred under AS 16.43.190 for dive gear that authorizes the individual to fish commercially in the administrative area for the species of fishery resource for which the dive fishery management assessment is to be approved, amended, or terminated is subject to the assessment, but is not eligible to vote in an election under AS 43.76.150 - 43.76.210.

* Sec. 47. AS 43.76.210 is amended by adding a new paragraph to read:

(6) "person holding a limited entry permit for dive gear or an interim-use permit for dive gear issued under AS 16.43" includes an individual to whom a limited entry permit is temporarily transferred under AS 16.43.190, but does not

1 include a regional fisheries trust established under AS 16.44.010.

2 * **Sec. 48.** AS 43.76.230(g) is amended to read:

3 (g) In this section, "eligible interim-use permit and entry permit holder" means
4 an individual who, 90 days before the date ballots must be postmarked to be counted
5 in an election under this section, is listed in the records of the Alaska Commercial
6 Fisheries Entry Commission as the legal holder of an interim-use permit for salmon
7 fishing gear or an entry permit for salmon fishing gear that authorizes the individual to
8 fish commercially in the salmon fishery for which the salmon fishery assessment is to
9 be approved, amended, or terminated. **An individual to whom an entry permit is**
10 **temporarily transferred under AS 16.43.190 for salmon fishing gear that**
11 **authorizes the individual to fish commercially in the administrative area for**
12 **which the salmon fishery assessment is to be approved, amended, or terminated**
13 **is not eligible to vote in an election under AS 43.76.220 - 43.76.280.**

14 * **Sec. 49.** AS 43.76.280(6) is amended to read:

15 (6) "sold" means the transfer of ownership of salmon from an interim-
16 use permit **holder, [OR] entry permit holder, or individual to whom an entry permit**
17 **is temporarily transferred under AS 16.43.190** to a buyer at the first point of sale;

18 * **Sec. 50.** AS 43.76.300 is amended by adding a new subsection to read:

19 (b) In this section, "person holding a limited entry permit or interim-use
20 permit under AS 16.43" includes an individual to whom a limited entry permit is
21 temporarily transferred under AS 16.43.190, but does not include a regional fisheries
22 trust established under AS 16.44.010.

23 * **Sec. 51.** AS 43.76.370(i) is amended to read:

24 (i) In this section, "eligible interim-use permit and entry permit holder" means
25 an individual who, 90 days before the date ballots must be postmarked to be counted
26 in an election under this section, is listed in the records of the Alaska Commercial
27 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry
28 permit that authorizes the individual to operate commercial fishing gear in the fishery
29 that is or will be subject to the seafood development tax that is the subject of the
30 election. **An individual to whom an entry permit is temporarily transferred under**
31 **AS 16.43.190 for a fishery that is or will be subject to a seafood development tax**

1 subject to an election under AS 43.76.350 - 43.76.399 is subject to a seafood
2 development tax levied under AS 43.76.350 - 43.76.399 but is not eligible to vote
3 in an election under this section.

4 * **Sec. 52.** AS 43.76.399 is amended by adding a new paragraph to read:

5 (5) "person holding a limited entry permit or interim-use permit under
6 AS 16.43" includes an individual to whom a limited entry permit is temporarily
7 transferred under AS 16.43.190, but does not include a regional fisheries trust
8 established under AS 16.44.010.

9 * **Sec. 53.** AS 44.33.020(a) is amended by adding a new paragraph to read:

10 (45) carry out its functions and duties under AS 16.44.

11 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: REGULATIONS. The Alaska Commercial Fisheries Entry
14 Commission and the commissioner of commerce, community, and economic development
15 may immediately adopt regulations necessary to implement the provisions of this Act. The
16 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
17 effective date of the law implemented by the regulation.

18 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 INITIAL DIRECTORS OF REGIONAL FISHERIES TRUSTS. Subject to
21 AS 16.44.020(e), added by sec. 41 of this Act, the term of office of each initial director of a
22 regional fisheries trust shall be determined by lot.

23 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 INITIAL ESTABLISHMENT OF FISHERIES TRUST REGIONS. (a) The
26 Department of Commerce, Community, and Economic Development shall, in consultation
27 with the Department of Fish and Game, divide the state into separate fisheries trust regions to
28 serve as the initial fisheries trust regions under AS 16.44.010(c), added by sec. 41 of this Act,
29 that the Department of Commerce, Community, and Economic Development determines are
30 socially, economically, and politically cohesive, using, to the extent practicable,

31 (1) the boundaries of the administrative areas established for the commercial

1 fishing of salmon by the Alaska Commercial Fisheries Entry Commission under
2 AS 16.43.200, as those boundaries were described in regulation on January 1, 2018; and

3 (2) the designation of state communities as local or nonlocal to particular
4 fisheries made in the report by the Alaska Commercial Fisheries Entry Commission titled
5 "Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits, 1975 - 2016."

6 (b) In establishing the initial fisheries trust regional boundaries under (a) of this
7 section, the Department of Commerce, Community, and Economic Development

8 (1) shall, to the extent practicable,

9 (A) clearly delineate which communities are in each region; and

10 (B) ensure that a community is not split between regions; and

11 (2) may not create a fisheries trust region with less than five communities
12 inside its boundaries.

13 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 INITIAL ESTABLISHMENT AND AUTHORIZATION OF REGIONAL
16 FISHERIES TRUSTS. A fisheries trust may not be established before July 1, 2019. However,
17 after January 1, 2019, applications to establish a trust under AS 16.44.010(a), added by sec.
18 41 of this Act, may be filed with the Department of Commerce, Community, and Economic
19 Development. Notwithstanding AS 16.44.010(a), added by sec. 41 of this Act, if, after
20 January 1, 2019, and before April 1, 2019, applicants from more than three fisheries trust
21 regions apply to the Department of Commerce, Community, and Economic Development to
22 establish fisheries trusts for the applicant's respective regions, the commissioner of commerce,
23 community, and economic development shall, in consultation with the commissioner of fish
24 and game, select three of the proposed fisheries trusts to be established based on the

25 (1) degree to which the communities in a fisheries trust region where the
26 establishment of a fisheries trust is proposed have experienced a decline in the number of
27 commercial fishing entry permits issued under AS 16.43 since 1980; and

28 (2) likelihood, as determined by the commissioner of commerce, community,
29 and economic development, on the basis of the submitted business plans and bylaws for the
30 proposed fisheries trusts, that a proposed fisheries trust will achieve the purposes for
31 establishing a fisheries trust under AS 16.44.010(b), added by sec. 41 of this Act.

1 * **Sec. 58.** Sections 54, 56, and 57 of this Act take effect immediately under
2 AS 01.10.070(c).

3 * **Sec. 59.** Except as provided by sec. 58 of this Act, this Act takes effect July 1, 2019.

CS FOR HOUSE BILL NO. 188()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE KREISS-TOMKINS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to commercial fishing entry permits; establishing regional fisheries**
2 **trusts and fisheries trust regions; relating to the duties of regional fisheries trusts to**
3 **hold, temporarily transfer, and revoke transfers of commercial fishing entry permits;**
4 **relating to the duties of the Alaska Commercial Fisheries Entry Commission and the**
5 **Department of Commerce, Community, and Economic Development; and providing for**
6 **an effective date."**

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

8 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 **LEGISLATIVE FINDINGS.** The legislature finds that

11 (1) the state has an ownership and stewardship interest in the fish that
12 originate in state waters and return to spawn;

13 (2) art. VIII, sec. 15, of the Constitution of the State of Alaska, authorizes the

1 state to limit entry into a fishery for the purposes of resource conservation and preventing
2 economic distress among fishermen and those dependent on them for a livelihood;

3 (3) to promote the conservation of fisheries and the economic health and
4 stability of commercial fishing in the state, the state began limiting entry into commercial
5 fisheries in 1975;

6 (4) since 1975, there has been a substantial and well-documented decline in
7 the number of limited entry permits held by residents of many Alaska communities;

8 (5) the decline in the number of limited entry permits represents lost jobs, lost
9 economic opportunity, and other economic distress among fishermen, their dependents, and
10 their communities;

11 (6) the state has a compelling interest in promoting the economic self-
12 sufficiency of its communities and ensuring their economic health and vitality;

13 (7) fishing is the most viable economic opportunity in numerous Alaska
14 communities;

15 (8) access to commercial fishing opportunities reduces economic distress and
16 contributes to economic self-sufficiency by providing jobs, income, a local tax base, and
17 greater access to subsistence and other fisheries;

18 (9) access to many commercial fisheries in the state requires significant
19 financial resources, posing a barrier to Alaskans desiring to participate in the state's
20 commercial fisheries;

21 (10) state-chartered regional fisheries trusts would empower communities to
22 prevent economic distress among fishermen, promote fisheries conservation, improve access
23 by Alaskans to fisheries, and realize greater economic self-sufficiency by providing a tightly
24 controlled, additional path of entry into the state's commercial fisheries.

25 * **Sec. 2.** AS 06.26.040(b) is amended to read:

26 (b) This section does not prohibit the use of the word "trust" by a regional
27 fisheries trust established under AS 16.44 or the words "trust" or "trust company"
28 in the name of a corporation that is in existence as of January 1, 2003, and that is not
29 subject to this chapter if the corporation was originally organized under the laws of
30 this state and has not, since the date of its original organization, amended or restated
31 its articles of incorporation to delete from its name the words "trust" or "trust

1 company."

2 * **Sec. 3.** AS 16.05.253(a) is amended to read:

3 (a) The Board of Fisheries may require **an individual** [A PERSON] who
4 holds a limited entry permit or an interim-use permit under AS 16.43 **or who is a**
5 **temporary transferee under AS 16.43.180 or 16.43.190** to be physically present at a
6 beach or riparian fishing site during the operation of net gear or other stationary
7 fishing gear at the site, except when the permit holder **or temporary transferee** is at
8 or traveling to or from the location of

9 (1) a sale of fish caught in the gear; or

10 (2) other stationary gear of the permit holder **or temporary**
11 **transferee.**

12 * **Sec. 4.** AS 16.05.480(a) is amended to read:

13 (a) A person engaged in commercial fishing shall obtain a commercial fishing
14 license and shall retain the license in possession and readily available for inspection
15 during fishing operations. An entry permit or interim-use permit entitles the holder, **or**
16 **individual to whom the entry permit is temporarily transferred under**
17 **AS 16.43.180 or 16.43.190,** to participate as a gear operator in the fishery for which
18 the permit is issued and to participate as a crewmember in any fishery. A crewmember
19 fishing license is not transferable and entitles the holder to participate as a
20 crewmember in any fishery.

21 * **Sec. 5.** AS 16.05.480(g) is amended to read:

22 (g) A resident engaged in commercial fishing who is 11 years of age or older
23 and who does not hold an entry permit or an interim-use permit **or who is not a**
24 **temporary transferee under AS 16.43.180 or 16.43.190** shall, except as provided in
25 (i) of this section, pay a fee of \$60 for an annual crewmember fishing license. A
26 resident engaged in commercial fishing who is less than 11 years of age and who does
27 not hold an entry permit or an interim-use permit **or who is not a temporary**
28 **transferee under AS 16.43.180 or 16.43.190** shall pay an annual fee of \$5.

29 * **Sec. 6.** AS 16.05.480(h) is amended to read:

30 (h) A nonresident engaged in commercial fishing who is 11 years of age or
31 older and who does not hold an entry permit or an interim-use permit **or who is not a**

1 temporary transferee under AS 16.43.180 or 16.43.190 shall, except as provided in
2 (i) of this section, pay a base fee of \$60 for an annual crewmember fishing license,
3 plus an amount, established by the department by regulation, that is as close as is
4 practicable to the maximum allowed by law. A nonresident engaged in commercial
5 fishing who is less than 11 years of age and who does not hold an entry permit or an
6 interim-use permit or who is not a temporary transferee under AS 16.43.180 or
7 16.43.190 shall pay an annual base fee of \$5 plus an amount, established by the
8 department by regulation, that is as close as is practicable to the maximum allowed by
9 law.

10 * **Sec. 7.** AS 16.05.480(i) is amended to read:

11 (i) Notwithstanding (g) and (h) of this section, a resident or nonresident
12 engaged in commercial fishing who does not hold an entry permit or an interim-use
13 permit or who is not a temporary transferee under AS 16.43.180 or 16.43.190 may
14 obtain one seven-day crewmember fishing license under this subsection annually. **An**
15 **individual** [A PERSON] who obtains a seven-day license is not eligible for another
16 seven-day license in the same license year; however, if **an individual** [A PERSON]
17 who obtains a seven-day license pays the full fee for an annual crewmember fishing
18 license under (g) or (h) of this section during the same license year, the **individual**
19 [PERSON] is entitled to receive a refund of the fee for the seven-day license. The
20 department shall adopt regulations establishing a refund procedure. During the period
21 for which the seven-day license is valid, **an individual** [A PERSON] who holds a
22 seven-day license may not engage in fishing with a rod and reel while present on a
23 commercial fishing vessel. The fee for a seven-day license is \$30.

24 * **Sec. 8.** AS 16.05.480(j) is amended to read:

25 (j) In this section, "commercial fishing license" includes an entry permit and
26 an interim-use permit issued under AS 16.43, an entry permit temporarily
27 transferred under AS 16.43.180 or 16.43.190, and a crewmember fishing license.

28 * **Sec. 9.** AS 16.05.675(a) is amended to read:

29 (a) **An individual** [A PERSON] who does not hold a limited entry permit or
30 interim-use permit issued under AS 16.43 or a fish transporter permit issued under
31 AS 16.05.671 or who is not a temporary transferee under AS 16.43.180 or

1 **16.43.190** may not deliver or land fish in the state unless the **individual** [PERSON]

2 (1) holds a valid federal permit to operate commercial fishing gear in
3 the fishery conservation zone; and

4 (2) has been issued a landing permit by the Alaska Commercial
5 Fisheries Entry Commission.

6 * **Sec. 10.** AS 16.05.680(a) is amended to read:

7 (a) It is unlawful for a person, or an agent or representative of the person,

8 (1) to employ, in the harvesting, transporting, or purchasing of fish, a
9 fisherman who [NEITHER] is **not** licensed under AS 16.05.480, **who** [NOR] is **not**
10 the holder of a permit issued under AS 16.43, **or who is not a temporary transferee**
11 **under AS 16.43.180 or 16.43.190;**

12 (2) to purchase fish from a person who is not

13 (A) the holder of a limited entry, interim-use, or landing permit
14 issued under AS 16.43 **or who is not a temporary transferee under**
15 **AS 16.43.180 or 16.43.190;**

16 (B) a fish transporter who is selling the fish as the agent of the
17 holder of a limited entry, interim-use, or landing permit issued under AS 16.43
18 **or who is a temporary transferee under AS 16.43.180 or 16.43.190;** or

19 (C) exempt under AS 16.05.660; or

20 (3) to purchase fish from an association other than one to which a
21 permit has been issued under AS 16.05.662.

22 * **Sec. 11.** AS 16.05.710 is amended by adding a new subsection to read:

23 (e) If proceedings to suspend commercial fishing privileges or licenses under
24 this section are pending against an individual, a regional fisheries trust established
25 under AS 16.44.010 may not temporarily transfer a permit to the individual under
26 AS 16.43.190.

27 * **Sec. 12.** AS 16.05.723(b) is amended to read:

28 (b) If a person is convicted under this section of one of the following offenses,
29 then, in addition to the penalties imposed under (a) of this section, the court may
30 impose a fine equal to the gross value of the fish found on board or at the fishing site
31 at the time of the violation:

- 1 (1) commercial fishing in closed waters;
2 (2) commercial fishing during a closed period or season;
3 (3) commercial fishing with unlawful gear, including a net, pot, tackle,
4 or other device designed or employed to take fish commercially; or
5 (4) commercial fishing without a limited entry permit holder or
6 temporary transferee under AS 16.43.180 or 16.43.190 on board if the holder or
7 temporary transferee is required by law or regulation to be present.

8 * Sec. 13. AS 16.10.265(a) is amended to read:

9 (a) An individual may not, while acting as a fish processor or primary fish
10 buyer, or as an agent, director, officer, member, or employee of a fish processor, of a
11 primary fish buyer, or of a cooperative corporation organized under AS 10.15,
12 intentionally or knowingly make an original purchase of fish from a seller who [DOES
13 NOT HOLD]

14 (1) does not hold a landing permit, an entry permit, or an interim-use
15 permit; [OR]

16 (2) is not a temporary transferee under AS 16.43.180 or 16.43.190;
17 or

18 (3) does not hold a fish transporter permit under AS 16.05.671.

19 * Sec. 14. AS 16.10.267(a) is amended to read:

20 (a) When a fisherman sells fish, the fisherman shall possess

21 (1) a landing permit, entry permit, or interim-use permit issued, [OR]
22 transferred [TO THE FISHERMAN] under AS 16.43, or temporarily transferred
23 under AS 16.43.180 or 16.43.190, or other document authorized by regulation to be
24 used in place of an entry permit or interim-use permit; and

25 (2) an identification card that has been issued to the fisherman by a
26 state or federal agency or other organization designated by the Department of Public
27 Safety and that bears a photograph of the fisherman.

28 * Sec. 15. AS 16.10.455(b) is amended to read:

29 (b) A hatchery permit holder may, by a majority vote of the membership of
30 the hatchery permit holder's board, elect to harvest surplus salmon produced at a
31 facility in a terminal harvest area established for that facility through the common

1 property fishery. At the request of the hatchery permit holder and if the commissioner
2 of fish and game determines that there are no allocative issues involved, and after
3 reasonable consultation with affected commercial fishermen and the organizations of
4 affected commercial fishermen, the commissioner may adopt regulations governing
5 the harvest of surplus salmon in a terminal harvest area when the hatchery permit
6 holder elects to harvest surplus salmon produced at a facility through a common
7 property fishery. The regulations must specify the terms, conditions, and rules under
8 which the common property fishery in the terminal harvest area shall be conducted,
9 including requirements for hold inspections and reporting of harvests and sales of
10 salmon taken in the terminal harvest area. Following adoption of regulations by the
11 department, each year before March 10, the hatchery permit holder's board, by a
12 majority vote of the board's membership, may determine whether the hatchery will
13 operate under the regulations adopted under this subsection during the current calendar
14 year, and shall notify the department if the hatchery intends to operate under the
15 regulations adopted under this subsection. The Board of Fisheries may adopt
16 regulations under AS 16.05.251 regarding a fisheries management plan governing
17 operations under this subsection in a terminal harvest area, including allocation plans.
18 Participation in the fishery must be open to all interim-use permit **holders**, [AND]
19 entry permit holders, **and individuals to whom entry permits are temporarily**
20 **transferred under AS 16.43.180 or 16.43.190** [WHO HOLD PERMITS] to operate a
21 type of gear that may be used in the fishing district in which the terminal harvest area
22 is located if that type of gear is authorized by regulation to be used in the terminal
23 harvest area. An interim-use permit holder, [OR AN] entry permit holder, **or**
24 **individual to whom an entry permit is temporarily transferred under**
25 **AS 16.43.180 or 16.43.190** who takes salmon in a common property fishery in a
26 terminal harvest area may sell the salmon to any fish buyer or processor who is
27 licensed to do business in the state.

28 * **Sec. 16.** AS 16.10.540(a) is amended to read:

29 (a) An association of **individuals** [PERSONS] who hold entry permits under
30 AS 16.43, that consists of at least 51 percent of the **individuals who hold** [PERSONS
31 HOLDING] entry permits and actively **participate in the** [PARTICIPATING IN A]

1 fishery to be benefited by a hatchery program, may levy and collect an assessment
2 from among its members for the purpose of securing and repaying a loan made under
3 AS 16.10.510.

4 * **Sec. 17.** AS 16.43.100(a) is amended to read:

5 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

6 (1) regulate entry into the commercial fisheries for all fishery resources
7 in the state;

8 (2) establish priorities for the application of the provisions of this
9 chapter to the various commercial fisheries of the state;

10 (3) establish administrative areas suitable for regulating and
11 controlling entry into the commercial fisheries;

12 (4) establish, for all types of gear, the maximum number of entry
13 permits for each administrative area;

14 (5) designate, when necessary to accomplish the purposes of this
15 chapter, particular species for which separate interim-use permits or entry permits will
16 be issued;

17 (6) establish qualifications for the issuance of entry permits;

18 (7) issue entry permits to qualified applicants;

19 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
20 and 16.43.225;

21 (9) establish, for all types of gear, the optimum number of entry
22 permits for each administrative area;

23 (10) administer the buy-back program provided for in AS 16.43.310
24 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
25 number of entry permits;

26 (11) provide for the transfer and reissuance of entry permits to
27 qualified transferees;

28 (12) provide for the transfer and reissuance of entry permits for
29 alternative types of legal gear, in a manner consistent with the purposes of this
30 chapter;

31 (13) establish and administer the collection of the annual fees provided

1 for in AS 16.43.160;

2 (14) administer the issuance of commercial fishing vessel licenses
3 under AS 16.05.490;

4 (15) issue educational entry permits to applicants who qualify under
5 the provisions of AS 16.43.340 - 16.43.390;

6 (16) establish reasonable user fees for services;

7 (17) issue landing permits under AS 16.05.675 and regulations adopted
8 under that section;

9 (18) establish and collect annual fees for the issuance of landing
10 permits that reasonably reflect the costs incurred in the administration and
11 enforcement of provisions of law related to landing permits;

12 (19) establish a moratorium on entry into commercial fisheries as
13 provided in AS 16.43.225;

14 (20) when requested by a regional development organization formed
15 under former AS 44.33.895 or a regional fisheries trust established under
16 AS 16.44.010, provide to the organization or trust, without charge, public information
17 contained in the commission's data with respect to relevant fisheries, including limited
18 fisheries, fishery participants, and limited entry permit holders' harvests and earnings;
19 [AND]

20 (21) administer, when necessary to accomplish the purposes of this
21 chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 -
22 16.43.521;

23 (22) approve the temporary transfer of entry permits from
24 regional fisheries trusts established under AS 16.44.010 to qualified individuals
25 under AS 16.44.080;

26 (23) ensure that the portfolio of entry permits of a regional
27 fisheries trust established under AS 16.44.010 complies with AS 16.44.060;

28 (24) prohibit the transfer of an entry permit to or from a regional
29 fisheries trust established under AS 16.44.010 if the acquisition of the entry
30 permit by the trust would violate AS 16.44.060;

31 (25) after dissolution of a fisheries trust established under

1 AS 16.44.010, determine and apply equitable methods of reissuance of entry
2 permits held by that fisheries trust to ensure the state receives fair market value
3 for the permits.

4 * Sec. 18. AS 16.43.140(a) is amended to read:

5 (a) A person may not operate gear in the commercial taking of fishery
6 resources if the person does not hold [WITHOUT] a valid entry permit or a valid
7 interim-use permit or the person is not an individual who is a temporary
8 transferee under AS 16.43.180 or 16.43.190 [ISSUED BY THE COMMISSION].

9 * Sec. 19. AS 16.43.140(b) is amended to read:

10 (b) A permit is not required of a crewmember or other person assisting in the
11 operation of a unit of gear engaged in the commercial taking of fishery resources as
12 long as the holder of the entry permit or [THE] interim-use permit or the temporary
13 transferee under AS 16.43.180 or 16.43.190 for that particular unit of gear is at all
14 times present and actively engaged in the operation of the gear.

15 * Sec. 20. AS 16.43.150(a) is amended to read:

16 (a) Except as may be otherwise provided under AS 16.43.270(d), an entry
17 permit authorizes the permittee, or individual to whom an entry permit is
18 temporarily transferred under AS 16.43.180 or 16.43.190, to operate a unit of gear
19 within a specified fishery.

20 * Sec. 21. AS 16.43.150(b) is amended to read:

21 (b) The holder of an entry permit or a temporary transferee under
22 AS 16.43.180 or 16.43.190 shall have the permit in possession at all times when
23 engaged in the operation of gear for which it was issued.

24 * Sec. 22. AS 16.43.150(g) is amended to read:

25 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215, 44.81.225,
26 and 44.81.231 - 44.81.250, an entry permit may not be

27 (1) pledged, mortgaged, leased, or encumbered in any way;

28 (2) transferred with any retained right of repossession or foreclosure,
29 or on any condition requiring a subsequent transfer, unless the permit is temporarily
30 transferred under AS 16.43.180 or 16.43.190; or

31 (3) attached, distrained, or sold on execution of judgment or under any

1 other process or order of any court, except as provided in AS 16.43.170(g) and (h).

2 * **Sec. 23.** AS 16.43.150(h) is amended to read:

3 (h) Unless an entry permit holder has expressed a contrary intent in a will that
4 is probated, the commission shall, upon the death of the permit holder, transfer the
5 permanent permit by right of survivorship directly to the surviving spouse or, if no
6 spouse survives, to a natural person **or a regional fisheries trust established under**
7 **AS 16.44.010** designated by the permit holder on a form provided by the commission.
8 If no spouse survives and if the person **or regional fisheries trust** designated on the
9 form, if any, does not survive **or continue to exist**, the permit passes as part of the
10 permit holder's estate. A designation under this subsection must be acknowledged
11 before a person authorized to administer an oath under AS 09.63.010 or must be
12 witnessed by two persons who are qualified under AS 13.12.505 to witness the will of
13 the permit holder. Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and
14 44.81.231 - 44.81.250, the permit is exempt from the claims of creditors of the estate.

15 * **Sec. 24.** AS 16.43.150 is amended by adding new subsections to read:

16 (j) Subsections (h) and (i) of this section do not apply to a temporary
17 transferee under AS 16.43.190.

18 (k) A temporary transferee under AS 16.43.180 or 16.43.190 has the same use
19 privilege or right in a fishery that is available to an individual holding an entry permit
20 or valid interim-use permit under this chapter.

21 * **Sec. 25.** AS 16.43.160(d) is amended to read:

22 (d) The holder of a permit whose household income, assets, and financial
23 resources fall within the eligibility standards for the food stamp program under 7
24 U.S.C. 2011 - 2025, as amended, is subject to an annual base fee for the issuance or
25 renewal of an entry permit or an interim-use permit that is equal to 50 percent of the
26 annual base fee that the permit holder would otherwise pay under (c) of this section. In
27 addition to the reduced annual base fee under this subsection, a nonresident who
28 qualifies for a reduced fee under this subsection shall pay the annual nonresident
29 surcharge established under (c) of this section. **This subsection does not apply to a**
30 **temporary transferee under AS 16.43.190.**

31 * **Sec. 26.** AS 16.43.170(a) is amended to read:

1 (a) Except as provided in AS 16.10.333 - 16.10.338 and [IN] AS 44.81.231 -
2 44.81.250, entry permits and interim-use permits are transferable only through the
3 commission as provided in this section, AS 16.43.180, and 16.43.190 [AS 16.43.180]
4 and under regulations adopted by the commission. An involuntary transfer of an entry
5 permit in a manner inconsistent with the statutes of this state and the regulations of the
6 commission is void.

7 * **Sec. 27.** AS 16.43.170(b) is amended to read:

8 (b) Except as provided for temporary transfers under AS 16.43.180 and
9 16.43.190 and permit holders subject to [IN] (e) of this section, the holder of an
10 entry permit may transfer the permit to another person, to a regional fisheries trust
11 under AS 16.44, or to the commission upon 60 days' [DAYS] notice of intent to
12 transfer under regulations adopted by the commission. Not [NO] sooner than 60 days
13 nor later than 12 months from the date of notice to the commission, the holder of an
14 entry permit may transfer the permit. If the proposed transferee, other than the
15 commission or a regional fisheries trust, can demonstrate the present ability to
16 participate actively in the fishery, and the transfer does not violate any provision of
17 this chapter or regulations adopted under this chapter, and if a certificate for the permit
18 under AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the
19 commission shall approve the transfer and reissue the entry permit to the transferee if
20 [PROVIDED THAT] neither party is prohibited by law from participating in the
21 transfer.

22 * **Sec. 28.** AS 16.43.180(a) is amended to read:

23 (a) The commission shall adopt regulations providing for the temporary
24 emergency transfer of entry permits, including temporary emergency transfer of
25 temporarily transferred permits under AS 16.43.190, and interim-use permits when
26 illness, disability, death, required military or government service, or other unavoidable
27 hardship prevents the permit holder or temporary transferee from participating in the
28 fishery. To alleviate hardship pending a final determination of the permit holder's
29 eligibility for an entry permit, the commission shall adopt regulations providing for the
30 temporary emergency transfer of an interim-use permit issued under AS 16.43.210(b)
31 or 16.43.225.

1 * **Sec. 29.** AS 16.43 is amended by adding a new section to article 2 to read:

2 **Sec. 16.43.190. Regional fisheries trusts; temporary transfer of entry**
3 **permits.** (a) When an entry permit is transferred to a regional fisheries trust
4 established under AS 16.44.010, the commission shall record the regional fisheries
5 trust as the permit holder. An entry permit held by a regional fisheries trust may only
6 be fished by a temporary transferee qualified under AS 16.44.080 and approved by the
7 commission under (c) of this section.

8 (b) Before an individual qualified under AS 16.44.080 may fish an entry
9 permit held by a regional fisheries trust, the regional fisheries trust shall provide the
10 commission with

- 11 (1) information identifying the permit to be temporarily transferred;
12 (2) the name, and other reasonable identifying information requested
13 by the commission, of the individual;
14 (3) the terms of the temporary transfer, including the length of the
15 transfer period and compensation; and
16 (4) any other information that the commission may require by
17 regulation.

18 (c) Unless the commission finds that an individual does not qualify for transfer
19 of an entry permit under this chapter or AS 16.44.080, the commission shall approve
20 the temporary transfer of an entry permit held by a regional fisheries trust to the
21 individual on the terms provided to the commission under (b)(3) of this section within
22 15 days after receipt of all information required, or requested, by the commission
23 under this section.

24 (d) The commission shall revoke the temporary transfer of an entry permit
25 held by a regional fisheries trust if

- 26 (1) requested by a regional fisheries trust under AS 16.43.960(I); or
27 (2) a temporary transferee
28 (A) fails to compensate the fisheries trust as provided by the
29 terms of the temporary transfer provided to the commission under (b) of this
30 section; or
31 (B) is not qualified under this chapter or AS 16.44.080.

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* **Sec. 30.** AS 16.43.330(a) is amended to read:

(a) When the number of outstanding entry permits for a fishery is less than the optimum number established under AS 16.43.290, the commission shall issue new entry permits to applicants who are presently able to engage actively in the fishery or, subject to AS 16.44.060(a), to regional fisheries trusts established under AS 16.44.010 until the optimum number is reached.

* **Sec. 31.** AS 16.43.850 is amended to read:

Sec. 16.43.850. Point system. (a) For the purpose of identifying frequent violators of commercial fishing laws in salmon fisheries, the commission shall adopt regulations establishing a uniform system for the suspension of commercial salmon fishing privileges by assigning demerit points for convictions for violations of commercial fishing laws in salmon fisheries that are reported to the commission under AS 16.43.880. The commission shall assess demerit points against an individual who holds an entry permit or interim-use permit or who is a temporary transferee under AS 16.43.180 or 16.43.190 [A PERMIT HOLDER] for each violation of commercial fishing laws in a salmon fishery in accordance with (b) and (c) of this section. The commission shall assess points against an individual who holds a permit or who is a temporary transferee under AS 16.43.180 or 16.43.190 [HOLDER] for the salmon fishery in which the violation of commercial fishing laws occurred.

(b) The commission shall assess demerit points against an individual who holds a permit or who is a temporary transferee under AS 16.43.180 or 16.43.190 [HOLDER] for a conviction of a violation of commercial fishing laws in a salmon fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 - 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 - 16.10.790 for the following violations in accordance with this schedule:

- (1) fishing in closed waters 6 points;
- (2) fishing during closed season or period 6 points;
- (3) fishing with more than the legal amount of gear 4 points;
- (4) fishing with gear not allowed in fishery 6 points;
- (5) fishing before expiration of transfer period 6 points;
- (6) interfering with commercial fishing gear 4 points;

- 1 (7) fishing with more than the legal amount of
- 2 gear on vessel 4 points;
- 3 (8) improper operation of fishing gear 4 points;
- 4 (9) permit holder **or permit temporary transferee**
- 5 not present when required 4 points;
- 6 (10) fishing with underlength or overlength vessel 6 points;
- 7 (11) wanton waste of fishery resources 4 points.

8 (c) Notwithstanding (b) of this section, if **the** [A PERMIT HOLDER'S] first
 9 conviction of a violation of commercial fishing laws in a salmon fishery in a 36-month
 10 period **for a permit holder or temporary transferee under AS 16.43.180 or**
 11 **16.43.190** is a conviction under AS 16.05.722, the number of demerit points assessed
 12 against the permit holder **or temporary transferee** for the violation must be one-half
 13 of the points assessed for the violation under (b) of this section.

14 (d) The commission shall suspend **the** [A PERMIT HOLDER'S] commercial
 15 salmon fishing privileges **of a permit holder or a temporary transferee under**
 16 **AS 16.43.180 or 16.43.190** for a salmon fishery for a period of

- 17 (1) one year if the permit holder **or temporary transferee**
- 18 accumulates 12 or more points during any consecutive 36-month period as a result of
- 19 convictions for violations of commercial fishing laws in the salmon fishery;
- 20 (2) two years if the permit holder **or temporary transferee**
- 21 accumulates 16 or more points during any consecutive 36-month period as a result of
- 22 convictions for violations of commercial fishing laws in the salmon fishery;
- 23 (3) three years if the permit holder **or temporary transferee**
- 24 accumulates 18 or more points during any consecutive 36-month period as a result of
- 25 convictions for violations of commercial fishing laws in the salmon fishery.

26 * **Sec. 32.** AS 16.43.855(a) is amended to read:

27 (a) Notice of each assessment of points shall be given to the permit holder **or**
 28 **the temporary transferee under AS 16.43.180 or 16.43.190.** Notice shall also be
 29 given to the permit holder **or temporary transferee** before the expiration of a
 30 suspension of commercial salmon fishing privileges under AS 16.43.850(d) that
 31 subsequent violations of commercial fishing laws in the salmon fishery may result in

1 further suspensions of the permit. The notice may be given by first class mail.

2 * **Sec. 33.** AS 16.43.855(c) is amended to read:

3 (c) The assessment of points against a permit holder **or temporary transferee**
4 **under AS 16.43.180 or 16.43.190** by the commission under AS 16.43.850 - 16.43.895
5 is in addition to, and not in substitution for, other provisions of this title and is not a
6 substitute for any penalty imposed by a court.

7 * **Sec. 34.** AS 16.43.855 is amended by adding a new subsection to read:

8 (e) If the commission assesses points under (a) of this section against an
9 individual to whom a permit is temporarily transferred under AS 16.43.190, the
10 commission shall provide notice of the assessment of points to the regional fisheries
11 trust that temporarily transferred the permit.

12 * **Sec. 35.** AS 16.43.860 is amended to read:

13 **Sec. 16.43.860. Suspension.** (a) A permit holder **or individual to whom a**
14 **permit is temporarily transferred under AS 16.43.180 or 16.43.190** whose
15 commercial salmon fishing privileges for a salmon fishery are suspended under
16 AS 16.43.850 - 16.43.895 may not obtain an entry permit or interim-use permit for
17 that salmon fishery during the period of the suspension of the privileges. During the
18 period for which the permit holder's **or temporary transferee's** privilege to obtain an
19 entry permit or interim-use permit for a salmon fishery is suspended under this
20 section, the commission may not issue a permit card to the permit holder **or**
21 **temporary transferee** for that fishery.

22 (b) A permit holder **or individual to whom a permit is temporarily**
23 **transferred under AS 16.43.180 or 16.43.190** whose privilege of obtaining a
24 commercial fishing permit for a salmon fishery is suspended under AS 16.43.850 -
25 16.43.895 may not

26 (1) engage in the salmon fishery under a crewmember license; [OR]

27 (2) **be a temporary transferee for the salmon fishery under**
28 **AS 16.43.180 or 16.43.190; or**

29 (3) lease or rent the **individual's** [PERMIT HOLDER'S] interest in a
30 boat to another person if the boat would be used in the salmon fishery for which the
31 permit holder's **or temporary transferee's** fishing privileges are suspended.

1 (c) If, during the period for which the commission has suspended the [A
2 PERMIT HOLDER'S] commercial fishing privileges of a permit holder or
3 individual to whom a permit is temporarily transferred under AS 16.43.180 or
4 16.43.190 for a salmon fishery [ARE SUSPENDED], the commission establishes a
5 limited entry system for the salmon fishery, the permit holder or temporary
6 transferee shall be eligible to obtain an entry permit for that fishery to the extent that
7 the permit holder or temporary transferee qualifies for the entry permit under
8 regulations adopted by the commission. If the permit holder or temporary transferee
9 qualifies for an entry permit for the fishery, the commission shall withhold issuance of
10 the entry permit until the period of the suspension imposed under AS 16.43.850 -
11 16.43.895 has expired.

12 (d) The commission may not transfer a commercial fishing permit for a
13 salmon fishery under an emergency transfer under AS 16.43.180 if, at the time of the
14 application for the emergency transfer, the [PERMIT HOLDER'S] commercial salmon
15 fishing privileges of the permit holder or temporary transferee for the salmon
16 fishery have been suspended.

17 * **Sec. 36.** AS 16.43.960(a) is amended to read:

18 (a) Except as provided in (k) of this section, the [THE] commission may
19 revoke, suspend, or transfer all entry or interim-use permits, vessel entry permits, or
20 vessel interim-use permits held by a person or entity who knowingly provides or
21 assists in providing false information, or fails to correct false information provided to
22 the commission for the purpose of obtaining a benefit for self or another, including the
23 issuance, renewal, duplication, [OR] transfer, or temporary transfer under
24 AS 16.43.180 or 16.43.190 of an entry or interim-use permit, vessel license, vessel
25 entry permit, or vessel interim-use permit. The commission may also revoke the
26 temporary transfer of a permit under AS 16.43.190 to an individual who
27 knowingly provides or assists in providing false information, or fails to correct
28 false information provided, to the commission for the purpose of obtaining a
29 benefit for self or another. The commission may suspend, as appropriate, that
30 person's, [OR] entity's, or temporary transferee's eligibility to hold or receive a
31 temporary transfer of an entry or interim-use permit, vessel entry permit, or vessel

1 interim-use permit for a period not to exceed three years, and may impose an
2 administrative fine of not more than \$5,000 on the person or entity whose officers,
3 employees, representatives, or agents knowingly provide or assist in providing false
4 information, or fail to correct false information provided, to the commission for the
5 purpose of obtaining a benefit.

6 * **Sec. 37.** AS 16.43.960 is amended by adding new subsections to read:

7 (k) An entry permit held by a regional fisheries trust

8 (1) shall revert to the commission and be made available for reissuance
9 if the regional fisheries trust that holds the permit is dissolved under AS 16.44.010(d);

10 (2) may not be revoked or transferred away from the regional fisheries
11 trust solely because of the actions of an individual to whom the permit is temporarily
12 transferred under AS 16.43.190.

13 (l) If the commercial fishing privileges of an individual who is a temporary
14 transferee under AS 16.43.190 are suspended for a period

15 (1) longer than the period of the individual's temporary transfer
16 provided to the commission under AS 16.43.190(b)(3), the regional fisheries trust that
17 holds the permit may request that the commission revoke the temporary transfer; or

18 (2) shorter than the period of the individual's temporary transfer
19 provided to the commission under AS 16.43.190(b)(3), the regional fisheries trust that
20 holds the permit may request that the commission revoke the temporary transfer only
21 if requested by the temporary transferee.

22 * **Sec. 38.** AS 16.43.990(3) is amended to read:

23 (3) "entity" means a corporation, company, partnership, firm,
24 association, organization, joint venture, trust, society, **regional fisheries trust under**
25 **AS 16.44**, or other legal entity other than a natural person;

26 * **Sec. 39.** AS 16 is amended by adding a new chapter to read:

27 **Chapter 44. Regional Fisheries Trusts.**

28 **Sec. 16.44.010. Establishment and purpose of a regional fisheries trust.** (a)

29 The department may authorize a municipality or municipalities to establish a regional
30 fisheries trust if there is not already a fisheries trust established in that region and at
31 least two-thirds of the municipalities within the fisheries trust region, acting jointly,

1 apply to the department with a business plan and bylaws for the proposed fisheries
2 trust that comply with the requirements of this chapter. The department may not
3 authorize more than three regional fisheries trusts. If there are more applicants to form
4 regional fisheries trusts than available authorizations, the department shall authorize
5 eligible trusts in the order in which the applications were received.

6 (b) The purposes of a regional fisheries trust established under (a) of this
7 section are to

8 (1) prevent economic distress among fishermen and those persons
9 dependent on them for a livelihood;

10 (2) improve state residents' ability to participate in state fisheries by
11 creating opportunities for those persons with limited alternative economic options and
12 sources of income;

13 (3) empower communities in the state to achieve economic self-
14 sufficiency; and

15 (4) promote resource conservation.

16 (c) The department, in consultation with the Department of Fish and Game,
17 shall establish fisheries trust regions. The department may modify or change the
18 boundaries of the regions for good reason.

19 (d) Each fisheries trust established under (a) of this section is a public
20 corporation and instrumentality of the state within the Department of Commerce,
21 Community, and Economic Development. The exercise by a fisheries trust of the
22 powers conferred under this chapter is considered to be for a public purpose. For
23 administrative purposes, the fisheries trusts are in the department, but each fisheries
24 trust has a separate and independent legal existence from the state and shall be
25 governed by a board established under AS 16.44.020. Upon the dissolution of a
26 fisheries trust, the rights and property of the fisheries trust, other than a limited entry
27 permit held by the fisheries trust, pass to the state. A limited entry permit held by a
28 fisheries trust at the time of the fisheries trust's dissolution reverts to the commission
29 and may be reissued under AS 16.43.100(a)(25).

30 (e) The department may conduct an annual audit of a fisheries trust established
31 under this section. The department may also conduct supplementary audits as it

1 considers necessary. The results of an audit under this subsection are public records
2 under AS 40.25.110.

3 (f) The department may dissolve a fisheries trust if the fisheries trust becomes
4 insolvent. However, nothing in this subsection precludes municipalities in that region
5 from establishing another fisheries trust under (a) of this section.

6 **Sec. 16.44.020. Regional fisheries trust board; membership; meetings;**
7 **location.** (a) Each regional fisheries trust shall be governed by a board of directors,
8 composed of members appointed by the governor under this section.

9 (b) The governor shall appoint one individual from each municipality wholly
10 or partially located within the fisheries trust region established by the department
11 under AS 16.44.010(c) to serve as a member of a fisheries trust board. The governor
12 shall choose each member appointed under this subsection from a list of nominees
13 provided by each municipality.

14 (c) If municipalities request in an application submitted under
15 AS 16.44.010(a), or a board votes under AS 16.44.050(a)(2), that the board of
16 directors for that region's fisheries trust include directors from each unincorporated
17 community within the fisheries trust region, the governor shall appoint one individual
18 from each unincorporated community wholly or partially within the fisheries trust
19 region to serve as a member of the board of directors of the regional fisheries trust. In
20 each unincorporated community wholly or partially within the fisheries trust region, a
21 single entity or village council eligible to receive a community assistance payment
22 under AS 29.60.865 shall provide the list of nominees from which the governor shall
23 appoint an individual to serve as a member of a regional fisheries trust board of
24 directors.

25 (d) The governor shall appoint individuals to the board of a fisheries trust
26 under (b) and (c) of this section who have a diversity of experience relevant to the
27 operations of a fisheries trust established under this chapter, including, for each board,
28 at least two individuals who have experience in the commercial fishing industry. Each
29 appointed individual must be a resident of the municipality or unincorporated
30 community from which the individual was appointed.

31 (e) Except as provided under AS 16.44.050(a)(2), a member of a board of a

1 regional fisheries trust shall serve for a term of three years. A member shall hold
2 office for the term of the appointment and until a successor has been appointed and
3 qualified. A member is eligible for reappointment. A vacancy on a board occurring
4 other than by expiration of term shall be filled in the same manner as the original
5 appointment but for the unexpired term only. Terms must be staggered so that one-
6 third, or as close to one-third as practicable, of the terms expire each year. A member
7 may not serve more than 12 cumulative years on the board.

8 (f) A majority of the members of a board constitutes a quorum for the
9 transaction of business and the exercise of the powers and duties of the board except
10 for certain board actions relating to the board's membership under AS 16.44.050(a)(2).

11 (g) A member of a board may not be a temporary transferee of an entry permit
12 held by a fisheries trust.

13 (h) The members of a board shall annually elect from among themselves a
14 chair and vice-chair and other board officers as may be provided in the bylaws of the
15 fisheries trust. The members of the board may elect to create an executive governance
16 committee and provide that committee some of the board's powers under this chapter.

17 (i) The board of each fisheries trust may hire staff qualified to assist the board
18 in carrying out the provisions of this chapter. If staff is hired, staff compensation shall
19 be reasonable.

20 (j) A fisheries trust may share resources, including staff, with other fisheries
21 trusts established under this chapter if the sharing arrangement is approved by the
22 board of each participating fisheries trust. A fisheries trust may also share resources
23 and staff with a regional association qualified under AS 16.10.380(a), an Alaska
24 Native village or regional corporation established under 43 U.S.C. 1606 (Alaska
25 Native Claims Settlement Act), a regional development organization as defined in
26 AS 44.33.896, or another entity created for a purpose related to commercial fishing in
27 the fisheries trust region.

28 (k) Unless a fisheries trust is sharing resources with one or more other entities
29 under (j) of this section, a fisheries trust shall be administratively headquartered in the
30 community in its region with the greatest number of entry permits on January 1, 2017.

31 **Sec. 16.44.030. Administrative expenses, compensation, and fees due the**

1 **department.** (a) A member of a fisheries trust board may be provided reasonable
2 compensation. However, the compensation may not exceed the median rate of
3 compensation provided to the elected members of the municipal governments of the
4 three most populated municipalities within the fisheries trust region. For the purposes
5 of this subsection, "compensation" does not include reasonable per diem and travel
6 expenses for necessary fisheries trust business purposes.

7 (b) The administrative expenses of a fisheries trust must be reasonable and
8 minimized to enhance the ability of the fisheries trust to acquire entry permits and to
9 return maximum benefit to the persons and region served by the fisheries trust.

10 (c) The department may adopt regulations relating to the administrative
11 expenses of, and compensation provided by, a fisheries trust.

12 (d) The commissioner shall assess fisheries trust fees for the department's
13 actual expenses necessarily incurred by the department in connection with its duties
14 under this chapter relating to the fisheries trust.

15 **Sec. 16.44.040. Exemption from taxation.** (a) Except for permit-related fees
16 levied under AS 16.43.160, the real and personal property of a fisheries trust
17 organized under this chapter and its assets, income, and receipts are declared to be
18 devoted to an essential public and governmental function and purpose, and the
19 property, assets, income, receipts, and other interests of the fisheries trust are exempt
20 from taxes and special assessments of the state or a political subdivision of the state,
21 including municipalities, school districts, public utility districts, and other
22 governmental units.

23 (b) Nothing in this section relieves an individual who has a temporarily
24 transferred entry permit held by a fisheries trust from applicable fees, taxes, or
25 assessments.

26 **Sec. 16.44.050. Powers and duties of a regional fisheries trust.** (a) In
27 addition to all powers necessary to carry out the purposes of this chapter, a fisheries
28 trust may

29 (1) adopt, amend, and repeal bylaws for its organization, management
30 of its internal affairs, and the conduct of its business consistent with the provisions of
31 this chapter;

1 (2) if two-thirds of the board members appointed from the
2 municipalities in the region under AS 16.44.020(b) affirmatively vote to approve the
3 action, expand or reduce the membership of the fisheries trust board of directors by
4 allowing or prohibiting individuals from unincorporated communities in the region to
5 serve as directors;

6 (3) subject to AS 16.44.060(d), borrow funds;

7 (4) subject to the limitations of AS 16.43 and this chapter, hold,
8 transfer, or receive the transfer of an entry permit for a fishery within the fisheries
9 trust region;

10 (5) accept gifts or grants from a federal agency or an agency or
11 instrumentality of the state, a municipality, a private organization, or another source,
12 including the transfer of an entry permit for a regional fishery or a gift or grant for the
13 acquisition of an entry permit within a specific fishery located in the fisheries trust
14 region;

15 (6) subject to AS 16.43.190 and AS 16.44.070, temporarily transfer an
16 entry permit held by the fisheries trust to an individual qualified under AS 16.44.080;

17 (7) request that the commission revoke the temporary transfer of a
18 permit under AS 16.43.190(d); and

19 (8) after a fisheries trust acquires the maximum number of entry
20 permits allowed under AS 16.44.060(a), use revenue and other funds to support
21 programs and projects that benefit commercial fishermen within the fisheries trust
22 region.

23 (b) In a manner consistent with AS 16.44.010(b), a fisheries trust shall

24 (1) subject to the commission's approval under AS 16.43.190, select
25 individuals qualified under AS 16.44.080 by competitive bid to receive temporary
26 transfers of entry permits held by the fisheries trust;

27 (2) establish criteria for the temporary transfer of entry permits
28 acquired by the fisheries trust that ensure the solvency and financial strength of the
29 fisheries trust;

30 (3) temporarily transfer entry permits held by the fisheries trust in
31 accordance with criteria established by the fisheries trust under (2) of this subsection;

1 (4) upon the commission's revocation of a temporary transfer under
2 AS 16.43.190, cancel the temporary transfer of the permit to the individual; and

3 (5) make public the criteria for the temporary transfer of entry permits
4 established under (2) of this subsection and provide copies to the department and the
5 commission.

6 (c) Subject to criteria adopted under (b)(2) of this section, a fisheries trust may
7 prioritize bids for the temporary transfer of entry permits under (b)(1) of this section
8 based on an individual's

9 (1) history of participation in the fishery for which the temporarily
10 transferred entry permit would apply;

11 (2) access to economic opportunities other than commercial fishing;

12 (3) record of participation in commercial fishing organizations and
13 fisheries management; or

14 (4) expected economic contribution to the fisheries trust region if the
15 bidder is awarded a temporarily transferred entry permit under this chapter.

16 (d) A fisheries trust may not hold a quota share for a federally managed
17 fishery or an interim-use or vessel permit issued under AS 16.43.

18 (e) In this section, "quota share" has the meaning given in AS 16.10.360.

19 **Sec. 16.44.055. Disposition of proceeds.** Fees associated with the temporary
20 transfer of an entry permit held by a fisheries trust and other fisheries trust revenue,
21 less any fees due the department under AS 16.44.030(d), may be appropriated to a
22 fisheries trust to be used

23 (1) to pay for the fisheries trust's operations;

24 (2) to finance the acquisition of additional permits; and

25 (3) subject to AS 16.44.050(a), to support programs and projects that
26 benefit commercial fishermen within the fisheries trust region.

27 **Sec. 16.44.060. Acquisition, holding, and transfer of entry permits.** (a) A
28 fisheries trust may only acquire an entry permit for a fishery that is in the fisheries
29 trust region. A fisheries trust may not

30 (1) acquire or hold a limited entry permit for a fishery for which the
31 commission has issued 40 or fewer total transferrable entry permits; or

1 (2) hold more than two and one-half percent of the total number of
2 transferrable entry permits issued for a fishery in the fisheries trust region, rounded to
3 the nearest whole number.

4 (b) Subject to (a) of this section, and to the extent reasonably possible, a
5 fisheries trust shall hold a number of limited entry permits of each type issued within
6 its region so that the fisheries trust's portfolio of limited entry permits is
7 proportionately representative of the limited entry permits of each kind issued within
8 the fisheries trust region.

9 (c) The commission shall ensure that a portfolio of entry permits held by a
10 fisheries trust complies with the requirements of this section. A fisheries trust may not
11 acquire an entry permit if the commission finds that the acquisition would violate the
12 requirements of this section.

13 (d) An entry permit held by a fisheries trust and temporarily transferred under
14 this chapter may not be pledged, mortgaged, or encumbered in any way.

15 (e) A fisheries trust may not transfer an entry permit unless the fisheries trust
16 receives fair market value for the permit.

17 **Sec. 16.44.070. Terms for the temporary transfer of entry permits held by**
18 **a regional fisheries trust.** (a) A fisheries trust shall establish terms for the temporary
19 transfer of entry permits held by the fisheries trust in a manner that is consistent with
20 the purposes provided by AS 16.44.010(b).

21 (b) The period for the temporary transfer of an entry permit held by a fisheries
22 trust may not exceed six years, and an individual may not receive a temporarily
23 transferred entry permit or permits for the same fishery for a cumulative period of
24 more than six years, regardless of whether the years are consecutive.

25 (c) Except for an emergency transfer under AS 16.43.180, an entry permit
26 held by a fisheries trust may be fished only by a temporary transferee under
27 AS 16.43.190.

28 (d) A fisheries trust may not impose terms that limit the temporary transferee's
29 time, place, manner, or method of fishing or selling fish.

30 (e) Terms for the temporary transfer of an entry permit under this section must
31 provide that the fisheries trust shall pay the fees required under AS 16.43.160 and that

1 the temporary transferee shall pay all taxes and assessments relating to the entry
2 permit and the use of that permit.

3 (f) A fisheries trust may request that the commission revoke the temporary
4 transfer of an entry permit under this chapter only as provided by AS 16.43.190(d) and
5 16.43.960(I).

6 **Sec. 16.44.080. Qualified temporary transferees.** (a) A fisheries trust may
7 not temporarily transfer a permit to an individual who

8 (1) already holds a limited entry or interim-use permit for the fishery
9 for which the temporarily transferred permit would apply;

10 (2) is employed by a fisheries trust under AS 16.44.020(i) or of another
11 entity that shares resources with the fisheries trust under AS 16.44.020(j);

12 (3) is unable to demonstrate an ability to participate actively in the
13 fishery for which the temporarily transferred permit would apply; or

14 (4) is a member of a board of a regional fisheries trust established
15 under AS 16.44.020.

16 (b) A fisheries trust shall make reasonable efforts to verify an individual's
17 qualifications under (a) of this section.

18 (c) If proceedings are pending to suspend an individual's commercial fishing
19 privileges, the individual may not receive a temporarily transferred entry permit under
20 this chapter.

21 (d) A regional fisheries trust may elect not to temporarily transfer a permit to
22 an individual who has previously had a temporarily transferred permit revoked by the
23 commission under this title.

24 **Sec. 16.44.099. Definitions.** In this chapter,

25 (1) "board" means the board of a regional fisheries trust;

26 (2) "commission" means the Alaska Commercial Fisheries Entry
27 Commission;

28 (3) "commissioner" means the commissioner of commerce,
29 community, and economic development;

30 (4) "department" means the Department of Commerce, Community,
31 and Economic Development unless specifically provided otherwise;

1 (5) "entry permit" or "permit" means a commercial fishing entry
2 permit issued under AS 16.43;

3 (6) "fisheries trust" means a regional fisheries trust established under
4 AS 16.44.010;

5 (7) "fishery" has the meaning given in AS 16.05.940.

6 * **Sec. 40.** AS 39.25.110(11) is amended to read:

7 (11) the officers and employees of the following boards, commissions,
8 and authorities:

9 (A) [REPEALED

10 (B)] Alaska Permanent Fund Corporation;

11 **(B)** [(C)] Alaska Industrial Development and Export Authority;

12 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

13 **(D)** [(E)] Alaska Commission on Postsecondary Education;

14 **(E)** [(F)] Alaska Aerospace Corporation;

15 **(F)** [(G)] REPEALED

16 (H)] Alaska Gasline Development Corporation and subsidiaries
17 of the Alaska Gasline Development Corporation;

18 **(G) a regional fisheries trust established under**

19 **AS 16.44.010;**

20 * **Sec. 41.** AS 43.76.015(f) is amended to read:

21 (f) In this section, "eligible interim-use permit and entry permit holder" means
22 an individual who, 90 days before the date ballots must be postmarked to be counted
23 in an election under this section, is listed in the records of the Alaska Commercial
24 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry
25 permit **that** [WHICH] authorizes the individual to fish commercially in an
26 administrative area established by the Alaska Commercial Fisheries Entry
27 Commission under AS 16.43.200, which is included, in whole or in part, in the region
28 in which the election is held. **An individual to whom an entry permit is**
29 **temporarily transferred under AS 16.43.190 is not eligible to vote in an election**
30 **under AS 43.76.001 - 43.76.040.**

31 * **Sec. 42.** AS 43.76.020 is amended by adding a new subsection to read:

1 (c) In this section, "eligible interim-use permit and entry permit holders" has
2 the meaning given in AS 43.76.015.

3 * **Sec. 43.** AS 43.76.040 is amended to read:

4 **Sec. 43.76.040. Definitions [DEFINITION].** In AS 43.76.001 - 43.76.040,
5 unless the context otherwise requires,

6 (1) "buyer" means a person who acquires possession of salmon from
7 the person who caught the salmon regardless of whether there is an actual sale of the
8 salmon but excluding a transfer to a person engaged solely in interstate transportation
9 of goods for hire; **and**

10 (2) **"person holding a limited entry permit under AS 16.43"**
11 **includes an individual to whom a limited entry permit is temporarily transferred**
12 **under AS 16.43.190, but does not include a regional fisheries trust established**
13 **under AS 16.44.010.**

14 * **Sec. 44.** AS 43.76.160(g) is amended to read:

15 (g) In this section, "eligible interim-use permit and entry permit holder" means
16 an individual who, 90 days before the date ballots must be postmarked to be counted
17 in an election under this section, is listed in the records of the Alaska Commercial
18 Fisheries Entry Commission as the legal holder of an interim-use permit for dive gear
19 or an entry permit for dive gear that authorizes the individual to fish commercially in
20 the administrative area for the species of fishery resource for which the dive fishery
21 management assessment is to be approved, amended, or terminated. **An individual to**
22 **whom an entry permit is temporarily transferred under AS 16.43.190 for dive**
23 **gear that authorizes the individual to fish commercially in the administrative**
24 **area for the species of fishery resource for which the dive fishery management**
25 **assessment is to be approved, amended, or terminated is subject to the**
26 **assessment, but is not eligible to vote in an election under AS 43.76.150 -**
27 **43.76.210.**

28 * **Sec. 45.** AS 43.76.210 is amended by adding a new paragraph to read:

29 (6) "person holding a limited entry permit for dive gear or an interim-
30 use permit for dive gear issued under AS 16.43" includes an individual to whom a
31 limited entry permit is temporarily transferred under AS 16.43.190, but does not

1 include a regional fisheries trust established under AS 16.44.010.

2 * **Sec. 46.** AS 43.76.230(g) is amended to read:

3 (g) In this section, "eligible interim-use permit and entry permit holder" means
4 an individual who, 90 days before the date ballots must be postmarked to be counted
5 in an election under this section, is listed in the records of the Alaska Commercial
6 Fisheries Entry Commission as the legal holder of an interim-use permit for salmon
7 fishing gear or an entry permit for salmon fishing gear that authorizes the individual to
8 fish commercially in the salmon fishery for which the salmon fishery assessment is to
9 be approved, amended, or terminated. **An individual to whom an entry permit is**
10 **temporarily transferred under AS 16.43.190 for salmon fishing gear that**
11 **authorizes the individual to fish commercially in the administrative area for**
12 **which the salmon fishery assessment is to be approved, amended, or terminated**
13 **is not eligible to vote in an election under AS 43.76.220 - 43.76.280.**

14 * **Sec. 47.** AS 43.76.280(6) is amended to read:

15 (6) "sold" means the transfer of ownership of salmon from an interim-
16 use permit **holder, [OR] entry permit holder, or individual to whom an entry permit**
17 **is temporarily transferred under AS 16.43.190** to a buyer at the first point of sale;

18 * **Sec. 48.** AS 43.76.300 is amended by adding a new subsection to read:

19 (b) In this section, "person holding a limited entry permit or interim-use permit
20 under AS 16.43" includes an individual to whom a limited entry permit is temporarily
21 transferred under AS 16.43.190, but does not include a regional fisheries trust
22 established under AS 16.44.010.

23 * **Sec. 49.** AS 43.76.370(i) is amended to read:

24 (i) In this section, "eligible interim-use permit and entry permit holder" means
25 an individual who, 90 days before the date ballots must be postmarked to be counted
26 in an election under this section, is listed in the records of the Alaska Commercial
27 Fisheries Entry Commission as the legal owner of an interim-use permit or an entry
28 permit that authorizes the individual to operate commercial fishing gear in the fishery
29 that is or will be subject to the seafood development tax that is the subject of the
30 election. **An individual to whom an entry permit is temporarily transferred under**
31 **AS 16.43.190 for a fishery that is or will be subject to a seafood development tax**

1 subject to an election under AS 43.76.350 - 43.76.399 is subject to a seafood
2 development tax levied under AS 43.76.350 - 43.76.399 but is not eligible to vote
3 in an election under this section.

4 * **Sec. 50.** AS 43.76.399 is amended by adding a new paragraph to read:

5 (5) "person holding a limited entry permit or interim-use permit under
6 AS 16.43" includes an individual to whom a limited entry permit is temporarily
7 transferred under AS 16.43.190, but does not include a regional fisheries trust
8 established under AS 16.44.010.

9 * **Sec. 51.** AS 44.33.020(a) is amended by adding a new paragraph to read:

10 (45) carry out its functions and duties under AS 16.44.

11 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: REGULATIONS. The Alaska Commercial Fisheries Entry
14 Commission and the commissioner of commerce, community, and economic development
15 may immediately adopt regulations necessary to implement the provisions of this Act. The
16 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
17 effective date of the law implemented by the regulation.

18 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 INITIAL DIRECTORS OF REGIONAL FISHERIES TRUSTS. Subject to
21 AS 16.44.020(e), added by sec. 39 of this Act, the term of office of each initial director of a
22 regional fisheries trust shall be determined by lot.

23 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 INITIAL ESTABLISHMENT OF FISHERIES TRUST REGIONS. (a) The
26 Department of Commerce, Community, and Economic Development shall, in consultation
27 with the Department of Fish and Game, divide the land area of the state into separate fisheries
28 trust regions to serve as the initial fisheries trust regions under AS 16.44.010(c), added by sec.
29 39 of this Act, that the Department of Commerce, Community, and Economic Development
30 determines are socially, economically, and politically cohesive, using, to the extent
31 practicable,

1 (1) the boundaries of the administrative areas established for the commercial
2 fishing of salmon by the Alaska Commercial Fisheries Entry Commission under
3 AS 16.43.200, as those boundaries are described in regulation on the effective date of sec. 39
4 of this Act; and

5 (2) the designation of state communities as local or nonlocal to particular
6 fisheries made in the report by the Alaska Commercial Fisheries Entry Commission titled
7 "Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits, 1975 - 2016."

8 (b) In establishing the initial fisheries trust regional boundaries under (a) of this
9 section, the Department of Commerce, Community, and Economic Development shall, to the
10 extent practicable,

11 (1) clearly delineate which communities are in each region; and

12 (2) ensure that a community is not split between regions.

13 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 INITIAL ESTABLISHMENT AND AUTHORIZATION OF REGIONAL
16 FISHERIES TRUSTS. A fisheries trust may not be established before July 1, 2019. However,
17 after January 1, 2019, applications to establish a trust under AS 16.44.010(a), added by sec.
18 39 of this Act, may be filed with the Department of Commerce, Community, and Economic
19 Development. Notwithstanding AS 16.44.010(a), added by sec. 39 of this Act, if, after
20 January 1, 2019, and before April 1, 2019, applicants from more than three fisheries trust
21 regions apply to the Department of Commerce, Community, and Economic Development to
22 establish fisheries trusts for the applicant's respective regions, the commissioner of commerce,
23 community, and economic development shall, in consultation with the commissioner of fish
24 and game, select three of the proposed fisheries trusts to be established based on the

25 (1) degree to which the communities in a fisheries trust region where the
26 establishment of a fisheries trust is proposed have experienced a decline in the number of
27 commercial fishing entry permits issued under AS 16.43 since 1980; and

28 (2) likelihood, as determined by the commissioner of commerce, community,
29 and economic development, on the basis of the submitted business plans and bylaws for the
30 proposed fisheries trusts, that a proposed fisheries trust will achieve the purposes for
31 establishing a fisheries trust under AS 16.44.010(b), added by sec. 39 of this Act.

1 * **Sec. 56.** Sections 52, 54, and 55 of this Act take effect immediately under
2 AS 01.10.070(c).

3 * **Sec. 57.** Except as provided by sec. 56 of this Act, this Act takes effect July 1, 2019.

ALASKA LEGISLATURE

Representative Jonathan Kreiss-Tomkins

Angoon · Coffman Cove · Craig · Edna Bay · Elfin Cove · Game Creek · Hollis · Hoonah · Kake · Kasaan · Klawock · Kupreanof · Naukati
Pelican · Petersburg · Point Baker · Port Alexander · Port Protection · Sitka · Tenakee Springs · Thorne Bay · Whale Pass

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Committees:
State Affairs, Chair
Fisheries
Judiciary



Juneau, Alaska 99801 (Jan. – April)
State Capitol, Room 411
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Sitka, Alaska 99835 (May – Dec.)
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Sectional Analysis, ver M | HB 188 — Regional Fisheries Trusts

Section 1

The Alaska Legislature recognizes that access to commercial fishing opportunities for Alaska’s coastal communities has dwindled, resulting in economic distress for fishing communities, fishermen, and the people who depend on them. This section’s legislative findings examine the economic benefits of access to commercial fisheries and proposes a new, tightly controlled path of entry to Alaska’s commercial fisheries: regional fisheries trusts.

Section 2

Conforming change to existing law. Legally distinguishes regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Section 3

Conforming change to existing law. A fisherman with a limited entry permit temporarily transferred from a regional fisheries trust (“temporary transferee under AS 16.43.190”) or emergency transferred under current law (“temporary transferee under AS 16.43.180”) must follow existing requirements that permit holders be physically present to operate stationary fishing gear.

Section 4

Conforming change to existing law. A temporary transferee may fish the commercial gear allowed by the temporarily transferred permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 5

Conforming change. Alaska residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 6

Conforming change. Non-residents must hold a permit, be a temporary transferee, or have a crew member license in order to commercially fish.

Section 7

Conforming change. You may only buy a seven-day commercial fishing license if you do not hold a limited entry permit and are not a temporary transferee.

Section 8

Conforming change. Clarifies that the term “commercial fishing license” in AS 16.05.480, “commercial fishing license; disclosure for child support purposes,” encompasses temporarily transferred permits.

Section 9

Conforming change. A temporary transferee of a limited entry permit can deliver or land fish in the state without a separate permit. This applies the same rules to a temporary transferee and an individual permit holder.

Section 10

Conforming change. Temporary transferees can be employed by commercial fisheries businesses and can sell fish. This applies the same rules to a temporary transferee and an individual permit holder.

Section 11

If proceedings are pending to suspend someone’s commercial fishing privileges under AS 16.05.710, a regional fisheries trust may not temporarily transfer a permit to that person.

Section 12

Conforming change. A person legally fishing with a temporarily transferred permit isn’t subject to penalties under AS 16.05.723(b).

Section 13

Conforming change. Fish buyers and processors can legally purchase fish from a temporary transferee.

Section 14

Conforming change. A temporary transferee can sell the fish they catch.

Section 15

Conforming change. Fishermen with temporarily transferred permits and individual permit holders can both fish in hatchery terminal harvest areas, under the same rules.

Section 16

Conforming change. Replaces “persons” with “individuals” for clarification.

Section 17

Adds additional duties to the Commercial Fisheries Entry Commission (CFEC) necessary for it to carry out its responsibilities under the bill.

Section 18

Conforming change. A temporary transferee can legally operate commercial fishing gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 19

Conforming change. People without CFEC permits can assist temporary transferees in the operation of commercial fishing gear so long as the temporary transferee is present and also engaged in operating the gear. This applies the same rules to a temporary transferee and an individual permit holder.

Section 20

Conforming change. A temporarily transferred permit authorizes a temporary transferee to fish.

Section 21

Conforming change. A temporary transferee must have their permit in physical possession when fishing. This applies the same rules to a temporary transferee and an individual permit holder.

Section 22

Conforming change. Limited entry permits can be legally temporarily transferred by a regional fisheries trust or by an individual permit holder if the permit holder is unable to fish.

Section 23

A fisherman can transfer their limited entry permit to a fisheries trust in the event of their death. If the permit holder leaves instructions to transfer their permit to a fisheries trust, but the trust does not exist, the permit passes on as part of the permit holder's estate.

Section 24

A person with a permit temporarily transferred from a regional fisheries trust cannot will that permit to anyone in the event of their death, nor relinquish that permit to CFEC. Clarifies that a temporary transferee has the same use privileges and rights in a fishery as an individual permit holder.

Section 25

If a regional fisheries trust temporarily transfers a permit to a low-income person, the fisheries trust does not qualify for reduced permit renewal fees.

Section 26

A limited entry permit may be temporarily transferred by a regional fisheries trust in accordance with AS 16.43.190.

Section 27

A permit holder can transfer their permit to a regional fisheries trust. The same rules apply (including 60 days' notice) as for a transfer to another individual or CFEC.

Section 28

CFEC shall adopt regulations allowing people who have permits temporarily transferred from a regional fisheries trust to emergency transfer those permits if they are unable to fish.

Section 29

Describes the procedures a regional fisheries trust must follow in order to temporarily transfer a permit.

- The fisheries trust must provide CFEC with identifying information for the permit and the temporary transferee, as well as the terms of the temporary transfer and other information CFEC requires.
- CFEC must approve or deny temporary transfers within 15 days after receiving all required information.

CFEC can revoke a temporary transfer if the temporary transferee's fishing privileges are suspended, if the temporary transferee doesn't pay agreed upon fees to the fisheries trust, or if the temporary transferee turns out not to be qualified to fish the permit.

A limited entry permit held by a fisheries trust may only be fished by a qualified transferee approved under section 29.

Section 30

If the number of existing permits is below the optimum level for the fishery, provides the option for CFEC to issue additional limited entry permits to regional fisheries trusts in addition to individuals.

Section 31

Conforming change. Temporary transferees will be assessed demerit points for salmon fishing violations in the same way as individual permit holders. Temporary transferees can have their salmon fishing privileges suspended in the same way as individual permit holders.

Section 32

Conforming change. Temporary transferees will be notified of demerits for violating commercial salmon fishing laws in the same way as an individual permit holder.

Section 33

Conforming change. For both temporary transferees and individual permits holders, demerits for commercial salmon fishing law violations are additions (not substitutions) to any penalties imposed by the court system.

Section 34

If CFEC levies demerit points against a fisherman with a permit temporarily transferred from a regional fisheries trust, CFEC must notify the fisheries trust.

Section 35

Conforming change. Laws on the suspension of commercial salmon fishing privileges apply equally to

temporary transferees as they do to individual permit holders. Additionally, if an individual's salmon fishing privileges are suspended, they cannot fish a salmon permit temporarily transferred from a regional fisheries trust.

Section 36

Laws which allow CFEC to revoke, suspend, or transfer permits from fishermen who provide false information to benefit themselves apply equally to temporary transferees and individual permit holders.

CFEC can revoke the temporary transfer of a permit to a fisherman who provides or refuses to correct false information, and can revoke entry permits held by fisheries trusts which provide or refuse to correct false information.

Section 37

If an fisheries trust is dissolved, the permits held by the fisheries trust revert to CFEC and are made available for reissuance.

CFEC can't revoke or transfer a permit away from a fisheries trust solely due to the actions of a temporary transferee.

If a temporary transferee's fishing privileges are suspended for longer than the period of the temporary transfer, the RFT may request CFEC revoke the temporary transfer. If a suspension is shorter than the period of the temporary transfer, an RFT may only request CFEC revoke the temporary transfer if requested by the temporary transferee.

Section 38

In AS 16.43, regional fisheries trust fall under the definition of "entity." This makes fisheries trusts subject to sanction under AS 16.43.960(a).

Section 39

Creates new chapter (AS 16.44), Regional Fisheries Trusts.

AS 16.44.10

A fisheries trust can only be formed if $\frac{2}{3}$ of the municipalities in a defined fisheries trust region jointly inform the Department of Commerce, Community, and Economic Development (DCCED) of their consensus (without a $\frac{2}{3}$ consensus, no fisheries trust can be established). The municipalities must also provide DCCED draft bylaws and a business plan for the fisheries trust.

In order to test and vet the fisheries trust program, no more than three fisheries trust may be established until further action from the legislature. Fisheries trusts will be established on a first-come, first-served basis, except in the first year following the bill's effective date (see section 40).

Each trust has a public purpose: to prevent economic distress among fishermen, to improve state residents' ability to participate in state fisheries, to empower communities to achieve economic self-sufficiency, and to promote conservation of Alaska's fisheries.

Each trust is an instrumentality of the state — administratively, a public corporation under DCCED, but with independent legal existence from the state, and governed by its own board (see 16.44.020).

DCCED will delineate fisheries trust regions in consultation with Alaska Department of Fish and Game (ADF&G). DCCED may annually audit each trust, and dissolve a trust if it is insolvent. If a regional trust is dissolved, the region may later establish a new one.

AS 16.44.020

Addresses regional fisheries trust boards, membership meetings, and locations.

Each trust is governed by a board of directors: one resident from each municipality in the fisheries trust region sits on the board. Each director is appointed by the governor from a list of nominees provided by their municipality. Unincorporated communities can nominate directors for appointment if municipalities choose to include representatives of unincorporated communities in their original application to establish a fisheries trust, or if board members appointed from municipalities later choose to include unincorporated communities — see AS 16.44.050(a)(2)). Only unincorporated communities with an entity eligible to receive community assistance payments under AS 29.60.865 can be represented on the board.

The governor must appoint board members who have a diversity of experience relevant to the operations of a fisheries trust, including at least two individuals with experience in commercial fishing.

Directors will serve staggered three-year terms, and can serve up to 12 years total. A quorum is a majority of members. Boards can elect an executive committee and hire staff. They can also share staff between trusts or with other specific regional entities such as nonprofit hatchery associations, village or regional Native corporations, Alaska regional development organizations (ARDORs), or other entities related to commercial fishing or regional services. Unless a trust shares administrative resources with another entity and needs to be in its physical proximity, trusts must be headquartered in the community in the region with the most permits as of January 1, 2017.

Board members cannot be the temporary transferee of a permit from a trust.

Section 16.44.030

Addresses administrative expenses, compensation, and fees due to DCCED.

Administrative expenses for the trusts must be minimal. Board members may be provided reasonable compensation. To ensure trusts are self-sustaining and do not impose costs on the state, the DCCED commissioner can charge fees to trusts to reimburse the department for costs that the trusts may

incur.

Section 16.44.040

Clarifies that fisheries trusts are tax exempt from state, local governments, school districts, and other political subdivisions of the state. Fisheries trusts are not exempt from paying CFEC fees on permits they hold. Temporary transferees must pay applicable fees, taxes, or assessments, such as the fisheries business tax and assessments levied under AS 43.76.

Section 16.44.050

Spells out powers of fisheries trusts, including the power to adopt bylaws, expand board membership to include unincorporated municipalities in the region, borrow money for the acquisition of limited entry permits, hold, transfer, or receive permits for fisheries in their region, temporarily transfer limited entry permits to qualified applicants, accept grants and donations, and use extra revenue on projects and programs which support commercial fishermen.

Fisheries trusts must select individuals to receive temporarily transferred permits through a competitive bid process, and must set and make public the rules governing the bidding process. Fisheries trusts must design their temporary transfer programs in a way which maintains their financial solvency, and they must invest revenue in the purchase of additional entry permits to the greatest extent possible.

A fisheries trust may choose to prioritize bids based on one or more of four criteria: applicant's historical participation in the fishery, access to other economic opportunity, record of participation in fisheries organizations and management, and expected economic contribution to the fisheries trust region. These criteria are based on court- and agency-vetted standards used by other state programs.

A fisheries trust may not hold quota share for a federally managed permit. A fisheries trust may not hold a state vessel permit.

Section 16.44.055

Revenue earned by a regional fisheries trust can be used only to acquire permits, operate the fisheries trust, and support programs and projects that benefit commercial fisherman.

Section 16.44.060

Fisheries trusts can acquire permits only for fisheries within their region. A fisheries trust must maintain a diverse portfolio of permits, representative of the distribution of permits within its region. A fisheries trust may not acquire permits in fisheries with fewer than 40 transferable limited entry permits.

There is a hard cap on the number of permits a trust can hold: 2.5% of the permits in each fishery within their region. CFEC can block transfers that violate proportional distribution or the permit holding cap.

A temporarily transferred permit cannot be pledged, mortgaged, or encumbered in any way.

A fisheries trust may not permanently transfer an entry permit unless the trust receives fair market value for the permit. CFEC is empowered to determine fair market value.

Section 16.44.070

Gives fisheries trusts the power to set terms for the temporary transfer of permits. A single person can't fish a temporarily transferred permit for longer than six cumulative years. Temporarily transferees can't further transfer permits except as provided by emergency transfer regulations. A fisheries trust can't restrict how, when, or where a temporary transferee fishes or sells fish. Fisheries trusts are responsible for CFEC renewal fees. Fisheries trusts can only revoke temporary transfers for reasons defined in AS 16.43.190(d) and AS 16.43.960(l).

Section 16.44.080

A temporarily transferred permit may not be provided to:

- A fisherman who already holds a limited entry permit in the fishery.
- Staff or board members of a fisheries trust or staff of a regional organization which shares administrative capacity with the trust.
- An individual unable to demonstrate ability to actively participate in the fishery.
- An individual with proceedings pending against them to suspend their commercial fishing privileges.

A fisheries trust may decline to temporarily transfer a permit to someone who has had a temporary transfer revoked in the past.

A fisheries trust must make a reasonable effort to ensure a temporary transferred is qualified under this section.

Section 16.44.099

Defines board, commission, commissioner, department, entry permit, fisheries trust, and fishery, as each word is used in the regional fisheries trust chapter, AS 16.44.

Section 40

Employees of fisheries trusts are in the exempt service.

Section 41

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to impose a salmon enhancement tax.

Section 42

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to terminate a salmon enhancement tax.

Section 43

A temporary transferee of a fisheries trust permit must pay an applicable salmon enhancement tax.

Section 44

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve or terminate a dive fishery management assessment. A temporary transferee is subject to an applicable dive fishery management assessment.

Section 45

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable dive fishery management assessment.

Section 46

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a salmon fishery assessment.

Section 47

A temporary transferee of a fisheries trust permit must pay an applicable salmon fishery assessment.

Section 48

A temporary transferee of a fisheries trust permit must pay an applicable permit buy-back assessment.

Section 49

Due to their temporary connection to the fishery, a temporary transferee of a fisheries trust permit can't vote in an election to approve, amend, or terminate a seafood development tax. A temporary transferee is subject to an applicable seafood development tax.

Section 50

Conforming change. A temporary transferee of a fisheries trust permit must pay an applicable seafood development tax.

Section 51

Adds the duties of overseeing fisheries trusts as laid out in the bill under AS 16.44 to the official duties of the Department of Commerce, Community, and Economic Development (DCCED).

Section 52

Allows CFEC and the commissioner of DCCED to immediately adopt regulations that might be necessary to establish and regulate fisheries trusts.

Section 53

Requires the length of the terms of the first group of board directors for a fisheries trust to be determined by lot.

Section 54

DCCED and ADF&G will create fisheries trust regions based on the boundaries of CFEC salmon

administrative areas and using CFEC's designations of communities local to given fisheries regions. Every community in the state shall be in a fisheries trust region.

Section 55

Gives regions between January 1, 2019 and April 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after July 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before April 1, 2019, DCCED, in consultation with ADF&G, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures regions do not rush the process of planning for a fisheries trust.

Section 56

Provides an immediate effective date for sections 52, 54, and 55, allowing the adoption of necessary regulations, establishment of fisheries trust regions, and applications for fisheries trusts to be established.

Section 57

Provides a July 1, 2019 effective date for the rest of the bill.

HB 188: **Regional Fisheries** **Trusts**

Presentation of draft CS to House Fisheries, January 25, 2018

Office of Rep. Kreiss-Tomkins

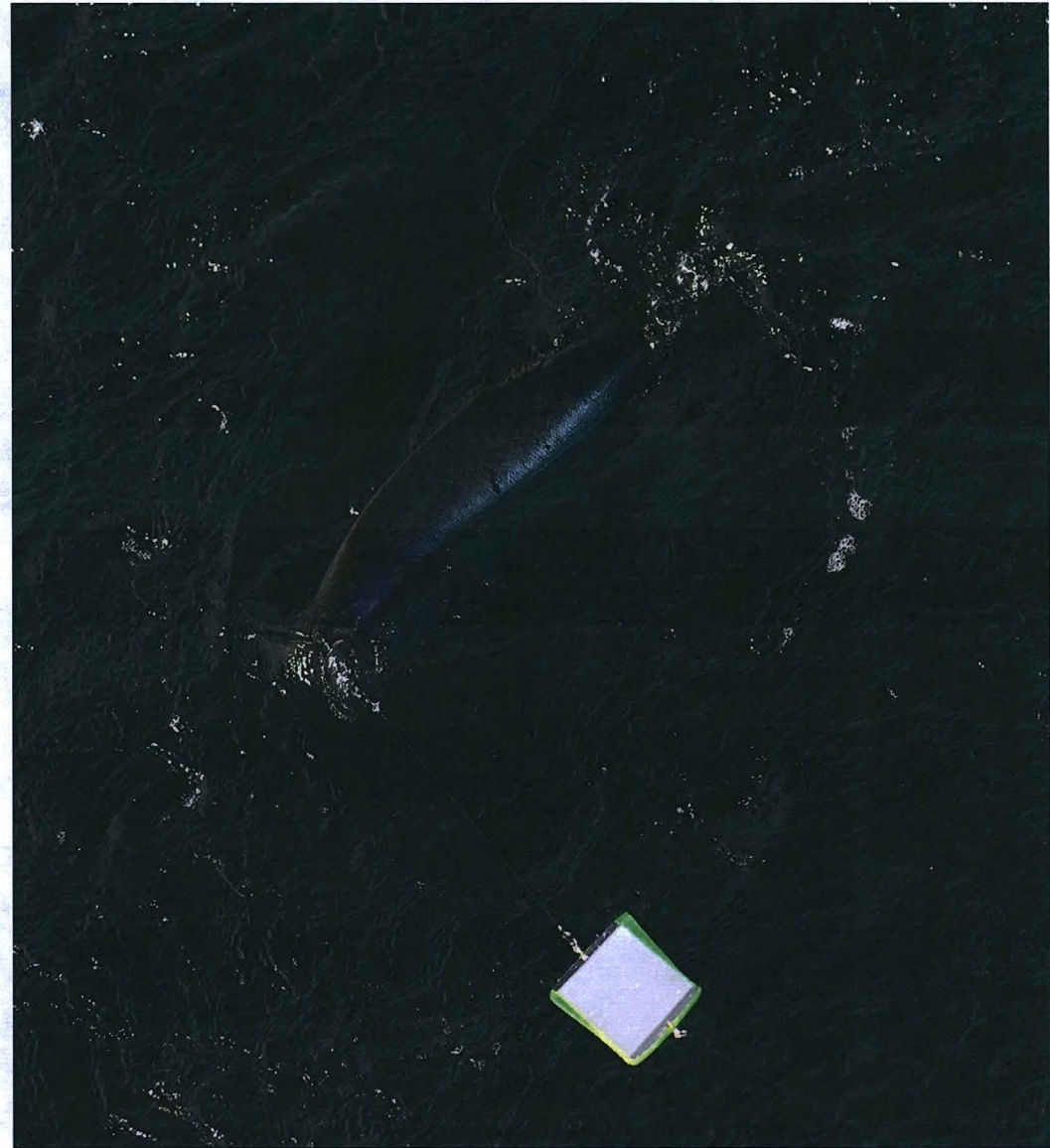
Prepared by Reid Magdanz, Noah Star & Rep. JKT
Photos courtesy Berett Wilber

New year, new bill

We made it our mission during interim to address substantive concerns and suggestions brought forward through letters and outreach conversations.

Over the last eight months, we had conversations with countless fishermen, industry groups, and other stakeholders.

Version M is the product of this effort.

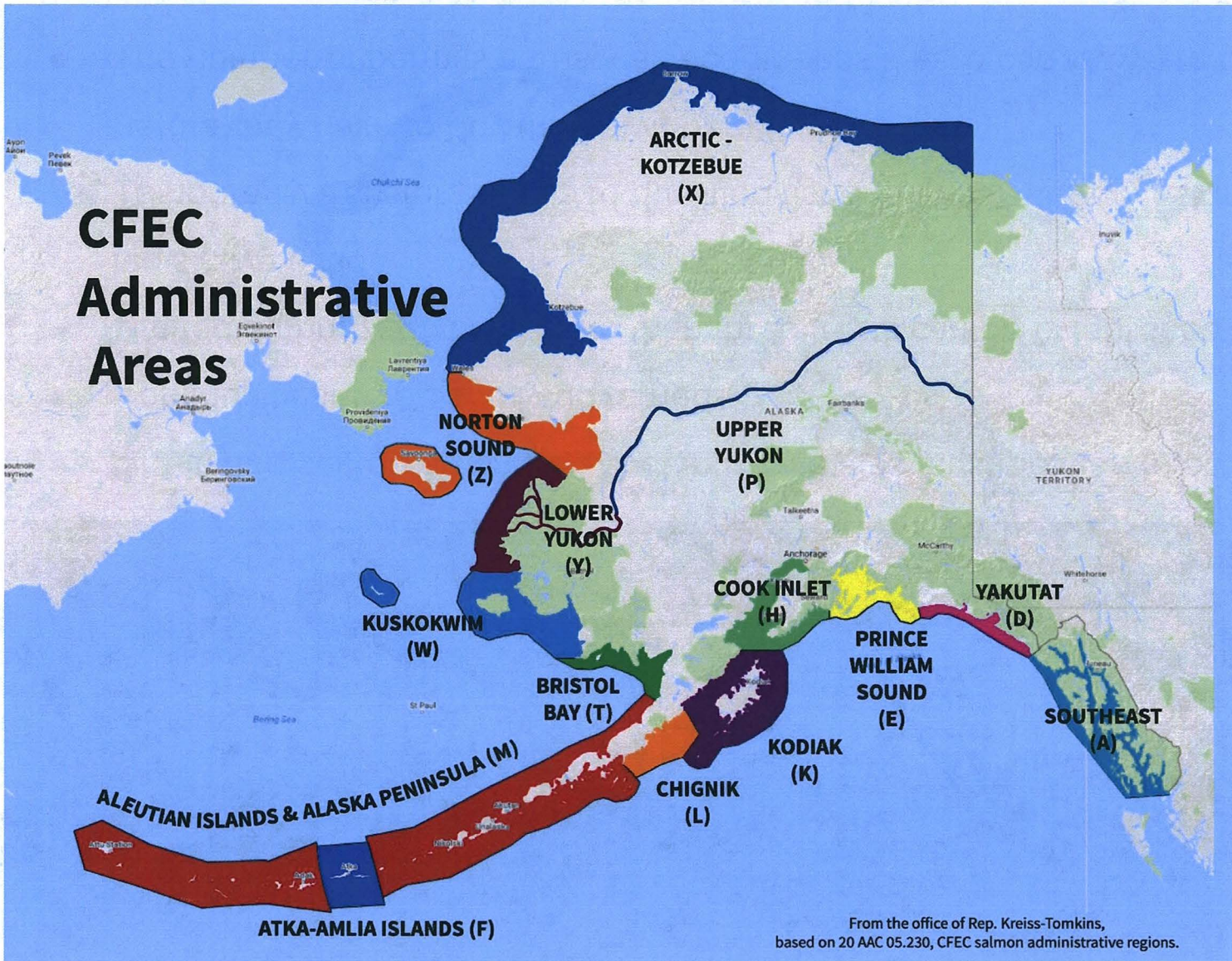


A scenic photograph of a forested coastline. In the foreground, a small blue and white boat is on the water. The background is a dense forest of tall trees, with a mountain peak visible in the distance under a slightly overcast sky. The text "Review: What do fisheries trusts look like?" is overlaid in white, bold font, with "Review:" underlined.

Review: What do fisheries trusts look like?

- Opt-in and self-determined: 2/3 of municipalities must petition to establish a fisheries trust
- Community and regionally governed
- Limited authorization: No more than three trusts can be established in the state without further legislative action
- Temporarily transfer permits to qualified fishermen as “stepping stones”: no more than 6 years before they have to buy their own permit
- The number of permits a trust can acquire has a hard cap (2.5%) to prevent distortion to market

CFEC Administrative Areas



From the office of Rep. Kreiss-Tomkins,
based on 20 AAC 05.230, CFEC salmon administrative regions.

Review:
Trust
regions
will be
based on
CFEC
salmon
admin
areas.

Review: Why should we care about fisheries trusts?

- Fisheries are the economic engine of coastal Alaska.
- Entering Alaska fisheries has become highly capital intensive.
 - Usually involves taking out large, often six-figure loans for permits and/or boats.
- It is well documented that access to commercial fisheries has decreased in much of Alaska (especially rural Alaska) since 1975.
- Fishermen (especially rural Alaskans) with limited access to capital are increasingly left on shore because of capital-related barriers to entry.
- Barriers to entry have had severe repercussions on rural coastal communities where there is little other economic opportunity outside commercial fishing.

Review: A couple questions, a couple answers.

Will this allow other entities or individuals the ability to temporarily transfer permits?

No. HB 188 gives trusts, and only trusts, the ability to temporarily transfer permits, under specific circumstances, to qualified individuals (individual can still make emergency transfers). Leasing permits remains prohibited.

Where will the money come from?

HB 188 authorizes the creation of trusts; it doesn't capitalize them. Regional fisheries trusts, and the communities that govern them, will need to find their own funding. Trusts can apply for grants, accept gifts of permits, or even get regular loans from a bank, if the terms pencil out.

The big change: Temporary Transfers

- Throughout 2017, we worked to align HB 188 with the language and structure of the Limited Entry Act.
- In version M, regional fisheries trusts temporarily transfer limited entry permits to fishermen, a process analogous to existing and widely used emergency medical transfers (EMTs). A fisheries trust will set terms on the temporary transfer and share those terms with CFEC.
- Just as with EMTs and permanent transfers, CFEC will review temporary transfers between a fisheries trust and a fisherman.

These changes harmonize the bill with existing CFEC practices and ensure the legal status of permits does not change.

A little bit more on temporary transfers

How long can a fisheries trust temporarily transfer a permit?

A fisheries trust can temporarily transfer a permit to the same fisherman for no more than six years, a **hard** cap.

Can temporary transfers be revoked?

Yes. A temporary transfer can be revoked if a transferee breaks fishing laws, fails to make agreed upon payments, or falsifies information.

The other big one: Temporary Transfer Criteria

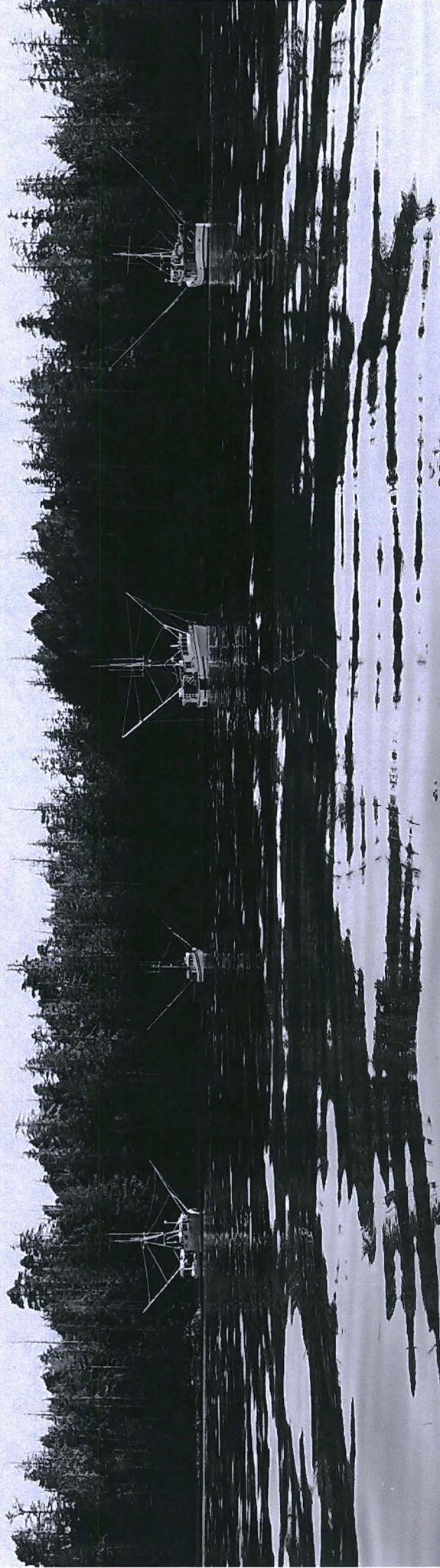
- Due to constitutional concerns, HB 188 no longer has any kind of residency requirement for individuals seeking an entry permit from a fisheries trust.
 - This change ensures HB 188 passes Alaska and federal constitutional muster.
- At the same time, we reworked the bill's bid preference criteria to strengthen constitutionality. The new criteria are based on court- and agency-vetted standards used by other state programs, specifically:
 - Limited Entry Act initial allocation criteria
 - Tier II subsistence hunting regulations

What about other changes?



- Boards must have a diversity of experience, including at least two members with commercial fishing backgrounds
- RFTs can't acquire permits in small fisheries (<40 permits)
- Explicitly prohibits RFTs from holding federal quota share
- Clarifies that if an RFT fails, permits revert to CFEC for reissue
- Ensures fishermen with a temporarily transferred permit pay applicable fisheries fees and assessments
- Requires an RFT to receive fair market value for any permit it permanently transfers

**Fishermen don't just drive boats.
They drive Alaska's economy.**



**Fisheries trusts maximize Alaskans'
access to the economic opportunity commercial
fishing provides.**

ALASKA LEGISLATURE

Representative Jonathan Kreiss-Tomkins

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Sectional Analysis, ver R | HB 188 — Regional Fisheries Trusts

Section 1.

The Alaska Legislature recognizes that access to commercial fishing opportunities for Alaska's coastal communities has dwindled, resulting in compounding economic distress for fishing communities, fishermen, and the people who depend on them. This section's legislative findings examine how the problem has grown in the forty years since Alaska's fisheries were limited and proposes a solution that would provide a new, tightly controlled path of entry to Alaska's commercial fisheries: regional fisheries trusts.

Section 2.

Conforming change to existing law. Legally distinguishes regional fisheries trusts from trust companies as defined in title 6, chapter 26.

Section 3.

Conforming change to existing law. A fisherman who leases a permit from a regional fisheries trust must follow existing requirements that permit holders be physically present to operate stationary fishing gear.

Section 4.

Conforming change. A fisherman who leases a permit from a regional fisheries trust may fish the commercial gear allowed by that permit.

Section 5.

Conforming change. If crewmembers do not hold permits, or lease permits from a regional fisheries trust, they must buy crew licenses to commercial fish.

Section 6.

Conforming change. You may buy a seven-day commercial fishing license if you do not hold a limited entry permit or lease a permit from a fisheries trust.

Section 7.

Conforming change. Clarifies that 16.05.480, "commercial fishing license; disclosure for child support purposes," applies to individuals leasing permits from a fisheries trust.

Section 8.

Conforming change. Someone who leases a permit through a fisheries trust follows the same laws as a person holding their own permit regarding legally landing and delivering fish.

Section 9.

Conforming change. Someone who leases a permit through a fisheries trust follows the same laws as a person holding their own permit regarding harvesting, transporting, and selling commercial fish.

Section 10.

If someone's commercial fishing license and/or privileges are in the process of being suspended by ADF&G (under conditions in 16.05.710), a fisheries trust cannot lease them a permit.

Section 11.

Conforming change. Allows fish buyers and processors to legally purchase fish from someone leasing a permit from a fisheries trust.

Section 12.

Conforming change. Fishermen who lease a permit from a fisheries trust follow the same participation rules for hatchery fishing as fishermen holding their own permits.

Section 13.

Gives the Alaska Commercial Fisheries Entry Commission (CFEC) the power to stop a regional fisheries trust from acquiring a permit if the trust is violating permit holding rules in AS 16.44.060.

Section 14.

Conforming change. A person leasing a permit from a regional fisheries trust has the same right to participate in commercial fishing activities as a person who holds their own permit.

Section 15.

Conforming change. A fisherman leasing a permit from a fisheries trust can fish in the region with the gear specified by that permit.

Section 16.

Conforming change. The requirement to have a permit at all times when commercial fishing applies equally to someone leasing a permit from a regional fisheries trust as it does to a person who holds their own permit.

Section 17.

A fisheries trust can lease a limited entry permit to qualified individual. This section continues to prohibit any other entity from leasing limited entry permits.

Section 18.

A fisherman who holds their own limited entry permit can transfer it to a fisheries trust in the event of their death. If the permit holder leaves instructions to transfer their permit to a trust, but the trust does not exist, the permit passes on as part of the permit holder's estate.

Section 19.

A person leasing a permit from a regional fisheries trust cannot will that permit to anyone in the event of their death. A lessee cannot relinquish a leased permit to CFEC. Clarifies that a person leasing a permit from a trust has the same use privileges and rights in a fishery as an person who holds their own permit.

Section 20.

Unlike a person who holds their own permit, someone who leases a permit from a regional fisheries trust cannot qualify for a reduced annual permit renewal fee if they fall within eligibility standards for the food stamp program.

Section 21.

The lease of a permit to an individual from a regional fisheries trust does not qualify as a transfer of the permit.

Section 22.

Conforming change. A person who holds their own permit can transfer that permit to a regional fisheries trust within the same time constraints (no sooner than 60 days, and no more than twelve months after the permit holder has given notice) as they can transfer permits to other individuals or the CFEC.

Section 23.

Conforming change. If the number of existing permits is below the optimum level for the fishery, provides the option for CFEC to issue additional limited entry permits to regional fisheries trusts under the same rules as for individuals.

Section 24.

Conforming change. Fishermen who lease permits from fisheries trusts will be assessed demerit points for fishing violations in the same way as fishermen who hold their own permits. Lessees can have their fishing privileges suspended.

Section 25.

Conforming change. Those who lease permits will be notified of demerits for violating commercial fishing laws in the same way as a person holding their own permit is notified.

Section 26.

Conforming change. For both lessees and people holding their own permits, demerits for commercial fishing law violations are additions (not substitutions) to any penalties imposed by the court system.

Section 27.

If CFEC levies demerit points against a fisherman leasing a permit from a regional fisheries trust, CFEC must notify the trust.

Section 28.

Laws on the suspension of commercial salmon fishing privileges apply equally to fishermen who lease permits from regional fisheries trusts as they do to fishermen holding their own permits. Additionally, if an individual's salmon fishing privileges are revoked, they cannot lease a salmon fishing permit from a regional fisheries trust.

Section 29.

Laws which allow CFEC to revoke, suspend, or transfer permits from fishermen who provide false information to benefit themselves apply equally to those who lease permits through regional fisheries trusts as they do to people holding their own permits. CFEC can require fisheries trusts to terminate leases with fishermen who provide or refuse to correct false information, and can revoke entry permits held by trusts which provide or refuse to correct false information.

Section 30.

In AS 16.43, regional fisheries trust fall under the definition of "entity."

Section 31.

Creates new chapter (AS 16.44), Regional Fisheries Trusts.

AS 16.44.10

A fisheries trust can be formed if $\frac{2}{3}$ of the municipalities in a defined fisheries trust region jointly inform the Department of Commerce, Community, and Economic Development (DCCED) of their consensus (without a $\frac{2}{3}$ consensus, no fisheries trust can be established). The municipalities must also provide DCCED draft bylaws and a business plan for the fisheries trust.

Each trust has a public purpose: to prevent economic distress among fishermen, to improve state residents' ability to participate in state fisheries, to empower communities to achieve economic self-sufficiency, and to promote conservation of Alaska's fisheries.

Each trust is an instrumentality of the state — administratively, a public corporation under DCCED, but with independent legal existence from the state, and governed by its own board (see 16.44.020).

DCCED will delineate each fisheries trust region in consultation with Alaska Department of Fish and Game (ADF&G). DCCED may annually audit each trust, and dissolve a trust if it is insolvent. If a regional trust is dissolved, the region may later establish a new one.

In order to test and vet the fisheries trust program, no more than three fisheries trust may be established until further action from the legislature. Fisheries trusts will be established on a first-come, first-served basis, except in the first year following the bill's effective date (see section 40).

AS 16.44.020 Addresses regional fisheries trust boards, membership meetings, and locations.

Each trust is governed by a board of directors: one resident from each municipality in the fisheries trust region sits on the board. Each director is appointed by the governor from a list of nominees provided by their municipality. Municipalities can choose to allow unincorporated communities to nominate directors — see AS 16.44.050(a)(2)).

Directors will serve staggered three-year terms, and can serve up to 12 years total. A quorum is a majority of members. Boards can elect an executive committee and hire staff. They can also share staff between trusts or with other specific regional entities such as nonprofit hatchery associations, village or regional Native corporations, Alaska regional development organizations (ARDORs), or other entities related to commercial fishing or regional services. Unless a trust shares administrative resources with another entity and needs to be in its physical proximity, trusts must be headquartered in the community in the region with the most permits as of January 1, 2017.

Board members cannot lease permits from the trust.

Section 16.44.030 Addresses administrative expenses, compensation, and fees due to DCCED.

Administrative expenses for the trusts must be minimal. Board members may be provided reasonable compensation. To ensure trusts are self-sustaining and do not impose costs on the state, the DCCED commissioner can charge fees to trusts to reimburse the department for costs that the trusts may incur.

Section 16.44.040 Clarifies that fisheries trusts are tax exempt from state, local governments, school districts, and other political subdivisions of the state. Trusts are not exempt from paying CFEC fees on permits they own. Fisherman who lease permits from trusts must pay the applicable fees, taxes, or assessments, such as the fisheries business, fisheries enhancement, and seafood development tax.

Section 16.44.050 Spells out powers of fishery trusts, including the power to adopt bylaws, expand board membership to include unincorporated municipalities in the region, borrow money for the acquisition of limited entry permits, hold, transfer, or receive permits for fisheries in their region, lease limited entry permits to qualified Alaskans, accept grants and donations, and use extra revenue on projects and programs which support commercial fishermen.

Fisheries trusts can lease permits to individuals through a competitive bid process, and must set and make public criteria for that bidding. The bid process can be designed so that it best meets the purposes of the trust. Trusts must set lease terms which maintain their financial solvency, and they must invest lease revenue in the purchase of additional entry permits to the greatest extent possible.

Section 16.44.055 Lease revenue earned by the trust can be used only to acquire permits, operate the trust, and support programs and projects that benefit commercial fisherman.

Section 16.44.060 Trusts can acquire permits only for fisheries within their region. Trusts must maintain a diverse portfolio of permits, proportional to the distribution of all permits for fisheries within their region. There is a hard cap on the number of permits a trust can hold: 2.5% of the permits in each fishery within their region. The Commercial Fisheries Entry Commission can stop transfers that violate proportional distribution or the permit holding cap.

Section 16.44.070 Gives trusts the power to set lease terms for permits. Leases cannot last longer than six years. Permits cannot be "subleased" by the lessee. Trusts may set up lease-to-own programs.

Section 16.44.80 Requires a fisherman who leases a permit from a trust be a resident of Alaska, defined as someone who makes their "true and permanent home" in Alaska, from which they have no intention of moving. If a fisherman already holds a limited entry permit, the fisherman cannot lease a permit in that fishery from a trust. Staff members of the trust (or staff of a regional organization which shares administrative capacity with the trust) cannot lease permits from the trust. The trust has the right to terminate the lease of anyone who no longer qualifies as a resident.

Section 16.44.099 Defines board, commission, commissioner, department, entry permit, fisheries trust, and fishery, as each word is used in the regional fisheries trust chapter, AS 16.44.

Section 32.

Employees of fisheries trusts are in the exempt service.

Section 33.

Clarifies that a "person holding a limited entry permit" does not include someone leasing a permit from a fisheries trust under the section on the salmon enhancement tax (AS 43.76.040).

Section 34.

Clarifies that a "person holding a limited entry permit" does not include someone leasing a permit from a fisheries trust under the section on the permit buyback assessment tax (AS 43.76.040).

Section 35.

Clarifies that a "person holding a limited entry permit" or "entry permit holder" does not include someone leasing a permit from a fisheries trust under the section on the seafood development tax (AS 43.76.350).

Section 36.

Adds the duties of overseeing fisheries trusts as laid out in the bill under AS 16.44 to the official duties of DCCED.

Section 37.

Allows CFEC and the commissioner of DCCED to immediately adopt regulations that might be necessary to establish and regulate fisheries trusts.

Section 38.

Requires the length of the terms of the first group of board directors for a fisheries trust to be determined by lot.

Section 39.

DCCED and ADF&G will create fisheries trust regions based on the boundaries of CFEC administrative areas and using CFEC's designations of communities local to given fisheries regions. Every community in the state shall be in a fisheries trust region.

Section 40.

Gives regions until January 1, 2019 to apply to DCCED to establish a fisheries trust. If three or fewer regions apply, all those regions may establish fisheries trusts after January 1, 2019. Additional regions may then establish fisheries trusts on a first-come, first-served basis until three have been established. If more than three regions apply before January 1, 2019, DCCED, in consultation with ADF&G, shall choose which regions may establish fisheries trusts based on the out-migration of fishing opportunity from the region since 1980 and the strength of the region's application. This section ensures regions do not rush the process of planning for a fisheries trust.

Section 41.

Provides an immediate effective date for section 37, allowing the adoption of necessary regulations.

Section 42.

Provides a January 1, 2018 effective date for the rest of the bill.

30-LS0389\R
Bullard
4/18/17

CS FOR HOUSE BILL NO. 188()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KREISS-TOMKINS

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to commercial fishing entry permits; establishing regional fisheries**
2 **trusts and fisheries trust regions; relating to commercial fishing entry permits held and**
3 **leased by a regional fisheries trust; relating to the duties of the Alaska Commercial**
4 **Fisheries Entry Commission and the Department of Commerce, Community, and**
5 **Economic Development; and providing for an effective date."**

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

7 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 **LEGISLATIVE FINDINGS.** The legislature finds that

10 (1) the state has an ownership and stewardship interest in the fish that
11 originate in state waters and return to spawn;

12 (2) art. VIII, sec. 15, of the Constitution of the State of Alaska, authorizes the
13 state to limit entry into a fishery for the purposes of resource conservation and preventing

1 economic distress among fishermen and those dependent upon them for a livelihood;

2 (3) to promote the conservation of fisheries and the economic health and
3 stability of commercial fishing in the state, the state began limiting entry into commercial
4 fisheries in 1975;

5 (4) since 1975, there has been a substantial and well-documented decline in
6 the number of limited entry permits held by residents of many Alaska communities;

7 (5) the decline in the number of limited entry permits represents lost jobs, lost
8 economic opportunity, and other economic distress among fishermen, their dependents, and
9 their communities;

10 (6) the state has a compelling interest in promoting the economic self-
11 sufficiency of its communities and ensuring their economic health and vitality;

12 (7) fishing is the most viable economic opportunity in numerous Alaska
13 communities;

14 (8) access to commercial fishing opportunities reduces economic distress and
15 contributes to economic self-sufficiency by providing jobs, income, a local tax base, and
16 greater access to subsistence and other fisheries;

17 (9) access to many commercial fisheries in the state requires significant
18 financial resources, posing a barrier to Alaskans desiring to participate in the state's
19 commercial fisheries;

20 (10) state-chartered regional fisheries trusts would empower communities to
21 prevent economic distress among fishermen, promote fisheries conservation, improve access
22 by Alaskans to fisheries, and realize greater economic self-sufficiency by providing a tightly
23 controlled, additional path of entry into the state's commercial fisheries.

24 * Sec. 2. AS 06.26.040(b) is amended to read:

25 (b) This section does not prohibit the use of the word "trust" by a regional
26 fisheries trust established under AS 16.44 or the words "trust" or "trust company"
27 in the name of a corporation that is in existence as of January 1, 2003, and that is not
28 subject to this chapter if the corporation was originally organized under the laws of
29 this state and has not, since the date of its original organization, amended or restated
30 its articles of incorporation to delete from its name the words "trust" or "trust
31 company."

1 * **Sec. 3.** AS 16.05.253(a) is amended to read:

2 (a) The Board of Fisheries may require **an individual** [A PERSON] who
3 holds a limited entry permit or an interim-use permit under AS 16.43 **or who leases a**
4 **limited entry permit under AS 16.44** to be physically present at a beach or riparian
5 fishing site during the operation of net gear or other stationary fishing gear at the site,
6 except when the permit holder **or lessee** is at or traveling to or from the location of

7 (1) a sale of fish caught in the gear; or

8 (2) other stationary gear of the permit holder **or lessee**.

9 * **Sec. 4.** AS 16.05.480(a) is amended to read:

10 (a) A person engaged in commercial fishing shall obtain a commercial fishing
11 license and shall retain the license in possession and readily available for inspection
12 during fishing operations. An entry permit or interim-use permit entitles the holder, **or**
13 **the lessee of the permit under AS 16.44,** to participate as a gear operator in the
14 fishery for which the permit is issued and to participate as a crewmember in any
15 fishery. A crewmember fishing license is not transferable and entitles the holder to
16 participate as a crewmember in any fishery.

17 * **Sec. 5.** AS 16.05.480(g) is amended to read:

18 (g) A resident engaged in commercial fishing who is 11 years of age or older
19 and who does not hold **or lease** an entry permit or an interim-use permit shall, except
20 as provided in (i) of this section, pay a fee of \$60 for an annual crewmember fishing
21 license. A resident engaged in commercial fishing who is less than 11 years of age and
22 who does not hold **or lease** an entry permit or an interim-use permit shall pay an
23 annual fee of \$5.

24 * **Sec. 6.** AS 16.05.480(i) is amended to read:

25 (i) Notwithstanding (g) and (h) of this section, a resident or nonresident
26 engaged in commercial fishing who does not hold **or lease** an entry permit or an
27 interim-use permit may obtain one seven-day crewmember fishing license under this
28 subsection annually. A person who obtains a seven-day license is not eligible for
29 another seven-day license in the same license year; however, if a person who obtains a
30 seven-day license pays the full fee for an annual crewmember fishing license under (g)
31 or (h) of this section during the same license year, the person is entitled to receive a

1 refund of the fee for the seven-day license. The department shall adopt regulations
2 establishing a refund procedure. During the period for which the seven-day license is
3 valid, a person who holds a seven-day license may not engage in fishing with a rod
4 and reel while present on a commercial fishing vessel. The fee for a seven-day license
5 is \$30.

6 * **Sec. 7.** AS 16.05.480(j) is amended to read:

7 (j) In this section, "commercial fishing license" includes an entry permit and
8 an interim-use permit issued under AS 16.43, an entry permit leased from a
9 regional fisheries trust under AS 16.44, and a crewmember fishing license.

10 * **Sec. 8.** AS 16.05.675(a) is amended to read:

11 (a) A person who does not hold or lease a limited entry permit or interim-use
12 permit issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671
13 may not deliver or land fish in the state unless the person

14 (1) holds a valid federal permit to operate commercial fishing gear in
15 the fishery conservation zone; and

16 (2) has been issued a landing permit by the Alaska Commercial
17 Fisheries Entry Commission.

18 * **Sec. 9.** AS 16.05.680(a) is amended to read:

19 (a) It is unlawful for a person, or an agent or representative of the person,

20 (1) to employ, in the harvesting, transporting, or purchasing of fish, a
21 fisherman who neither is licensed under AS 16.05.480 nor is the holder or lessee of a
22 permit issued under AS 16.43;

23 (2) to purchase fish from a person who is not

24 (A) the holder or lessee of a limited entry, interim-use, or
25 landing permit issued under AS 16.43;

26 (B) a fish transporter who is selling the fish as the agent of the
27 holder or lessee of a limited entry, interim-use, or landing permit issued under
28 AS 16.43; or

29 (C) exempt under AS 16.05.660; or

30 (3) to purchase fish from an association other than one to which a
31 permit has been issued under AS 16.05.662.

1 * **Sec. 10.** AS 16.05.710 is amended by adding a new subsection to read:

2 (e) If proceedings to suspend commercial fishing privileges or licenses under
3 this section are pending against a person, a regional fisheries trust established under
4 AS 16.44.010 may not lease the person a permit.

5 * **Sec. 11.** AS 16.10.265(a) is amended to read:

6 (a) An individual may not, while acting as a fish processor or primary fish
7 buyer, or as an agent, director, officer, member, or employee of a fish processor, of a
8 primary fish buyer, or of a cooperative corporation organized under AS 10.15,
9 intentionally or knowingly make an original purchase of fish from a seller who does
10 not hold

11 (1) a landing permit [, AN ENTRY PERMIT,] or an interim-use
12 permit; [OR]

13 (2) or lease an entry permit under AS 16.44; or

14 (3) a fish transporter permit under AS 16.05.671.

15 * **Sec. 12.** AS 16.10.455(b) is amended to read:

16 (b) A hatchery permit holder may, by a majority vote of the membership of
17 the hatchery permit holder's board, elect to harvest surplus salmon produced at a
18 facility in a terminal harvest area established for that facility through the common
19 property fishery. At the request of the hatchery permit holder and if the commissioner
20 of fish and game determines that there are no allocative issues involved, and after
21 reasonable consultation with affected commercial fishermen and the organizations of
22 affected commercial fishermen, the commissioner may adopt regulations governing
23 the harvest of surplus salmon in a terminal harvest area when the hatchery permit
24 holder elects to harvest surplus salmon produced at a facility through a common
25 property fishery. The regulations must specify the terms, conditions, and rules under
26 which the common property fishery in the terminal harvest area shall be conducted,
27 including requirements for hold inspections and reporting of harvests and sales of
28 salmon taken in the terminal harvest area. Following adoption of regulations by the
29 department, each year before March 10, the hatchery permit holder's board, by a
30 majority vote of the board's membership, may determine whether the hatchery will
31 operate under the regulations adopted under this subsection during the current calendar

1 year, and shall notify the department if the hatchery intends to operate under the
2 regulations adopted under this subsection. The Board of Fisheries may adopt
3 regulations under AS 16.05.251 regarding a fisheries management plan governing
4 operations under this subsection in a terminal harvest area, including allocation plans.
5 Participation in the fishery must be open to all interim-use permit **holders**, [AND]
6 entry permit holders, **and lessees of entry permits under AS 16.44**, who hold **or**
7 **lease** permits to operate a type of gear that may be used in the fishing district in which
8 the terminal harvest area is located if that type of gear is authorized by regulation to be
9 used in the terminal harvest area. An interim-use permit holder or an entry permit
10 holder **or lessee** who takes salmon in a common property fishery in a terminal harvest
11 area may sell the salmon to any fish buyer or processor who is licensed to do business
12 in the state.

13 * **Sec. 13.** AS 16.43.100(a) is amended to read:

14 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

15 (1) regulate entry into the commercial fisheries for all fishery resources
16 in the state;

17 (2) establish priorities for the application of the provisions of this
18 chapter to the various commercial fisheries of the state;

19 (3) establish administrative areas suitable for regulating and
20 controlling entry into the commercial fisheries;

21 (4) establish, for all types of gear, the maximum number of entry
22 permits for each administrative area;

23 (5) designate, when necessary to accomplish the purposes of this
24 chapter, particular species for which separate interim-use permits or entry permits will
25 be issued;

26 (6) establish qualifications for the issuance of entry permits;

27 (7) issue entry permits to qualified applicants;

28 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
29 and 16.43.225;

30 (9) establish, for all types of gear, the optimum number of entry
31 permits for each administrative area;

1 (10) administer the buy-back program provided for in AS 16.43.310
2 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
3 number of entry permits;

4 (11) provide for the transfer and reissuance of entry permits to
5 qualified transferees;

6 (12) provide for the transfer and reissuance of entry permits for
7 alternative types of legal gear, in a manner consistent with the purposes of this
8 chapter;

9 (13) establish and administer the collection of the annual fees provided
10 for in AS 16.43.160;

11 (14) administer the issuance of commercial fishing vessel licenses
12 under AS 16.05.490;

13 (15) issue educational entry permits to applicants who qualify under
14 the provisions of AS 16.43.340 - 16.43.390;

15 (16) establish reasonable user fees for services;

16 (17) issue landing permits under AS 16.05.675 and regulations adopted
17 under that section;

18 (18) establish and collect annual fees for the issuance of landing
19 permits that reasonably reflect the costs incurred in the administration and
20 enforcement of provisions of law related to landing permits;

21 (19) establish a moratorium on entry into commercial fisheries as
22 provided in AS 16.43.225;

23 (20) when requested by a regional development organization formed
24 under former AS 44.33.895, provide to the organization, without charge, public
25 information contained in the commission's data with respect to relevant fisheries,
26 including limited fisheries, fishery participants, and limited entry permit holders'
27 harvests and earnings; [AND]

28 (21) administer, when necessary to accomplish the purposes of this
29 chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 -
30 16.43.521; **and**

31 **(22) ensure that a regional fisheries trust's portfolio of entry**

1 permits complies with AS 16.44.060 and block the transfer of an entry permit to a
2 regional fisheries trust if the acquisition of the entry permit by the regional
3 fisheries trust would violate AS 16.44.060.

4 * Sec. 14. AS 16.43.140 is amended to read:

5 Sec. 16.43.140. Permit required. (a) A person may not operate gear in the
6 commercial taking of fishery resources without holding a valid interim-use permit
7 or holding or leasing, under AS 16.44, a valid entry permit [OR A VALID
8 INTERIM-USE PERMIT] issued by the commission.

9 (b) A permit is not required of a crewmember or other person assisting in the
10 operation of a unit of gear engaged in the commercial taking of fishery resources as
11 long as the holder or lessee of the entry permit or the holder of the interim-use permit
12 for that particular unit of gear is at all times present and actively engaged in the
13 operation of the gear.

14 (c) An individual [A PERSON] may hold more than one interim-use or entry
15 permit issued or transferred under this chapter only for the following purposes:

16 (1) fishing more than one type of gear;

17 (2) fishing in more than one administrative area;

18 (3) harvesting particular species for which separate interim-use or
19 entry permits are issued;

20 (4) if authorized by regulations of the commission, fishing an entire
21 unit of gear in a fishery in which the commission has issued entry permits for less than
22 a unit of gear under AS 16.43.270(d); under this paragraph, an individual [A
23 PERSON] may not hold more than two entry permits for a fishery; however, the
24 individual [PERSON] may not

25 (A) fish more than one unit of gear in the fishery; or

26 (B) acquire a second entry permit for the fishery after the
27 individual [PERSON] has acquired an entry permit that authorizes the use of
28 an entire unit of gear in the fishery;

29 (5) consolidation of the fishing fleet for a salmon fishery; however, an
30 individual [A PERSON] may hold not more than two entry permits for a salmon
31 fishery under this paragraph, but the individual [PERSON] who holds two entry

1 permits for a salmon fishery may not engage in fishing under the second entry permit.

2 * **Sec. 15.** AS 16.43.150(a) is amended to read:

3 (a) Except as may be otherwise provided under AS 16.43.270(d), an entry
4 permit authorizes the permittee, or an individual leasing the permit under
5 AS 16.44, to operate a unit of gear within a specified fishery.

6 * **Sec. 16.** AS 16.43.150(b) is amended to read:

7 (b) The holder or lessee of an entry permit shall have the permit in possession
8 at all times when engaged in the operation of gear for which it was issued.

9 * **Sec. 17.** AS 16.43.150(g) is amended to read:

10 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215, 44.81.225,
11 and 44.81.231 - 44.81.250, an entry permit may not be

12 (1) leased, except for the lease of a permit held by a regional
13 fisheries trust established under AS 16.44.010;

14 (2) [(1)] pledged, mortgaged, [LEASED,] or encumbered in any way;

15 (3) [(2)] transferred with any retained right of repossession or
16 foreclosure, or on any condition requiring a subsequent transfer; or

17 (4) [(3)] attached, distrained, or sold on execution of judgment or
18 under any other process or order of any court, except as provided in AS 16.43.170(g)
19 and (h).

20 * **Sec. 18.** AS 16.43.150(h) is amended to read:

21 (h) Unless an entry permit holder has expressed a contrary intent in a will that
22 is probated, the commission shall, upon the death of the permit holder, transfer the
23 permanent permit by right of survivorship directly to the surviving spouse or, if no
24 spouse survives, to a natural person or a regional fisheries trust established under
25 AS 16.44.010 designated by the permit holder on a form provided by the commission.
26 If no spouse survives and if the person or regional fisheries trust designated on the
27 form, if any, does not survive or continue to exist, the permit passes as part of the
28 permit holder's estate. A designation under this subsection must be acknowledged
29 before a person authorized to administer an oath under AS 09.63.010 or must be
30 witnessed by two persons who are qualified under AS 13.12.505 to witness the will of
31 the permit holder. Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and

1 44.81.231 - 44.81.250, the permit is exempt from the claims of creditors of the estate.

2 * **Sec. 19.** AS 16.43.150 is amended by adding new subsections to read:

3 (j) Subsections (h) and (i) of this section do not apply to a lessee of an entry
4 permit under AS 16.44.

5 (k) A lessee of an entry permit under AS 16.44 has the same use privilege or
6 right in a fishery that is available to an individual holding an entry permit or valid
7 interim-use permit under this chapter.

8 * **Sec. 20.** AS 16.43.160(d) is amended to read:

9 (d) The holder of a permit whose household income, assets, and financial
10 resources fall within the eligibility standards for the food stamp program under 7
11 U.S.C. 2011 - 2025, as amended, is subject to an annual base fee for the issuance or
12 renewal of an entry permit or an interim-use permit that is equal to 50 percent of the
13 annual base fee that the permit holder would otherwise pay under (c) of this section. In
14 addition to the reduced annual base fee under this subsection, a nonresident who
15 qualifies for a reduced fee under this subsection shall pay the annual nonresident
16 surcharge established under (c) of this section. **This subsection does not apply to a**
17 **lessee of an entry permit under AS 16.44.**

18 * **Sec. 21.** AS 16.43.170(a) is amended to read:

19 (a) Except as provided in AS 16.10.333 - 16.10.338 and [IN] AS 44.81.231 -
20 44.81.250, entry permits and interim-use permits are transferable only through the
21 commission as provided in this section and AS 16.43.180 and under regulations
22 adopted by the commission. **For purposes of this section, the lease of a permit held**
23 **by a regional fisheries trust under AS 16.44 is not a transfer of the permit.** An
24 involuntary transfer of an entry permit in a manner inconsistent with the statutes of
25 this state and the regulations of the commission is void.

26 * **Sec. 22.** AS 16.43.170(b) is amended to read:

27 (b) Except as provided in (e) of this section, the holder of an entry permit may
28 transfer the permit to another person, **to a regional fisheries trust under AS 16.44,** or
29 to the commission upon 60 **days'** [DAYS] notice of intent to transfer under
30 regulations adopted by the commission. **Not** [NO] sooner than 60 days nor later than
31 12 months from the date of notice to the commission, the holder of an entry permit

1 may transfer the permit. If the proposed transferee, other than the commission or a
 2 regional fisheries trust, can demonstrate the present ability to participate actively in
 3 the fishery, and the transfer does not violate any provision of this chapter or
 4 regulations adopted under this chapter, and if a certificate for the permit under
 5 AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the
 6 commission shall approve the transfer and reissue the entry permit to the transferee if
 7 [PROVIDED THAT] neither party is prohibited by law from participating in the
 8 transfer.

9 * **Sec. 23.** AS 16.43.330(a) is amended to read:

10 (a) When the number of outstanding entry permits for a fishery is less than the
 11 optimum number established under AS 16.43.290, the commission shall issue new
 12 entry permits to applicants who are presently able to engage actively in the fishery or,
 13 subject to AS 16.44.060(a), to regional fisheries trusts established under
 14 AS 16.44.010 until the optimum number is reached.

15 * **Sec. 24.** AS 16.43.850 is amended to read:

16 **Sec. 16.43.850. Point system.** (a) For the purpose of identifying frequent
 17 violators of commercial fishing laws in salmon fisheries, the commission shall adopt
 18 regulations establishing a uniform system for the suspension of commercial salmon
 19 fishing privileges by assigning demerit points for convictions for violations of
 20 commercial fishing laws in salmon fisheries that are reported to the commission under
 21 AS 16.43.880. The commission shall assess demerit points against an individual who
 22 holds an entry permit or interim-use permit or who leases an entry permit under
 23 AS 16.44 [A PERMIT HOLDER] for each violation of commercial fishing laws in a
 24 salmon fishery in accordance with (b) and (c) of this section. The commission shall
 25 assess points against an individual holding or leasing a permit [HOLDER] for the
 26 salmon fishery in which the violation of commercial fishing laws occurred.

27 (b) The commission shall assess demerit points against an individual who
 28 holds or leases a permit [HOLDER] for a conviction of a violation of commercial
 29 fishing laws in a salmon fishery under AS 16.05.722, 16.05.723, 16.05.831;
 30 AS 16.10.055, 16.10.070 - 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 -
 31 16.10.220, and 16.10.760 - 16.10.790 for the following violations in accordance with

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this schedule:

- (1) fishing in closed waters 6 points;
- (2) fishing during closed season or period 6 points;
- (3) fishing with more than the legal amount of gear 4 points;
- (4) fishing with gear not allowed in fishery 6 points;
- (5) fishing before expiration of transfer period 6 points;
- (6) interfering with commercial fishing gear 4 points;
- (7) fishing with more than the legal amount of
gear on vessel 4 points;
- (8) improper operation of fishing gear 4 points;
- (9) permit holder or permit lessee not present when required 4 points;
- (10) fishing with underlength or overlength vessel 6 points;
- (11) wanton waste of fishery resources 4 points.

(c) Notwithstanding (b) of this section, if the [A PERMIT HOLDER'S] first conviction of a violation of commercial fishing laws in a salmon fishery in a 36-month period for an individual who holds or leases a permit is a conviction under AS 16.05.722, the number of demerit points assessed against the permit holder or the permit lessee for the violation must be one-half of the points assessed for the violation under (b) of this section.

(d) The commission shall suspend the [A PERMIT HOLDER'S] commercial salmon fishing privileges of a permit holder or lessee for a salmon fishery for a period of

- (1) one year if the permit holder or lessee accumulates 12 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;
- (2) two years if the permit holder or lessee accumulates 16 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;
- (3) three years if the permit holder or lessee accumulates 18 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery.

1 * **Sec. 25.** AS 16.43.855(a) is amended to read:

2 (a) Notice of each assessment of points shall be given to the permit holder or
3 lessee. Notice shall also be given to the permit holder or lessee before the expiration
4 of a suspension of commercial salmon fishing privileges under AS 16.43.850(d) that
5 subsequent violations of commercial fishing laws in the salmon fishery may result in
6 further suspensions of the permit. The notice may be given by first class mail.

7 * **Sec. 26.** AS 16.43.855(c) is amended to read:

8 (c) The assessment of points against a permit holder or lessee by the
9 commission under AS 16.43.850 - 16.43.895 is in addition to, and not in substitution
10 for, other provisions of this title and is not a substitute for any penalty imposed by a
11 court.

12 * **Sec. 27.** AS 16.43.855 is amended by adding a new subsection to read:

13 (e) If the commission assesses points under (a) of this section against a lessee
14 of a permit, the commission shall give the regional fisheries trust that leased the permit
15 notice of the assessment of points.

16 * **Sec. 28.** AS 16.43.860 is amended to read:

17 **Sec. 16.43.860. Suspension.** (a) A permit holder or lessee whose commercial
18 salmon fishing privileges for a salmon fishery are suspended under AS 16.43.850 -
19 16.43.895 may not obtain an entry permit or interim-use permit for that salmon fishery
20 during the period of the suspension of the privileges. During the period for which the
21 permit holder's or lessee's [PERMIT HOLDER'S] privilege to obtain an entry permit
22 or interim-use permit for a salmon fishery is suspended under this section, the
23 commission may not issue a permit card to the permit holder or lessee for that fishery.

24 (b) A permit holder or lessee whose privilege of obtaining a commercial
25 fishing permit for a salmon fishery is suspended under AS 16.43.850 - 16.43.895 may
26 not

27 (1) engage in the salmon fishery under a crewmember license; [OR]

28 (2) lease an entry permit for the salmon fishery under AS 16.44; or

29 (3) lease or rent the individual's [PERMIT HOLDER'S] interest in a
30 boat to another person if the boat would be used in the salmon fishery for which the
31 permit holder's or lessee's fishing privileges are suspended.

1 (c) If, during the period for which the commission has suspended the [A
2 PERMIT HOLDER'S] commercial fishing privileges of a permit holder or lessee for
3 a salmon fishery [ARE SUSPENDED], the commission establishes a limited entry
4 system for the salmon fishery, the permit holder or lessee shall be eligible to obtain an
5 entry permit for that fishery to the extent that the permit holder or lessee qualifies for
6 the entry permit under regulations adopted by the commission. If the permit holder or
7 lessee qualifies for an entry permit for the fishery, the commission shall withhold
8 issuance of the entry permit until the period of the suspension imposed under
9 AS 16.43.850 - 16.43.895 has expired.

10 (d) The commission may not transfer a commercial fishing permit for a
11 salmon fishery under an emergency transfer under AS 16.43.180 if, at the time of the
12 application for the emergency transfer, the permit holder's commercial salmon fishing
13 privileges of the permit holder or lessee for the salmon fishery have been suspended.

14 * **Sec. 29.** AS 16.43.960(a) is amended to read:

15 (a) The commission may revoke, suspend, or transfer all entry or interim-use
16 permits, vessel entry permits, or vessel interim-use permits held by a person or entity
17 who knowingly provides or assists in providing false information, or fails to correct
18 false information provided to the commission for the purpose of obtaining a benefit for
19 self or another, including the issuance, renewal, duplication, [OR] transfer, or lease
20 under AS 16.44 of an entry or interim-use permit, vessel license, vessel entry permit,
21 or vessel interim-use permit. The commission may also require a regional fisheries
22 trust to terminate the lease of a permit to a person who knowingly provides or
23 assists in providing false information or fails to correct false information
24 provided to the commission for the purpose of obtaining a benefit for self or
25 another. The commission may suspend, as appropriate, that person's, [OR] entity's, or
26 lessee's eligibility to hold or lease an entry or interim-use permit, vessel entry permit,
27 or vessel interim-use permit for a period not to exceed three years, and may impose an
28 administrative fine of not more than \$5,000 on the person or entity whose officers,
29 employees, representatives, or agents knowingly provide or assist in providing false
30 information, or fail to correct false information provided, to the commission for the
31 purpose of obtaining a benefit.

1 * **Sec. 30.** AS 16.43.990(3) is amended to read:

2 (3) "entity" means a corporation, company, partnership, firm,
3 association, organization, joint venture, trust, society, **regional fisheries trust under**
4 **AS 16.44**, or other legal entity other than a natural person;

5 * **Sec. 31.** AS 16 is amended by adding a new chapter to read:

6 **Chapter 44. Regional Fisheries Trusts.**

7 **Sec. 16.44.010. Establishment and purpose of a regional fisheries trust.** (a)

8 The department may authorize a municipality or municipalities to establish a regional
9 fisheries trust if there is not already a fisheries trust established in that region and at
10 least two-thirds of the municipalities within the fisheries trust region, acting jointly,
11 apply to the department with a business plan and bylaws for the proposed fisheries
12 trust that comply with the requirements of this chapter. The department may not
13 authorize more than three regional fisheries trusts. If there are more applicants to form
14 regional fisheries trusts than available authorizations, the department shall authorize
15 eligible trusts in the order in which the applications were received.

16 (b) The purpose of a regional fisheries trust established under (a) of this
17 section is to

18 (1) prevent economic distress among fishermen and those persons
19 dependent upon them for a livelihood;

20 (2) improve state residents' ability to participate in state fisheries by
21 creating opportunities for those persons with limited alternative economic options and
22 sources of income;

23 (3) empower communities to achieve economic self-sufficiency; and

24 (4) promote resource conservation.

25 (c) The department, in consultation with the Department of Fish and Game,
26 shall establish fisheries trust regions. The department may modify or change the
27 boundaries of the regions for good reason.

28 (d) Each fisheries trust established under (a) of this section is a public
29 corporation and instrumentality of the state within the Department of Commerce,
30 Community, and Economic Development. The exercise by a fisheries trust of the
31 powers conferred under this chapter is considered to be for a public purpose. For

1 administrative purposes, the fisheries trusts are in the department, but each fisheries
2 trust has a separate and independent legal existence from the state and shall be
3 governed by a board established under AS 16.44.020.

4 (e) The department may conduct an annual audit of a fisheries trust established
5 under this section. The department may also conduct supplementary audits as it
6 considers necessary. The results of an audit under this subsection is a public record
7 under AS 40.25.110.

8 (f) The department may dissolve a fisheries trust if the fisheries trust becomes
9 insolvent. However, nothing in this subsection precludes municipalities in that region
10 from establishing another fisheries trust under (a) of this section.

11 **Sec. 16.44.020. Regional fisheries trust board; membership; meetings;**
12 **location.** (a) Each regional fisheries trust shall be governed by a board of directors,
13 composed of members appointed by the governor under this section.

14 (b) The governor shall appoint one individual from each municipality wholly
15 or partially located within the fisheries trust region established by the department
16 under AS 16.44.010(c) to serve as a member of a fisheries trust board. The governor
17 shall choose each member appointed under this subsection from a list of nominees
18 provided by each municipality.

19 (c) If, under AS 16.44.050(a)(2), the municipalities within the fisheries trust
20 region elect to include directors from each unincorporated community within the
21 fisheries trust region on the board of directors for the regional fisheries trust, the
22 governor shall appoint one individual from each unincorporated community within the
23 fisheries trust region. The governor shall choose each member from a list of nominees
24 provided by a single entity or village council in each unincorporated community
25 wholly or partially within the fisheries trust region. A regional fisheries trust board of
26 directors may also vote under AS 16.44.050(a)(2) to allow or prohibit the inclusion of
27 members from an unincorporated community wholly or partially within the fisheries
28 trust region.

29 (d) An individual appointed under (b) or (c) of this section must be a resident
30 of the municipality or unincorporated community from which the individual was
31 appointed. In each unincorporated community wholly or partially within the fisheries

1 trust region, a single entity or village council eligible to receive a community
2 assistance payment under AS 29.60.865 shall provide the list of nominees from which
3 the governor shall appoint an individual to serve as a member of a regional fisheries
4 trust board of directors.

5 (e) Except as provided under AS 16.44.050(a)(2), a member of a board of a
6 regional fisheries trust shall serve for a term of three years. A member shall hold
7 office for the term of the appointment and until a successor has been appointed and
8 qualified. A member is eligible for reappointment. A vacancy on a board occurring
9 other than by expiration of term shall be filled in the same manner as the original
10 appointment but for the unexpired term only. Terms must be staggered so that one-
11 third, or as close to one-third as practicable, of the terms expire each year. A member
12 may not serve more than 12 cumulative years on the board.

13 (f) A majority of the members of a board constitutes a quorum for the
14 transaction of business and the exercise of the powers and duties of the board except
15 for certain board actions relating to the board's membership under AS 16.44.050(a)(2).

16 (g) A member of a board may not lease an entry permit from the fisheries
17 trust.

18 (h) The members of a board shall annually elect from among themselves a
19 chair and vice-chair and other board officers as may be provided in the bylaws of the
20 fisheries trust. The members of the board may elect to create an executive governance
21 committee and provide that committee some of the board's powers under this chapter.

22 (i) The board of each fisheries trust may hire staff qualified to assist the board
23 in carrying out the provisions of this chapter. If staff is hired, staff compensation shall
24 be reasonable.

25 (j) A fisheries trust may share resources, including staff, with other fisheries
26 trusts established under this chapter if the sharing arrangement is approved by the
27 board of each participating fisheries trust. A fisheries trust may also share resources
28 and staff with a regional association qualified under AS 16.10.380(a), an Alaska
29 Native village or village regional corporation established under 43 U.S.C. 1606
30 (Alaska Native Claims Settlement Act), a regional development organization as
31 defined in AS 44.33.896, or another entity created for a purpose related to commercial

1 fishing or service in the fisheries trust region.

2 (k) Unless a fisheries trust is sharing resources with one or more other entities
3 under (j) of this section, a fisheries trust shall be administratively headquartered in the
4 community in its region with the greatest number of entry permits on January 1, 2017.

5 **Sec. 16.44.030. Administrative expenses, compensation, and fees due the**
6 **department.** (a) A member of a fisheries trust board may be provided reasonable
7 compensation. However, the compensation may not exceed the median rate of
8 compensation provided to the elected members of the municipal governments of the
9 three most populated municipalities within the fisheries trust region. For the purposes
10 of this section, "compensation" does not include reasonable per diem and travel
11 expenses for necessary fisheries trust business purposes.

12 (b) The administrative expenses of a fisheries trust must be reasonable and
13 minimized to enhance the ability of the fisheries trust to acquire entry permits and to
14 return maximum benefit to the persons and region served by the fisheries trust.

15 (c) The department may adopt regulations relating to the administrative
16 expenses of, and compensation provided by, a fisheries trust.

17 (d) The commissioner shall assess fisheries trust fees for the department's
18 actual expenses necessarily incurred by the department in connection with its duties
19 under this chapter relating to the fisheries trust.

20 **Sec. 16.44.040. Exemption from taxation.** (a) Except for fees levied under
21 AS 16.43.160, the real and personal property of a fisheries trust organized under this
22 chapter and its assets, income, and receipts are declared to be devoted to an essential
23 public and governmental function and purpose, and the property, assets, income,
24 receipts, and other interests of the fisheries trust are exempt from taxes and special
25 assessments of the state or a political subdivision of the state, including municipalities,
26 school districts, public utility districts, and other governmental units.

27 (b) Nothing in this section relieves a person leasing an entry permit from a
28 fisheries trust from applicable fees, taxes, or assessments.

29 **Sec. 16.44.050. Powers and duties of a regional fisheries trust.** (a) In
30 addition to all powers necessary to carry out the purposes of this chapter, a fisheries
31 trust may

1 (1) adopt, amend, and repeal bylaws for its organization, management
2 of its internal affairs, and the conduct of its business consistent with the provisions of
3 this chapter;

4 (2) if two-thirds of the full membership of the board appointed from
5 the municipalities in the region affirmatively vote under AS 16.44.020(c) to approve
6 the action, expand or reduce the membership of the fisheries trust board of directors by
7 allowing or prohibiting individuals from unincorporated communities in the region to
8 serve as directors;

9 (3) borrow funds;

10 (4) subject to the limitations of AS 16.43 and this chapter, hold,
11 transfer, or receive the transfer of an entry permit for a fishery within the fisheries
12 trust region;

13 (5) accept gifts or grants from a federal agency or an agency or
14 instrumentality of the state, a municipality, a private organization, or another source,
15 including the transfer of an entry permit for a regional fishery or a gift or grant for the
16 acquisition of an entry permit within a specific fishery located in the fisheries trust
17 region;

18 (6) subject to AS 16.44.070, lease entry permits to individuals
19 qualified under AS 16.44.080 on conditions that the board considers appropriate that
20 may include terms that allow a fisheries trust to transfer a leased permit to a lessee and
21 terminate a lease upon default of a lessee; and

22 (7) after a fisheries trust acquires the maximum number of entry
23 permits allowed under AS 16.44.060(a), use revenue and other funds to support
24 programs and projects that benefit commercial fishermen within the fisheries trust
25 region.

26 (b) In a manner consistent with AS 16.44.010(b), a fisheries trust shall

27 (1) lease entry permits by competitive bid to individuals qualified
28 under AS 16.44.080;

29 (2) establish criteria for leasing of entry permits acquired by the
30 fisheries trust that ensure the solvency and financial strength of the fisheries trust;

31 (3) lease entry permits only in accordance with criteria established by

1 the fisheries trust under (2) of this subsection;

2 (4) upon request of the commission under AS 16.43.960, terminate the
3 lease of a permit to an individual under this chapter; and

4 (5) make its criteria for leasing entry permits under (2) of this
5 subsection public, and provide copies to the department and to the Alaska Commercial
6 Fisheries Entry Commission.

7 (c) In leasing permits by competitive bid under (b)(1) of this section, and
8 subject to criteria adopted under (b)(2) of this section, a fisheries trust may preference
9 bids for the lease of entry permits under (b)(1) of this section in a manner consistent
10 with the purposes of a fisheries trust under AS 16.44.010(b).

11 **Sec. 16.44.055. Disposition of proceeds.** Leasing fees and other fisheries trust
12 revenue, subject to legislative appropriation, and less any fees due the department
13 under AS 16.44.030(d), shall be available to a fisheries trust's board of directors to be
14 used

15 (1) to pay for a fisheries trust's operations;

16 (2) to finance the acquisition of additional permits; and

17 (3) subject to AS 16.44.050(a), to support programs and projects that
18 benefit commercial fishermen within the fisheries trust region.

19 **Sec. 16.44.060. Acquisition and holding of entry permits.** (a) A fisheries
20 trust may not acquire an entry permit for a fishery that is not in the fisheries trust
21 region. A fisheries trust may not hold more than two and one-half percent of the entry
22 permits issued for a fishery in the fisheries trust region, rounded up to the nearest
23 whole number.

24 (b) Subject to (a) of this section, a fisheries trust shall hold a variety of types
25 of limited entry permits. To the extent reasonably possible, a fisheries trust shall hold
26 a number of limited entry permits of each type issued within its region, such that the
27 fisheries trust's portfolio of limited entry permits is proportionally representative of all
28 of the limited entry permits of each kind issued within the fisheries trust region.

29 (c) The commission shall ensure that a portfolio of entry permits held by a
30 fisheries trust complies with the requirements of this section. A fisheries trust may not
31 acquire an entry permit if the commission finds that the acquisition would violate the

1 requirements of this section.

2 (d) An entry permit held and leased by a fisheries trust is subject to
3 AS 16.43.150(g).

4 **Sec. 16.44.070. Lease terms for entry permits held by a regional fisheries**
5 **trust.** (a) Subject to (b) of this section, a fisheries trust shall establish lease terms for
6 entry permits held by the fisheries trust in a manner that is consistent with the purpose
7 provided by AS 16.44.010(b).

8 (b) A lease term for an entry permit held by a fisheries trust may not exceed
9 six years, and an individual may not lease an entry permit or permits for the same
10 fishery for a cumulative period of more than six years, regardless of whether the lease
11 years are consecutive.

12 (c) An entry permit held by a fisheries trust may not be subleased by the
13 lessee.

14 (d) A fisheries trust may not impose lease terms that limit the lessee's time,
15 place, manner, or method of fishing or sale of fish.

16 (e) Subject to (a) of this section and AS 16.43.170(a), a fisheries trust may
17 include terms in a lease that provide for the leased permit to be transferred to the
18 lessee at the end of the period for which the permit was leased.

19 **Sec. 16.44.080. Qualified lessees.** (a) A fisheries trust may only lease an entry
20 permit to an individual who is a resident of the state. An applicant for the lease of an
21 entry permit from a fisheries trust under this chapter shall maintain a domicile in the
22 state and may not be a resident of, or have received a benefit based on residency, in
23 another state or country.

24 (b) A fisheries trust may not lease a permit to

25 (1) an individual who already holds a limited entry or interim-use
26 permit for the same fishery as the leased permit; or

27 (2) staff of a fisheries trust employed under AS 16.44.020(i) or of
28 another entity that is shared with the fisheries trust under AS 16.44.020(j).

29 (c) When an individual no longer maintains a domicile in the state, the
30 individual is no longer eligible to lease an entry permit, and a fisheries trust shall
31 terminate a lease held by the individual.

1 (d) If proceedings are pending to suspend an individual's commercial fishing
2 privileges, the individual is not eligible to lease an entry permit under this chapter.

3 (e) In this section, "domicile" means the true and permanent home of an
4 individual from which the individual has no present intention of moving and to which
5 the individual intends to return whenever the individual is away.

6 **Sec. 16.44.099. Definitions.** In this chapter,

7 (1) "board" means the board of a regional fisheries trust;

8 (2) "commission" means the Alaska Commercial Fisheries Entry
9 Commission;

10 (3) "commissioner" means the commissioner of commerce community,
11 and economic development;

12 (4) "department" means the Department of Commerce, Community,
13 and Economic Development unless specifically provided otherwise;

14 (5) "entry permit" means a commercial fishing entry permit issued
15 under AS 16.43;

16 (6) "fisheries trust" means a regional fisheries trust established under
17 AS 16.44.010;

18 (7) "fishery" has the meaning given in AS 16.05.940.

19 * **Sec. 32.** AS 39.25.110(11) is amended to read:

20 (11) the officers and employees of the following boards, commissions,
21 and authorities:

22 (A) [REPEALED

23 (B)] Alaska Permanent Fund Corporation;

24 **(B)** [(C)] Alaska Industrial Development and Export Authority;

25 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

26 **(D)** [(E)] Alaska Commission on Postsecondary Education;

27 **(E)** [(F)] Alaska Aerospace Corporation;

28 **(F)** [(G)] REPEALED

29 (H)] Alaska Gasline Development Corporation and subsidiaries
30 of the Alaska Gasline Development Corporation;

31 **(G) a regional fisheries trust established under**

1 **AS 16.44.010;**

2 * **Sec. 33.** AS 43.76.040 is amended to read:

3 **Sec. 43.76.040. Definitions [DEFINITION].** In AS 43.76.001 - 43.76.040,
4 unless the context otherwise requires,

5 **(1)** "buyer" means a person who acquires possession of salmon from
6 the person who caught the salmon regardless of whether there is an actual sale of the
7 salmon but excluding a transfer to a person engaged solely in interstate transportation
8 of goods for hire;

9 **(2)** "**person holding a limited entry permit**" or "**entry permit**
10 **holder**" means an individual who is listed in the records of the Alaska
11 **Commercial Fisheries Entry Commission as the legal owner of an entry permit,**
12 **but does not include the lessee of an entry permit under AS 16.44.**

13 * **Sec. 34.** AS 43.76.320 is amended to read:

14 **Sec. 43.76.320. Definitions [DEFINITION].** In AS 43.76.300 - 43.76.320,

15 **(1)** "buyer" means a person who acquires possession of fish from the
16 person who caught the fish regardless of whether there is an actual sale of the fish, but
17 does not include a person engaged solely in interstate transportation of goods for hire;

18 **(2)** "**person holding a limited entry permit**" means an individual
19 **who is listed in the records of the Alaska Commercial Fisheries Entry**
20 **Commission as the legal owner of an entry permit, but does not include the lessee**
21 **of an entry permit under AS 16.44.**

22 * **Sec. 35.** AS 43.76.399 is amended by adding a new paragraph to read:

23 **(5)** "person holding a limited entry permit" or "entry permit holder"
24 means an individual who is listed in the records of the Alaska Commercial Fisheries
25 Entry Commission as the legal owner of an entry permit, but does not include the
26 lessee of an entry permit under AS 16.44.

27 * **Sec. 36.** AS 44.33.020(a) is amended by adding a new paragraph to read:

28 **(45)** carry out its functions and duties under AS 16.44.

29 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **TRANSITION: REGULATIONS.** The Alaska Commercial Fisheries Entry

1 Commission and the commissioner of commerce, community, and economic development
2 may immediately adopt regulations necessary to implement the provisions of this Act. The
3 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
4 effective date of the law implemented by the regulation.

5 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 INITIAL DIRECTORS OF REGIONAL FISHERIES TRUSTS. Subject to
8 AS 16.44.020(e), added by sec. 31 of this Act, the term of office of each initial director of a
9 regional fisheries trust shall be determined by lot.

10 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 INITIAL ESTABLISHMENT OF FISHERIES TRUST REGIONS. (a) The
13 Department of Commerce, Community, and Economic Development shall, in consultation
14 with the Department of Fish and Game, divide the land area of the state into separate fisheries
15 trust regions to serve as the initial fisheries trust regions under AS 16.44.010(c), added by sec.
16 31 of this Act, that the Department of Commerce, Community, and Economic Development
17 determines are socially, economically, and politically cohesive, using, to the extent
18 practicable,

19 (1) the boundaries of the commercial fishing administrative areas established
20 by the Alaska Commercial Fisheries Entry Commission under AS 16.43.200, as those
21 boundaries are described in regulation on the effective date of sec. 31 of this Act; and

22 (2) the designation of state communities as local or nonlocal to particular
23 fisheries made in the report by the Alaska Commercial Fisheries Entry Commission titled
24 "Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits, 1975 - 2015."

25 (b) In establishing the initial fisheries trust regional boundaries under (a) of this
26 section, the Department of Commerce, Community, and Economic Development shall, to the
27 extent practicable,

28 (1) clearly delineate which communities are in each region; and

29 (2) ensure that a community is not split between regions.

30 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 INITIAL ESTABLISHMENT AND AUTHORIZATION OF REGIONAL
2 FISHERIES TRUSTS. A fisheries trust may not be established before January 1, 2019.
3 However, after January 1, 2018, applications to establish a trust under AS 16.44.010(a), added
4 by sec. 31 of this Act, may be filed with the Department of Commerce, Community, and
5 Economic Development. Notwithstanding AS 16.44.010(a), added by sec. 31 of this Act, if,
6 after January 1, 2018, and before January 1, 2019, applicants from more than three fisheries
7 trust regions apply to the Department of Commerce, Community, and Economic Development
8 to establish fisheries trusts for the applicant's respective regions, the commissioner of
9 commerce, community, and economic development shall, in consultation with the
10 commissioner of fish and game, select three of the proposed fisheries trusts to be established
11 based on

12 (1) the degree to which the communities in a fisheries trust region where the
13 establishment of a fisheries trust is proposed have experienced a decline in the number of
14 commercial fishing entry permits issued under AS 16.43 per capita, based on population in
15 the fisheries trust region, since 1980; and

16 (2) the likelihood, as determined by the commissioner of commerce,
17 community, and economic development, on the basis of the submitted business plans and
18 bylaws for the proposed fisheries trusts, that a proposed fisheries trust will achieve the
19 purposes for establishing a fisheries trust under AS 16.44.010(b), added by sec. 31 of this Act.

20 * **Sec. 41.** Sections 37 and 39 of this Act take effect immediately under AS 01.10.070(c).

21 * **Sec. 42.** Except as provided by sec. 41 of this Act, this Act takes effect January 1, 2018.