

**HB 188**

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# ALASKA LEGISLATURE

*Representative Jonathan Kreiss-Tomkins*

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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](mailto:Reid.Magdanz@akleg.gov).

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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.

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

### 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 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.

30-LS0389\M  
Bullard  
1/22/18

**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 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.

1 \* **Sec. 30.** AS 16.43.330(a) is amended to read:

2 (a) When the number of outstanding entry permits for a fishery is less than the  
3 optimum number established under AS 16.43.290, the commission shall issue new  
4 entry permits to applicants who are presently able to engage actively in the fishery or,  
5 subject to AS 16.44.060(a), to regional fisheries trusts established under  
6 AS 16.44.010 until the optimum number is reached.

7 \* **Sec. 31.** AS 16.43.850 is amended to read:

8 **Sec. 16.43.850. Point system.** (a) For the purpose of identifying frequent  
9 violators of commercial fishing laws in salmon fisheries, the commission shall adopt  
10 regulations establishing a uniform system for the suspension of commercial salmon  
11 fishing privileges by assigning demerit points for convictions for violations of  
12 commercial fishing laws in salmon fisheries that are reported to the commission under  
13 AS 16.43.880. The commission shall assess demerit points against an individual who  
14 holds an entry permit or interim-use permit or who is a temporary transferee  
15 under AS 16.43.180 or 16.43.190 [A PERMIT HOLDER] for each violation of  
16 commercial fishing laws in a salmon fishery in accordance with (b) and (c) of this  
17 section. The commission shall assess points against an individual who holds a permit  
18 or who is a temporary transferee under AS 16.43.180 or 16.43.190 [HOLDER] for  
19 the salmon fishery in which the violation of commercial fishing laws occurred.

20 (b) The commission shall assess demerit points against an individual who  
21 holds a permit or who is a temporary transferee under AS 16.43.180 or 16.43.190  
22 [HOLDER] for a conviction of a violation of commercial fishing laws in a salmon  
23 fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 -  
24 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 -  
25 16.10.790 for the following violations in accordance with this schedule:

- 26 (1) fishing in closed waters ..... 6 points;
- 27 (2) fishing during closed season or period ..... 6 points;
- 28 (3) fishing with more than the legal amount of gear ..... 4 points;
- 29 (4) fishing with gear not allowed in fishery ..... 6 points;
- 30 (5) fishing before expiration of transfer period ..... 6 points;
- 31 (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.

# **HB 188:** **Regional Fisheries** **Trusts**

Presentation of draft CS to House Fisheries, January 25, 2018

*Office of Rep. Kreiss-Tomkins*

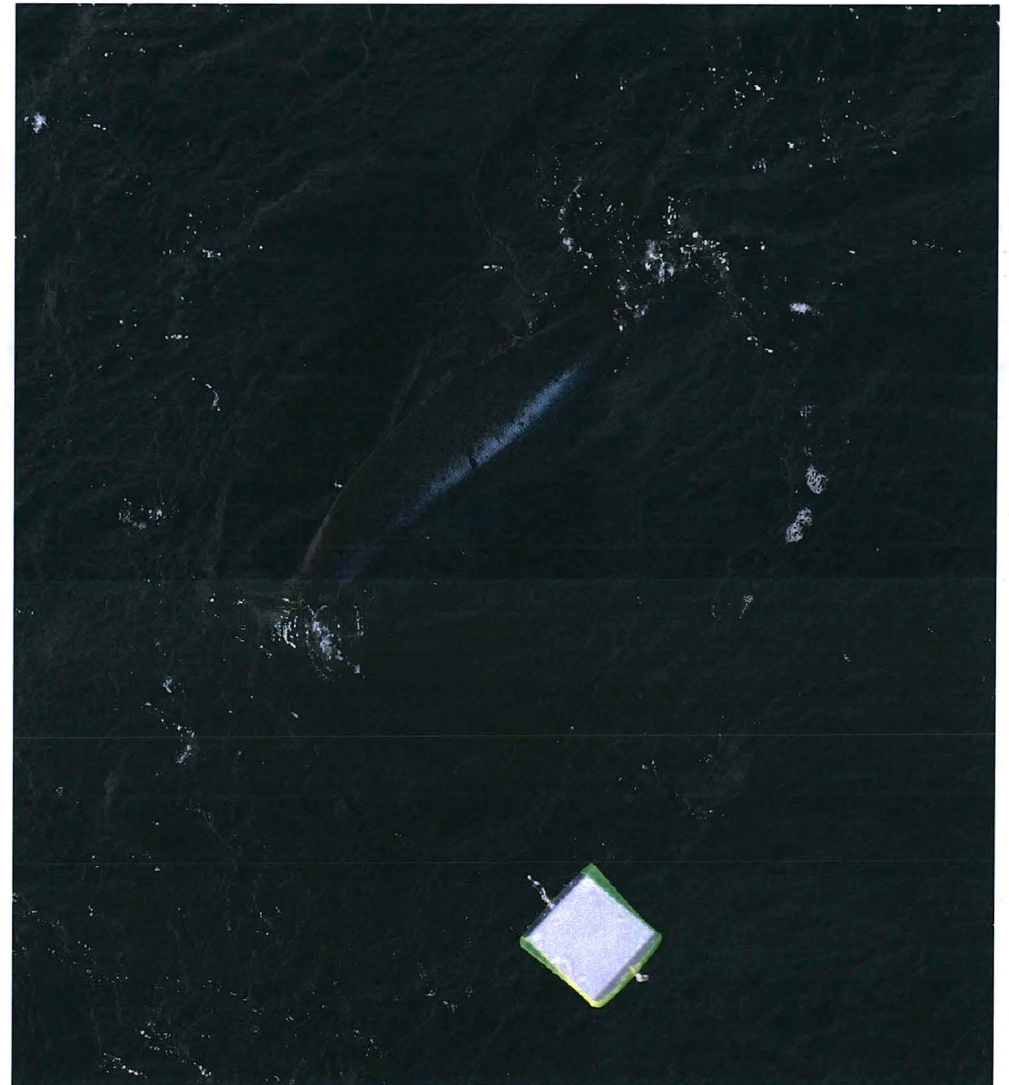
Prepared by Reid Magdanz, Noah Star & Rep. JKT  
Photos courtesy Berett Wilber

# **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.

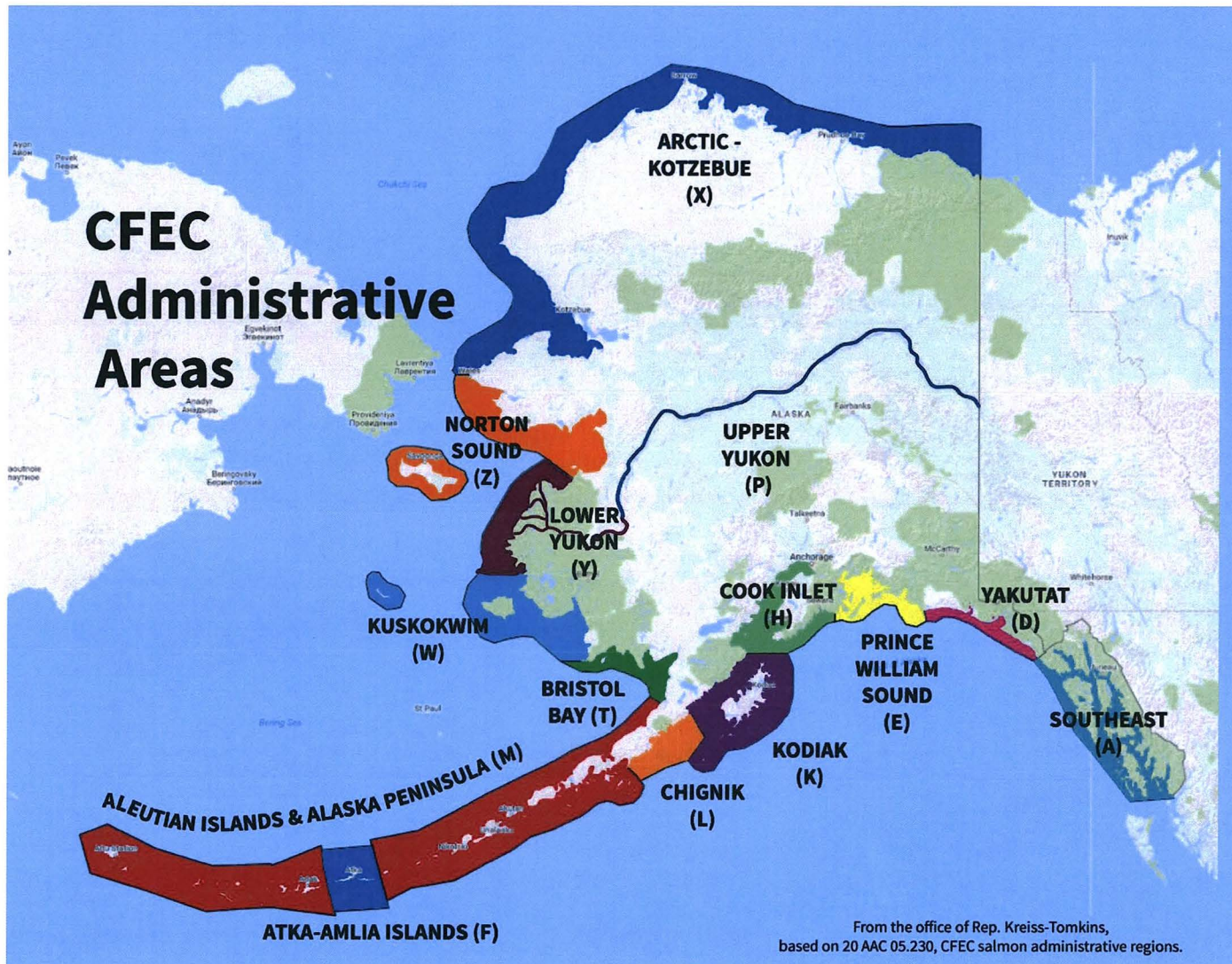
Version M is the product of this effort.





## **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



**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.

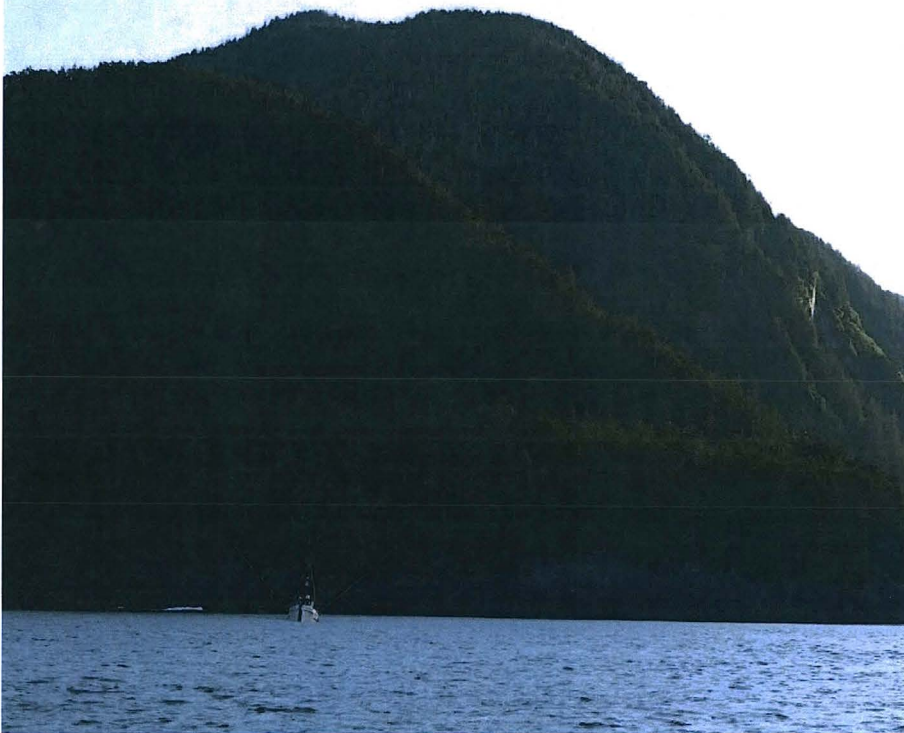
**Can temporary transfers be revoked?**

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.**



# ANCSA REGIONAL ASSOCIATION

Bringing Together Regional Corporation Presidents and CEOs

PO Box 240766 • Anchorage, AK 99524 • 907 375 4212

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**Aaron Schutt**  
President/CEO  
Doyon, Ltd.

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**Gail Schubert**  
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Sealaska Corp.

### Julie Kitka

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

30-LS0389L  
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 (l) 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(l).

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:

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. 45.** 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. 46.** 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. 47.** 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. 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.

# 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 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

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

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

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

**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/comments:**

Not applicable, initial version.

Prepared By: Kevin Anselm, Director  
Division: Banking and Securities  
Approved By: Catherine Reardon, Director  
Agency: Division of Administrative Services, DCCED

Phone: (907)269-4157  
Date: 04/07/2017 10:00 AM  
Date: 04/07/17

**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.

# 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
<b>OPERATING EXPENDITURES</b>	<b>324.2</b>	<b>0.0</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>
Personal Services	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
Services	90.0		45.0	45.0	45.0	45.0	45.0
Commodities	32.0		2.0	2.0	2.0	2.0	2.0
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>476.2</b>	<b>0.0</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>

**Fund Source (Operating Only)**

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

**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
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>	<b>401.2</b>

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

## 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.

# 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

rep.jonathan.kreiss-tomkins@akleg.gov

Committees:  
State Affairs, Chair  
Fisheries  
Judiciary



Juneau, Alaska 99801 (Jan. – April)  
State Capitol, Room 411  
907.465.3732

Sitka, Alaska 99835 (May – Dec.)  
201 Katlian Street, Ste. 103  
907.747.4665

## 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.

# 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  
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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, lns 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(l)(1) and (l)(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 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 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 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.



## **Bering Sea Fishermen's Association**

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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.

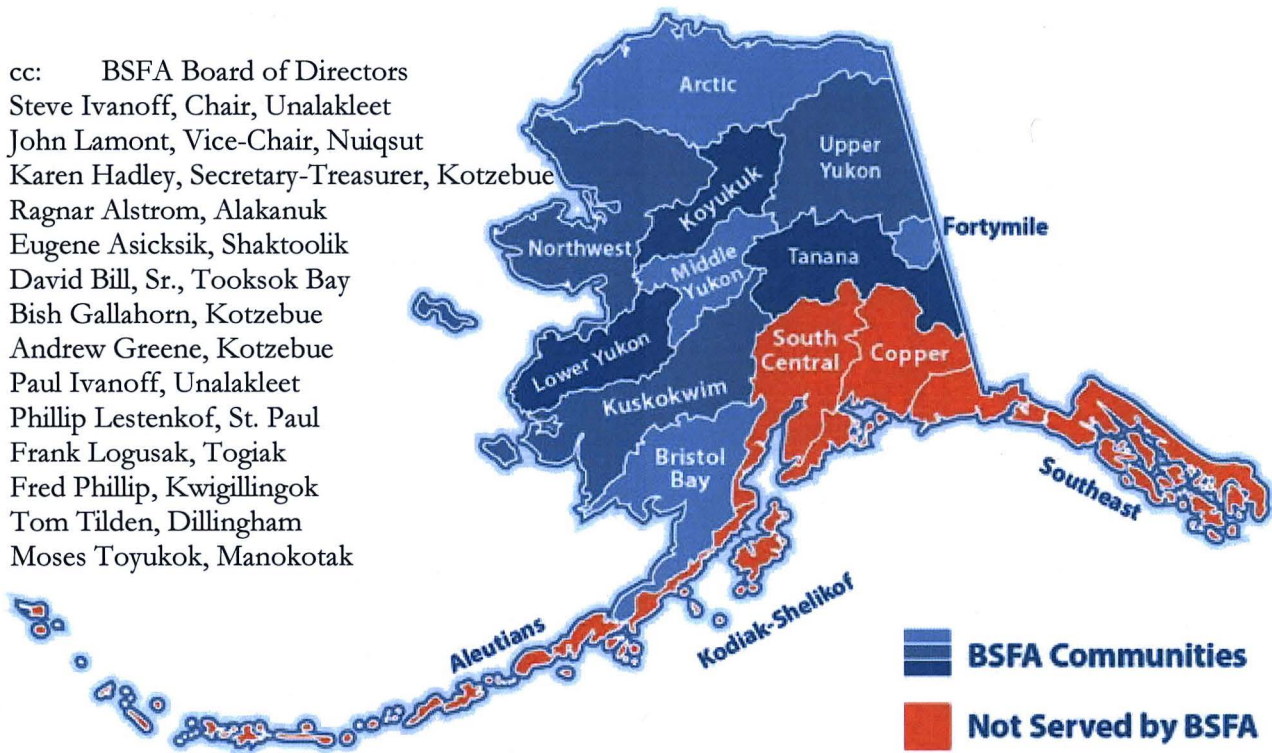
BSFA is pleased to support HB 188. Our coastal communities have a vested interest in the successful implementation of regional fisheries trusts and BSFA looks forward to the bill's passage.

Sincerely,

**Karen Gillis**  
Digitally signed by Karen Gillis  
Date: 2018.02.21 19:00:32 -09'00'  
Karen Gillis  
Executive Director  
[karen@bsfaak.org](mailto: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., Tooksook 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





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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

## Bristol Bay Fishermen's Association

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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;<sup>1</sup>
- (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;<sup>2</sup>
- (3) allow DCCED to approve up to three trusts out of approximately sixteen regions;<sup>3</sup>
- (4) authorize each trust to borrow funds,<sup>4</sup> 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;<sup>5</sup>
- (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;<sup>6</sup>
  - (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

<sup>1</sup> 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).

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

<sup>3</sup> CS HB 188, version L, § 16.44.010(a).

<sup>4</sup> CS HB 188, version L, § 16.44.050(a)(3).

<sup>5</sup> CS HB 188, version L, § 16.44.050(a)(5).

<sup>6</sup> 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;<sup>7</sup>

- (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.<sup>8</sup>

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.<sup>9</sup> All would be used to acquire the maximum number of permits allowed,<sup>10</sup> pay directors of the trusts at rates comparable to those of the highest paid elected officials in the region,<sup>11</sup> pay staff at rates of comparable state officials,<sup>12</sup> 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 29<sup>th</sup> 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

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<sup>7</sup> CS HB 188, version L, § 16.44.055.

<sup>8</sup> CS HB 188, version L, § 16.44.060(a) and (f).

<sup>9</sup> CS HB 188, version L, § 16.44.040.

<sup>10</sup> CS HB 188 version L, § 16.44.050(a)(8).

<sup>11</sup> CS HB 188 version L, § 16.44.030(a).

<sup>12</sup> 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.<sup>13</sup> 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)."<sup>14</sup> 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.<sup>15</sup> 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."<sup>16</sup> 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.

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

<sup>14</sup> CS HB 188 version L, § 16.44.050(a)(8).

<sup>15</sup> 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.

<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup> 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

<sup>17</sup> CS HB 188, version L, § 16.44.020(j).

<sup>18</sup> CS HB 188 version L, § 16.44.020(b) and (c).

<sup>19</sup> 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