

LEG. FINANCE - BILLS 1977 - 1978 694

CSHB 264 cont.

1 pledge of or lien on all or any of its assets, contracts, revenue and
2 income;

3 (6) make and issue bonds for the purpose of funding, refund-
4 ing, purchasing, paying or discharging any of the outstanding bonds or
5 obligations issued or assumed by it or bonds or obligations the princi-
6 pal or interest of which is payable in whole or in part from its revenue;

7 (7) make and execute agreements, contracts and other instru-
8 ments necessary or convenient in the exercise of its powers and func-
9 tions, including contracts with any person, firm, corporation, govern-
10 ment agency or other entity;

11 (8) receive, administer and comply with the conditions and
12 requirements of an appropriation, gift, grant or donation of property or
13 money;

14 (9) invest or reinvest money or funds held by the authority
15 in obligations or other securities or investments in which banks or
16 trust companies in the state may legally invest funds held in reserves
17 or sinking funds or funds not required for immediate disbursement, and
18 in certificates of deposits or time deposits;

19 (10) acquire, hold, use, lease, sell or otherwise dispose of
20 property of any kind, real, personal or mixed or any interest in it;

21 (11) do all acts and things necessary, convenient or desirable
22 to carry out the powers granted or implied in secs. 600 - 690 of this
23 chapter;

24 (12) adopt, amend and repeal rules and regulations necessary
25 for the exercise and performance of its powers and duties.

26 Sec. 16.10.630. BONDS AND NOTES. (a) The authority, by board of
27 commissioners resolution, may issue bonds and bond anticipation notes in
28 order to provide funds to carry out and effectuate its purposes.

29 (b) The principal and interest on these bonds or notes is payable

1 from authority funds. Bond anticipation notes may be payable from the
2 proceeds of the sale of bonds or from the proceeds of sale of other bond
3 anticipation notes or, if bond or bond anticipation note proceeds are
4 not available, such notes may be paid from other funds or assets of the
5 authority. Bonds or notes may be additionally secured by a pledge of a
6 grant or contribution from the federal or state government, a corpora-
7 tion, association, institution or person, or a pledge of money, income,
8 or revenues of the authority from any source.

9 (c) Bonds or bond anticipation notes may be issued as provided by
10 board resolution, in one or more series and shall (1) be dated; (2) bear
11 interest at the prescribed rate per year or within the maximum rate; (3)
12 be in a certain denomination or form, either coupon or registered; (4)
13 carry the conversion or registration provisions; (5) have rank or
14 priority; (6) be executed in a certain manner and form; (7) be payable
15 from the sources in the medium of payment and place or places inside or
16 outside the state; (8) be subject to authentication by a trustee or
17 fiscal agent; and (9) be subject to terms of redemption, with or without
18 premium. Bond anticipation notes mature at a time determined by the
19 authority. Bonds mature at a time, not exceeding 50 years from the date
20 of their issuance, as determined by the authority. Before the prepara-
21 tion of definitive bonds or bond anticipation notes, the authority may
22 issue interim receipts or temporary bonds or bond anticipation notes,
23 without or without coupons, exchangeable for bonds or bond anticipation
24 notes when the definitive bonds or bond anticipation notes have been
25 executed and are available for delivery.

26 (d) Bond or bond anticipation notes may be sold in the manner, on
27 the terms, and at the price the authority determines.

28 (e) If an officer whose actual or facsimile signature appears on
29 any bonds or notes or coupons attached to them ceases to be an officer

1 before the delivery of the bond, note or coupon, his signature is valid
2 as if he has remained in office until delivery.

3 (f) In a resolution by the board of commissioners of the authority
4 authorizing or relating to the issuance of bonds or bond anticipation
5 notes, the authority may, with the holders of the bonds or bond antici-
6 pation notes,

7 (1) pledge to any payment or purpose all or any part of
8 revenues to which it is or will be entitled to and similarly pledge the
9 money derived from the revenues, and the proceeds of any bonds or notes;

10 (2) covenant against pledging all or any part of its re-
11 venues, or against permitting or suffering a lien on the revenues or its
12 property;

13 (3) covenant as to the use and disposition of any and all
14 payments of principal or interest received by the authority on mortgage
15 loans, construction loans or other investments held by the authority;

16 (4) covenant as to establishment of reserves or sinking funds
17 and the making of provision for and the regulation and disposition of
18 the reserves or sinking funds;

19 (5) covenant with respect to or against limitations on a
20 right to sell or otherwise dispose of property of any kind;

21 (6) covenant as to bonds and notes to be issued, and their
22 limitations, terms and conditions, and as to the custody, application
23 and disposition of the proceeds of the bonds and notes;

24 (7) covenant as to the issuance of additional bonds or notes,
25 or as to limitations on the issuance of additional bonds or notes and
26 the incurring of the other debts;

27 (8) covenant as to the payment of the principal of or inter-
28 est on the bonds or notes, as to the sources and methods of the payment,
29 as to the rank or priority of the bonds or notes with respect to a lien

1 or security, or as to the acceleration of the maturity of the bonds or
2 notes;

3 (9) provide for the replacement of lost, stolen, destroyed or
4 mutilated bonds or notes;

5 (10) covenant against extending the time for the payment of
6 bonds or notes or interest on the bonds or notes;

7 (11) covenant as to the redemption of bonds or notes and
8 privileges of their exchange for other bonds or notes of the authority;

9 (12) covenant to create or authorize the creation of special
10 funds of money to be held in pledge or otherwise for operation expenses,
11 payment or redemption of bonds or notes, reserves or other purposes, and
12 as to use and disposition of the money held in the funds;

13 (13) establish the procedure, if any, by which the terms of
14 any contract or covenant with or for the benefit of the holders of bonds
15 or notes may be amended or abrogated, the amount of bonds or notes the
16 holders of which must consent to amendment or abrogation, and the manner
17 in which the consent may be given;

18 (14) covenant as to the custody of any of its properties or
19 investments, their safekeeping and insurance, and the use and disposi-
20 tion of insurance money;

21 (15) covenant as to the time or manner of enforcement or
22 restraint from enforcement of any rights of the corporation arising by
23 reason of or with respect to nonpayment of principal or interest of any
24 mortgage loans or construction loans;

25 (16) provide for the rights and liabilities, powers and duties
26 arising upon the breach of a covenant, condition or obligation, and to
27 prescribe the events of default and the terms and conditions upon which
28 any or all of the bonds, notes or other obligations of the authority
29 become or may be declared due and payable before maturity and the terms

1 and conditions upon which such a declaration and its consequences may be
2 waived;

3 (17) vest in a trustee or trustees inside or outside the state
4 property, rights, powers and duties in trust as the authority may
5 determine, which may include any or all of the rights, powers and duties
6 of a trustee appointed by the holders of bonds or notes, and to limit or
7 abrogate the right of the holders of bonds or notes of the authority to
8 appoint a trustee under secs. 600 - 690 of this chapter or limit the
9 rights, powers and duties of the trustee;

10 (18) pay the costs or expenses incident to the enforcement of
11 the bonds or notes or of the provisions of the resolution or of a
12 covenant or agreement of the authority with the holders of its bonds or
13 notes;

14 (19) agree with a corporate trustee which may be a trust
15 company or bank having the powers of a trust company inside or outside
16 the state as to the pledging or assigning of revenues or funds to which
17 or in which the authority has any rights or interest; and further pro-
18 vide for other rights and remedies exercisable by the trustee as may be
19 proper for the protection of the holders of any bonds or notes of the
20 authority and not otherwise in violation of law and may provide for the
21 restriction of the rights of an individual holder of bonds or notes of
22 the authority;

23 (20) appoint and provide for the duties and obligations of a
24 paying agent or other fiduciary, by resolution, in ide or outside the
25 state;

26 (21) limit the rights of the holders of bonds or notes to
27 enforce a pledge or covenant securing bonds or notes;

28 (22) make covenants other than expressly authorized in this
29 section, of like or different character, and to make covenants as may be

1 necessary or desirable, to better secure bonds or notes or which, in the
2 discretion of the authority, will tend to make bonds or notes more
3 marketable, notwithstanding the fact that the covenants are not enumer-
4 ated in this section.

5 Sec. 16.10.640. VALIDITY OF PLEDGE. The pledge of assets or
6 revenues of the authority to the payment of the principal or interest of
7 obligations of the authority is valid and binding from the time the
8 pledge is made and assets or revenues pledged are immediately subject to
9 the lien of the pledge without physical delivery or further action. The
10 lien of a pledge is valid and binding against all parties having claims
11 of any kind in tort, contract or otherwise against the authority,
12 irrespective of whether those parties have notice of the lien of the
13 pledge. Nothing prohibits the authority from selling assets subject to
14 a pledge, except that a sale may be restricted by the trust agreement or
15 resolution providing for the issuance of the obligations.

16 Sec. 16.10.650. REMEDIES. A holder of obligations or coupons
17 attached to them issued under the provisions of secs. 600 - 690 of this
18 chapter, and a trustee under a trust agreement or resolution authorizing
19 the issuance of the obligations, if not restricted by the trust agree-
20 ment or resolution, either at law or in equity, may enforce all rights
21 granted under the coupons or under the trust agreement or resolution, or
22 under any other contract executed by the authority under secs. 600 - 690
23 of this chapter, and may enforce and compel the performance of all
24 duties required by secs. 600 - 690 of this chapter or by the trust
25 agreement or resolution to be performed by the authority or by an offi-
26 cer of it.

27 Sec. 16.10.660. NEGOTIABLE INSTRUMENTS. All obligations and
28 interest coupons attached to the obligations are negotiable instruments
29 under the laws of this state, subject only to applicable registration

1 provisions.

2 Sec. 16.10.670. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
3 issued under the provisions of secs. 600 - 690 of this chapter are
4 securities in which all public officers and public bodies of the state
5 and its political subdivisions, all insurance companies, trust com-
6 panies, banking associations, investment companies, executors, adminis-
7 trators, trustees and other fiduciaries may properly and legally invest
8 funds, including capital in their control or belonging to them. These
9 obligations may be deposited with the state or municipal officer of an
10 agency or political subdivision of the state for any purpose for which
11 the deposit of bonds, notes or obligations of the state is authorized by
12 law.

13 Sec. 16.10.680. REFUNDING OBLIGATIONS. (a) The authority may
14 provide for the issuance of refunding obligations for the purpose of re-
15 funding obligations then outstanding which have been issued under the
16 provisions of secs. 600 - 690 of this chapter, including the payment of
17 redemption premium on them and interest accrued or to accrue to the date
18 of redemption of the obligations. The issuance of the obligations, the
19 maturities and other details of them, the rights of the holders of them,
20 and the rights, duties and obligations of the authority in respect of
21 them are governed by the provisions of secs. 600 - 690 of this chapter
22 which relate to the issuance of appropriate obligations.

23 (b) Refunding obligations may be sold or exchanged for outstanding
24 obligations issued under secs. 600 - 690 of this chapter. If sold, the
25 proceeds may be applied, in addition to other authorized purposes, to
26 the purchase, redemption or payment of the outstanding obligations.
27 Pending the application of the proceeds of any such refunding obli-
28 gations, with any other available funds, to the payment of the principal
29 (accrued interest and any redemption premium on the obligations being

1 refunded, and, if so provided or permitted in the resolution authorizing
2 the issuance of the refunding obligations or in the trust agreement
3 securing them, to the payment of any interest on the refunding obliga-
4 tions and any expenses in connection with the refunding), the proceeds
5 may be invested in direct obligations of, or obligations the principal
6 of and the interest on which are unconditionally guaranteed by, the
7 United States of America which mature or which will be subject to re-
8 demption, at the option of the holders of them, not later than the
9 respective dates when the proceeds, together with the interest accruing
10 on them, will be required for the purposes intended.

11 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued
12 under the provisions of secs. 600 - 690 of this chapter do not consti-
13 tute a debt, liability or obligation of the state or of any other
14 political subdivision of the state or a pledge of the faith and credit
15 of the state or a political subdivision of the state but are payable
16 solely from the revenues or assets of the authority. Each obligation
17 issued under secs. 600 - 690 of this chapter shall contain on its face
18 statement that the authority is not obligated to pay it nor the interest
19 on it except from the revenues or assets pledged for it and that neither
20 the faith and credit nor the taxing power of the state or of a political
21 subdivision of the state is pledged to the payment of the principal of
22 or interest on the obligation.

23 * Sec. 15. AS 16.10.400(d), 16.10.520(b) and 16.10.530(b) are repealed.

24 * Sec. 16. This Act takes effect immediately in accordance with AS 01.10.
25 070(c).

HOUSE JOURNAL

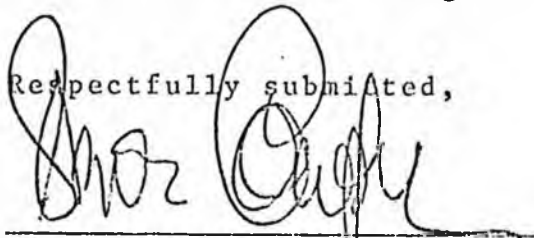
HOUSE FINANCE COMMITTEE REPORT
ON
CSHB 264 (FINANCE)

The revised fiscal note for CSHB 264 (Finance) provides funding as follows:

FY 77: \$900,000 in grant funds for the following regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim and Prince William Sound. The grant amount provides \$100,000 to each region attempting to organize and to Prince William Sound (already organized). A matching assessment grant of \$100,000 will be made to organized regional associations. It is estimated that three regional associations will qualify for this second grant.

FY 78: \$900,000 in grant funds to provide for six additional regions attempting to organize and three of which might qualify for the matching grant.

Respectfully submitted,



Steve Cowper, Chairman
House Finance Committee

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

REVISED FISCAL NOTE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CSIB 264
 Title An Act Relating to Fisheries Enhancement
 Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
 Program Category Affected Development
 Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	750-0-	750-0-	0	0	0	0
GRANTS	900.0	900.0				
TOTAL						

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	900.0	900.0				
FEDERAL FUNDS	750-0-	750-0-	0	0	0	0
OTHER (Specify)						

POSITIONS

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY/77 - At this time it appears that 5 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or Letter of Intent.

FY/78 - It is expected that an additional 5 regions will organize.

LEGISLATIVE REVISION TO FISCAL NOTE:

FY 77: Grants in the amount of \$900.0 shall cover six (not five) regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim (added by the legislature) and Prince William Sound. The \$900.0 allows \$100.0 per region once organized (6 x \$100.0 = \$600.0) and grants in the amount of \$100.0 to match assessments per region (estimated that three regions will qualify for the second grant, 3/x \$100.0 = \$300.0) for a total of \$900.0 for FY 77.

FY 78 Calculated as for FY 77.

IV. DATE: 3/11/77 PREPARED BY Pete Joann
 AGENCY Division of Business Loans
 PHONE 465-2510

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

REVISED FISCAL NOTE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CSIB 264
Title An Act Relating to Fisheries Enhancement
Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Businc Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	-750-0-	-750-0-	0	0	0	0
GRANTS	900.0	900.0				

TOTAL

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	900.0	900.0				
FEDERAL FUNDS	750-0	750-0-	0	0	0	0
OTHER (Specify)						

POSITIONS

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 77 - At this time it appears that 5 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or letter of Intent.

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FY 78 Calculated as for FY 77.

IV. DATE 3/11/77 PREPARED BY Pete Joann
AGENCY Division of Business Loans
PHONE 465-2510

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CSIB 264
Title An Act Relating to Fisheries Enhancement
Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	<u>750.0</u>	750.0	0	0	0	0
TOTAL	<u>750.0</u>					

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	<u>750.0</u>	750.0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY/77 - At this time it appears that 6 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. ~~The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or letter of intent.~~

FY/78 - It is expected that an additional 5 regions will organize.

FN as to...

MRP dup...

and Res between...

IV. DATE 3/11/77 PREPARED BY Pete Jeans

AGENCY Division of Business Loans

PHONE 465-2510

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

HB 264

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 264
Title An Act relating to fisheries enhancement
Requested by Rep. Terry Gardiner Date 2/28/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

		<u>NONE</u>				
	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	<u>NONE</u>				
GENERAL FUND					
FEDERAL FUNDS					
OTHER (Specify)					

POSITIONS

	<u>NONE</u>				
FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact.

IV. DATE 3/1/77 PREPARED BY Pete Jeans
AGENCY Division of Business Loans
PHONE 465-2525
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 264

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

REVISED FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 264
Title An Act relating to fisheries enhancement
Requested by House Resources Committee Date 2/24/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	1,500.0					
	1,500.0	0	0	0	0	0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	1,500.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There are expected to be ten (10) regional associations. I am sure each association will request the \$150,000 grant for a total of \$1,500,000.

IV. DATE March 3, 1977 PREPARED BY Pete Jeans
AGENCY Division of Business Loans
PHONE 465-2510
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Jim Rhode

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 264
Title An Act Relating to Fisheries Enhancement
Requested by Gardiner Date March 7, 1977

HB 264

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		600,000				

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND	600,000				
FEDERAL FUNDS					
OTHER (Specify)					

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This would fund the grants to three regional hatchery associations at \$100,000 each for \$300,000 total. It also provides \$300,000 for the additional matching grants from these three regional associations. It is not likely there will be more than three regional hatchery associations in FY '78, thus \$600,000 should fully cover all applicants.

IV. DATE March 7, 1977 PREPARED BY Terry Gardiner
AGENCY State Representative
PHONE 465-3718

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Terry Gardiner

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

CSHB 264

I. REQUEST

Bill/Resolution No. Proposed CSHB 264
Title An Act Relating to Fisheries Enhancement
Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	750.0	750.0	0	0	0	0

TOTAL

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	750.0	750.0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

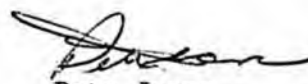
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY/77 - At this time it appears that 5 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or Letter of Intent.

FY/78 - It is expected that an additional 5 regions will organize.

IV. DATE 3/11/77

PREPARED BY 
AGENCY Division of Business Loans
PHONE 465-2510

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Original sponsor: Gardiner

Offered: 3/14/77
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 264

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries enhancement; and providing
7 for an effective date."

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

9 * Section 1. AS 16.10.375 is repealed and re-enacted to read:

10 Sec. 16.10.375. REGIONAL SALMON PLAN. The commissioner shall
11 designate regions of the state for the purpose of salmon production and
12 shall develop and amend as necessary a comprehensive salmon plan for
13 each region for both public and private nonprofit hatchery systems.
14 Subject to plan approval by the commissioner, comprehensive salmon plans
15 shall be developed by regional planning teams consisting of department
16 personnel and representatives of the appropriate qualified regional
17 associations formed under sec. 380 of this chapter.

18 * Sec. 2. AS 16.10.400(a) and (e) are amended to read:

19 (a) The commissioner or his designee may issue or renew a permit,
20 subject to the restrictions [HE CONSIDERS DESIRABLE OR THAT ARE] imposed
21 by statute or regulation under secs. 400 - 470 of this chapter, to a
22 nonprofit corporation organized under AS 10.20, after the permit appli-
23 cation has been reviewed by the regional planning team, for the con-
24 struction and operation of a salmon hatchery.

25 (e) A qualified regional association formed under sec. 380 of this
26 chapter, if it has become a nonprofit corporation under AS 10.20, has a
27 preference right to a permit if its proposed hatchery is provided for in
28 the comprehensive plan for that region developed under sec. 375 of this
29 chapter. Any other [A] local nonprofit hatchery corporation [ESTABLISHED

1 OR] approved by a qualified regional association has an identical pre-
2 ference right.

3 * Sec. 3. AS 16.10.430(a) is amended to read:

4 (a) If a permit holder fails to comply with the conditions and
5 terms of the permit issued under secs. 400 - 470 of this chapter within
6 a reasonable period after notification of his noncompliance by the
7 department, his permit may be suspended or revoked, in the discretion of
8 the commissioner after the regional planning team for the area in which
9 the hatchery is located is notified and granted an opportunity to comment
10 upon the proposed suspension or revocation.

11 * Sec. 4. AS 16.10.450 is amended to read:

12 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
13 hatchery operator who sells salmon returning from the natural waters of
14 the state, or sells salmon eggs to another hatchery operating under
15 secs. 400 - 470 of this chapter, after utilizing the funds for reason-
16 able operating costs, including debt retirement, [OR] expanding its
17 facilities, or for costs of operating the qualified regional association
18 for the area in which the hatchery is located, shall expend the remain-
19 ing funds on fisheries research, salmon rehabilitation projects, or
20 other fisheries activities of the qualified regional association. Fish
21 returning to [SOLD BY] hatcheries and sold for human consumption shall
22 be of comparable quality to fish harvested by commercial fisheries in
23 the area, and shall be sold at prices commensurate with the current
24 market.

25 * Sec. 5. AS 16.10.470 is repealed and re-enacted to read:

26 Sec. 16.10.470. ANNUAL REPORT. A person who holds a permit for
27 the operation of a salmon hatchery under secs. 400 - 470 of this chapter
28 shall submit an annual report to the department and to the qualified
29 regional association of the area in which the hatchery is located to

1 include but not be limited to statistics on the number of eggs and fish
2 handled by the hatchery, whether for production or sale.

3 * Sec. 6. AS 16.10.500 is amended to read:

4 Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the
5 state, under secs. 500 - 550 of this chapter, to promote the enhancement
6 of the state's fisheries by means of grants for organizational and plan-
7 ning purposes to regional associations which have qualified under sec.
8 380 of this chapter, and by means of long-term, low interest loans for
9 hatchery planning, [AND] construction, and operation.

10 * Sec. 7. AS 16.10.510(1) and (2) are amended to read:

11 (1) make loans to permit holders, under secs. 400 - 470 of
12 this chapter, including those holders issued permits before the effec-
13 tive date of this Act, for the planning, [AND] construction, and opera-
14 tion of hatchery facilities;

15 (2) make loans to qualified regional associations which have
16 formed a nonprofit corporation or a local nonprofit corporation [ESTAB-
17 LISHED OR] approved by a qualified regional association, for preconstruc-
18 tion activities necessary to obtain a permit [, PROVIDED THE HATCHERY
19 HAS RECEIVED PRELIMINARY PROJECT APPROVAL FROM THE COMMISSIONER OF FISH
20 & GAME];

21 * Sec. 8. AS 16.10.510(8) is repealed and re-enacted to read:

22 (8) no repayment of principal is required for an initial
23 period of six years, and no interest on the principal shall accrue dur-
24 ing that period.

25 * Sec. 9. AS 16.10.510 is amended by adding a new paragraph to read:

26 (9) make grants for organizational and planning purposes to
27 qualified regional associations which have formed a nonprofit corpora-
28 tion, in amounts not exceeding \$100,000 per region and up to an addi-
29 tional \$100,000 on a 50/50 cash matching basis with the regional associ-

1 ations which have an authorized assessment under sec. 530 or 540 of this
2 chapter. The state portion of the matching share shall be available
3 when a final vote for assessments is made under sec. 530 or 540 of this
4 chapter.

5 * Sec. 10. AS 16.10.520(a) is amended to read:

6 (a) A single fisheries enhancement loan may not exceed \$3,000,000
7 for a hatchery constructed under a permit granted to a qualified re-
8 gional association which has formed a nonprofit corporation, or to a
9 local nonprofit corporation [ESTABLISHED OR] approved by a qualified
10 regional association. A loan for any other nonprofit hatchery corpora-
11 tion project may not exceed \$300,000.

12 * Sec. 11. AS 16.10.530(a) is repealed and re-enacted to read:

13 (a) The commissioner of commerce and economic development, on
14 request of the qualified regional association for the area in which the
15 assessment is to be levied, shall establish areas in which an assessment
16 shall be levied on the sale of one or more species of salmon by persons
17 licensed under AS 16.05.540 - 16.05.600. A request by the qualified
18 regional association shall include a description of compliance with (e)
19 of this section. An assessment levied under this section shall be for
20 the purpose of providing revenue for the qualified regional association
21 for the area in which the assessment is made. The rate and conditions
22 of assessments shall be stated by the appropriate qualified regional
23 association in conjunction with the request to the commissioner of
24 commerce and economic development under this subsection.

25 * Sec. 12. AS 16.10.530(c) and (d) are amended to read:

26 (c) The commissioner and the appropriate qualified regional asso-
27 ciation must agree on a means of collection of the assessment [BEFORE A
28 LOAN IS MADE,] and the commissioner may, by regulation, require its
29 collection by buyers of the salmon upon the sale of which an assessment

1 is levied.

2 (d) The assessment shall terminate upon request of the qualified
3 regional corporation when all financial obligations relating to the
4 assessments have been met [THE PRINCIPAL AND INTEREST ON THE LOAN IS
5 PAID].

6 * Sec. 13. AS 16.10.530 is amended by adding new subsections to read:

7 (e) Before an assessment is made under this section, the qualified
8 regional association for the area in which the assessment is to be
9 levied shall hold an initial public meeting to explain and discuss the
10 necessity for the assessment and to explain the registration procedure
11 established under (f) of this section. Reasonable public notice of the
12 meeting shall be sent to all limited entry permit holders actively
13 participating in a fishery in the area, posted in at least three cen-
14 trally located public places in the area, and published in at least one
15 newspaper of general circulation at least one time a week for three
16 consecutive weeks in the area, if one exists. The notice shall briefly
17 state the amount of the assessment and a short general description of
18 the purposes for which the assessment money will be used. A ballot
19 shall be mailed to all limited entry permit holders actively participat-
20 ing in a fishery in the area at least 20 days before the initial public
21 meeting and contain a copy of the notice and ask the question whether an
22 assessment shall be imposed. At the public meeting the returned ballots
23 shall be counted by a special committee appointed by the regional
24 association for that purpose, and a vote by written ballot shall be
25 taken on the question from among the limited entry permit holders
26 present at the initial public meeting. After the vote is taken at the
27 initial meeting a second public meeting shall be held, upon the limited
28 notice of publication in a newspaper of general circulation, each day
29 for five consecutive days and the mailing of personal notice to all

1 limited entry permit holders who actively participate in a fishery in
2 the area at least 14 days before the second public meeting, to give
3 those who did not vote by written ballot at the initial public meeting
4 an opportunity to vote. These votes shall be counted with the votes
5 counted at the initial meeting. A majority vote for the assessment is
6 required from the combined total of the returned ballots and the votes
7 by ballot cast at both public meetings, before an assessment may be
8 imposed. No person may vote twice.

9 (f) The qualified regional association shall establish standard
10 registration procedures for voting on assessments under this section.

11 * Sec. 14. AS 16.10 is amended by adding new sections to read:

12 Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association
13 qualified under sec. 380 of this chapter as a regional association is
14 given the authority to form a regional salmon enhancement authority.
15 There is created with respect to each of the associations qualified
16 under sec. 380 of this chapter a public body corporate and politic as a
17 political subdivision of the state to function in the operating areas of
18 the individual associations. Each authority may exercise all powers
19 conferred by secs. 600 - 690 of this chapter.

20 (b) A regional salmon enhancement authority may not transact
21 business or exercise powers granted to it until the governing body of
22 the association has by resolution, declared there is a need for the
23 authority to function, given it the authority to function and appointed
24 persons to serve as the board of commissioners of the authority. The
25 number of members of the board of commissioners, their terms of office
26 and the filling of vacancies in office shall be determined by resolution
27 of the governing body of the association.

28 (c) The regional salmon enhancement authority has jurisdiction to
29 operate in all or part of the operating area of the individual associ-

1 ation as determined by resolution of the governing body of the associa-
2 tion.

3 Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement author-
4 ity is exempt from payment of taxes or assessments for a period of 20
5 years from the effective date of this Act on property owned by the
6 authority which is used for salmon enhancement purposes.

7 (b) All obligations issued under secs. 600 - 690 of this chapter
8 are issued by a body corporate and public which is a political sub-
9 division of the state and for an essential public and governmental
10 purpose, and the obligations, and the interest and income on and from
11 the obligations, and all fees, charges, funds, revenues, income and
12 other money pledged or available to pay or secure the payment of the
13 obligations or interest are exempt from taxation for a period of 20
14 years from the effective date of this Act, except for transfer, inheri-
15 tance and estate taxes.

16 (c) All obligations or liabilities of a regional salmon enhance-
17 ment authority remain its own and are not obligations or liabilities of
18 the state.

19 Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement
20 authority has the general power to

- 21 (1) adopt, alter and use a corporate seal;
22 (2) prescribe, adopt, amend and repeal bylaws;
23 (3) sue and be sued in its own name;
24 (4) appoint officers, agents and employees and vest them with
25 powers and duties and to fix, change and pay compensation for their
26 services as the authority may determine;

27 (5) borrow money, make and issue bonds, notes and other
28 evidences of indebtedness of the authority for any of its corporate
29 purposes and to secure payment of its bonds and of other obligations by

1 pledge of or lien on all or any of its assets, contracts, revenue and
2 income;

3 (6) make and issue bonds for the purpose of funding, refund-
4 ing, purchasing, paying or discharging any of the outstanding bonds or
5 obligations issued or assumed by it or bonds or obligations the princi-
6 pal or interest of which is payable in whole or in part from its revenue;

7 (7) make and execute agreements, contracts and other instru-
8 ments necessary or convenient in the exercise of its powers and func-
9 tions, including contracts with any person, firm, corporation, govern-
10 ment agency or other entity;

11 (8) receive, administer and comply with the conditions and
12 requirements of an appropriation, gift, grant or donation of property or
13 money;

14 (9) invest or reinvest money or funds held by the authority
15 in obligations or other securities or investments in which banks or
16 trust companies in the state may legally invest funds held in reserves
17 or sinking funds or funds not required for immediate disbursement, and
18 in certificates of deposits or time deposits;

19 (10) acquire, hold, use, lease, sell or otherwise dispose of
20 property of any kind, real, personal or mixed or any interest in it;

21 (11) do all acts and things necessary, convenient or desirable
22 to carry out the powers granted or implied in secs. 600 - 690 of this
23 chapter;

24 (12) adopt, amend and repeal rules and regulations necessary
25 for the exercise and performance of its powers and duties.

26 Sec. 16.10.630. BONDS AND NOTES. (a) The authority, by board of
27 commissioners resolution, may issue bonds and bond anticipation notes in
28 order to provide funds to carry out and effectuate its purposes.

29 (b) The principal and interest on these bonds or notes is payable

1 from authority funds. Bond anticipation notes may be payable from the
2 proceeds of the sale of bonds or from the proceeds of sale of other bond
3 anticipation notes or, if bond or bond anticipation note proceeds are
4 not available, such notes may be paid from other funds or assets of the
5 authority. Bonds or notes may be additionally secured by a pledge of a
6 grant or contribution from the federal or state government, a corpora-
7 tion, association, institution or person, or a pledge of money, income,
8 or revenues of the authority from any source.

9 (c) Bonds or bond anticipation notes may be issued as provided by
10 board resolution, in one or more series and shall (1) be dated; (2) bear
11 interest at the prescribed rate per year or within the maximum rate; (3)
12 be in a certain denomination or form, either coupon or registered; (4)
13 carry the conversion or registration provisions; (5) have rank or
14 priority; (6) be executed in a certain manner and form; (7) be payable
15 from the sources in the medium of payment and place or places inside or
16 outside the state; (8) be subject to authentication by a trustee or
17 fiscal agent; and (9) be subject to terms of redemption, with or without
18 premium. Bond anticipation notes mature at a time determined by the
19 authority. Bonds mature at a time, not exceeding 50 years from the date
20 of their issuance, as determined by the authority. Before the prepara-
21 tion of definitive bonds or bond anticipation notes, the authority may
22 issue interim receipts or temporary bonds or bond anticipation notes,
23 without or without coupons, exchangeable for bonds or bond anticipation
24 notes when the definitive bonds or bond anticipation notes have been
25 executed and are available for delivery.

26 (d) Bond or bond anticipation notes may be sold in the manner, on
27 the terms, and at the price the authority determines.

28 (e) If an officer whose actual or facsimile signature appears on
29 any bonds or notes or coupons attached to them ceases to be an officer

1 before the delivery of the bond, note or coupon, his signature is valid
2 as if he had remained in office until delivery.

3 (f) In a resolution by the board of commissioners of the authority
4 authorizing or relating to the issuance of bonds or bond anticipation
5 notes, the authority may, with the holders of the bonds or bond antici-
6 pation notes,

7 (1) pledge to any payment or purpose all or any part of
8 revenues to which it is or will be entitled to and similarly pledge the
9 money derived from the revenues, and the proceeds of any bonds or notes;

10 (2) covenant against pledging all or any part of its re-
11 venues, or against permitting or suffering a lien on the revenues or its
12 property;

13 (3) covenant as to the use and disposition of any and all
14 payments of principal or interest received by the authority on mortgage
15 loans, construction loans or other investments held by the authority;

16 (4) covenant as to establishment of reserves or sinking funds
17 and the making of provision for and the regulation and disposition of
18 the reserves or sinking funds;

19 (5) covenant with respect to or against limitations on a
20 right to sell or otherwise dispose of property of any kind;

21 (6) covenant as to bonds and notes to be issued, and their
22 limitations, terms and conditions, and as to the custody, application
23 and disposition of the proceeds of the bonds and notes;

24 (7) covenant as to the issuance of additional bonds or notes,
25 or as to limitations on the issuance of additional bonds or notes and
26 the incurring of the other debts;

27 (8) covenant as to the payment of the principal of or inter-
28 est on the bonds or notes, as to the sources and methods of the payment,
29 as to the rank or priority of the bonds or notes with respect to a lien

1 or security, or as to the acceleration of the maturity of the bonds or
2 notes;

3 (9) provide for the replacement of lost, stolen, destroyed or
4 mutilated bonds or notes;

5 (10) covenant against extending the time for the payment of
6 bonds or notes or interest on the bonds or notes;

7 (11) covenant as to the redemption of bonds or notes and
8 privileges of their exchange for other bonds or notes of the authority;

9 (12) covenant to create or authorize the creation of special
10 funds of money to be held in pledge or otherwise for operation expenses,
11 payment or redemption of bonds or notes, reserves or other purposes, and
12 as to use and disposition of the money held in the funds;

13 (13) establish the procedure, if any, by which the terms of
14 any contract or covenant with or for the benefit of the holders of bonds
15 or notes may be amended or abrogated, the amount of bonds or notes the
16 holders of which must consent to amendment or abrogation, and the manner
17 in which the consent may be given;

18 (14) covenant as to the custody of any of its properties or
19 investments, their safekeeping and insurance, and the use and disposi-
20 tion of insurance money;

21 (15) covenant as to the time or manner of enforcement or
22 restraint from enforcement of any rights of the corporation arising by
23 reason of or with respect to nonpayment of principal or interest of any
24 mortgage loans or construction loans;

25 (16) provide for the rights and liabilities, powers and duties
26 arising upon the breach of a covenant, condition or obligation, and to
27 prescribe the events of default and the terms and conditions upon which
28 any or all of the bonds, notes or other obligations of the authority
29 become or may be declared due and payable before maturity and the terms

1 and conditions upon which such a declaration and its consequences may be
2 waived;

3 (17) vest in a trustee or trustees inside or outside the state
4 property, rights, powers and duties in trust as the authority may
5 determine, which may include any or all of the rights, powers and duties
6 of a trustee appointed by the holders of bonds or notes, and to limit or
7 abrogate the right of the holders of bonds or notes of the authority to
8 appoint a trustee under secs. 600 - 690 of this chapter or limit the
9 rights, powers and duties of the trustee;

10 (18) pay the costs or expenses incident to the enforcement of
11 the bonds or notes or of the provisions of the resolution or of a
12 covenant or agreement of the authority with the holders of its bonds or
13 notes;

14 (19) agree with a corporate trustee which may be a trust
15 company or bank having the powers of a trust company inside or outside
16 the state as to the pledging or assigning of revenues or funds to which
17 or in which the authority has any rights or interest; and further pro-
18 vide for other rights and remedies exercisable by the trustee as may be
19 proper for the protection of the holders of any bonds or notes of the
20 authority and not otherwise in violation of law and may provide for the
21 restriction of the rights of an individual holder of bonds or notes of
22 the authority;

23 (20) appoint and provide for the duties and obligations of a
24 paying agent or other fiduciary, by resolution, inside or outside the
25 state;

26 (21) limit the rights of the holders of bonds or notes to
27 enforce a pledge or covenant securing bonds or notes;

28 (22) make covenants other than expressly authorized in this
29 section, of like or different character, and to make covenants as may be

1 necessary or desirable, to better secure bonds or notes or which, in the
2 discretion of the authority, will tend to make bonds or notes more
3 marketable, notwithstanding the fact that the covenants are not enumer-
4 ated in this section.

5 Sec. 16.10.640. VALIDITY OF PLEDGE. The pledge of assets or
6 revenues of the authority to the payment of the principal or interest of
7 obligations of the authority is valid and binding from the time the
8 pledge is made and assets or revenues pledged are immediately subject to
9 the lien of the pledge without physical delivery or further action. The
10 lien of a pledge is valid and binding against all parties having claims
11 of any kind in tort, contract or otherwise against the authority,
12 irrespective of whether those parties have notice of the lien of the
13 pledge. Nothing prohibits the authority from selling assets subject to
14 a pledge, except that a sale may be restricted by the trust agreement or
15 resolution providing for the issuance of the obligations.

16 Sec. 16.10.650. REMEDIES. A holder of obligations or coupons
17 attached to them issued under the provisions of secs. 600 - 690 of this
18 chapter, and a trustee under a trust agreement or resolution authorizing
19 the issuance of the obligations, if not restricted by the trust agree-
20 ment or resolution, either at law or in equity, may enforce all rights
21 granted under the coupons or under the trust agreement or resolution, or
22 under any other contract executed by the authority under secs. 600 - 690
23 of this chapter, and may enforce and compel the performance of all
24 duties required by secs. 600 - 690 of this chapter or by the trust
25 agreement or resolution to be performed by the authority or by an offi-
26 cer of it.

27 Sec. 16.10.660. NEGOTIABLE INSTRUMENTS. All obligations and
28 interest coupons attached to the obligations are negotiable instruments
29 under the laws of this state, subject only to applicable registration

1 provisions.

2 Sec. 16.10.670. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
3 issued under the provisions of secs. 600 - 690 of this chapter are
4 securities in which all public officers and public bodies of the state
5 and its political subdivisions, all insurance companies, trust com-
6 panies, banking associations, investment companies, executors, adminis-
7 trators, trustees and other fiduciaries may properly and legally invest
8 funds, including capital in their control or belonging to them. These
9 obligations may be deposited with the state or municipal officer of an
10 agency or political subdivision of the state for any purpose for which
11 the deposit of bonds, notes or obligations of the state is authorized by
12 law.

13 Sec. 16.10.680. REFUNDING OBLIGATIONS. (a) The authority may
14 provide for the issuance of refunding obligations for the purpose of re-
15 funding obligations then outstanding which have been issued under the
16 provisions of secs. 600 - 690 of this chapter, including the payment of
17 redemption premium on them and interest accrued or to accrue to the date
18 of redemption of the obligations. The issuance of the obligations, the
19 maturities and other details of them, the rights of the holders of them,
20 and the rights, duties and obligations of the authority in respect of
21 them are governed by the provisions of secs. 600 - 690 of this chapter
22 which relate to the issuance of appropriate obligations.

23 (b) Refunding obligations may be sold or exchanged for outstanding
24 obligations issued under secs. 600 - 690 of this chapter. If sold, the
25 proceeds may be applied, in addition to other authorized purposes, to
26 the purchase, redemption or payment of the outstanding obligations.
27 Pending the application of the proceeds of any such refunding obli-
28 gations, with any other available funds, to the payment of the principal
29 (accrued interest and any redemption premium on the obligations being

1 refunded, and, if so provided or permitted in the resolution authorizing
2 the issuance of the refunding obligations or in the trust agreement
3 securing them, to the payment of any interest on the refunding obliga-
4 tions and any expenses in connection with the refunding), the proceeds
5 may be invested in direct obligations of, or obligations the principal
6 of and the interest on which are unconditionally guaranteed by, the
7 United States of America which mature or which will be subject to re-
8 demption, at the option of the holders of them, not later than the
9 respective dates when the proceeds, together with the interest accruing
10 on them, will be required for the purposes intended.

11 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued
12 under the provisions of secs. 600 - 690 of this chapter do not consti-
13 tute a debt, liability or obligation of the state or of any other
14 political subdivision of the state or a pledge of the faith and credit
15 of the state or a political subdivision of the state but are payable
16 solely from the revenues or assets of the authority. Each obligation
17 issued under secs. 600 - 690 of this chapter shall contain on its face a
18 statement that the authority is not obligated to pay it nor the interest
19 on it except from the revenues or assets pledged for it and that neither
20 the faith and credit nor the taxing power of the state or of a political
21 subdivision of the state is pledged to the payment of the principal of
22 or interest on the obligation.

23 * Sec. 15. AS 16.10.400(d), 16.10.520(b) and 16.10.530(b) are repealed.

24 * Sec. 16. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

Introduced: 2/24/77
Referred: Resources and
Finance

1 IN THE HOUSE

BY GARDINER

2 HOUSE BILL NO. 264

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries enhancement; and providing
7 for an effective date."

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

9 * Section 1. AS 16.10.375 is amended to read:

10 Sec. 16.10.375. REGIONAL PLAN FOR SALMON ENHANCEMENT. The com-
11 missioner shall designate regions of the state for the purpose of en-
12 hancing salmon production and shall develop and amend as necessary a
13 comprehensive salmon enhancement plan for each region for both public
14 and private nonprofit hatchery systems. Comprehensive salmon enhance-
15 ment plans shall be developed in conjunction with and approved by the
16 [COOPERATION WITH] appropriate qualified regional associations formed
17 under sec. 380 of this chapter.

18 * Sec. 2. AS 16.10.400(a), (e), and (f) are amended to read:

19 (a) The commissioner or his designee may issue or renew a permit,
20 subject to the restrictions [HE CONSIDERS DESIRABLE OR THAT ARE] imposed
21 by statute or regulation under secs. 400 - 470 of this chapter, to a non-
22 profit corporation organized under AS 10.20, and subject to approval by
23 the qualified regional association for the area in which the hatchery is
24 to be operated, for the construction and operation of a salmon hatchery.

25 (e) A qualified regional association formed under sec. 380 of this
26 chapter, if it has become a nonprofit corporation under AS 10.20, has a
27 preference right to a permit if its proposed hatchery is provided for in
28 the comprehensive plan for that region developed under sec. 375 of this
29 chapter. Any other [A] local nonprofit hatchery corporation [ESTABLISHED

1 OR APPROVED BY A QUALIFIED REGIONAL ASSOCIATION] has a secondary [AN
2 IDENTICAL] preference right.

3 (f) Except for permits issued before June 16, 1976, no permit may
4 be issued for construction or operation of a hatchery on an anadromous
5 fish stream unless the stream has been classified as suitable for en-
6 hancement purposes by the commissioner and the permit is approved by the
7 qualified regional association for the area in which the hatchery is to
8 be operated. The commissioner shall undertake to make such classifi-
9 cations in conjunction with the development of the comprehensive plan
10 under sec. 375 of this chapter.

11 * Sec. 3. AS 16.10.420(6) is amended to read:

12 (6) adult salmon be harvested by hatchery operators only at
13 specific locations as designated by the department and the qualified
14 regional association for the area in which the hatchery is operated;

15 * Sec. 4. AS 16.10.430(a) is amended to read:

16 (a) If a permit holder fails to comply with the conditions and
17 terms of the permit issued under secs. 400 - 470 of this chapter within
18 a reasonable period after notification of his noncompliance by the
19 department, his permit may be suspended or revoked, in the discretion of
20 the commissioner after the qualified regional association for the area
21 in which the hatchery is located is notified and granted an opportunity
22 to comment upon the proposed suspension or revocation.

23 * Sec. 5. AS 16.10.440(a) is amended to read:

24 (a) Fish released into the natural waters of the state by a
25 hatchery operated under secs. 400 - 470 of this chapter are available to
26 the people for common use and are subject to regulations under appli-
27 cable law in the same way as fish occurring in their natural state until
28 they return to the specific location designated by the department and
29 the qualified regional association for the area in which the hatchery is

1 located, for harvest by the hatchery operator.

2 * Sec. 6. AS 16.10 is amended by adding a new section to read:

3 Sec. 16.10.447. HARVEST OF SALMON RETURNING TO STATE-OPERATED
4 HATCHERIES. All salmon in excess of brood stock requirements returning
5 to state-operated hatcheries shall be harvested and disposed of by the
6 qualified regional associations of the area in which the state-operated
7 hatchery is located. If no qualified regional association exists in the
8 area, the proceeds from the sale in excess of the costs of harvesting
9 shall be deposited in the Alaska renewable resources permanent fund (AS
10 37.11.050 - 37.11.080).

11 * Sec. 7. AS 16.10.450 is amended to read:

12 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
13 hatchery operator who sells salmon returning from the natural waters of
14 the state, or sells salmon eggs to another hatchery operating under
15 secs. 400 - 470 of this chapter, after utilizing the funds for reason-
16 able operating costs, including debt retirement, [OR] expanding its
17 facilities, or for costs of operating the qualified regional association
18 for the area in which the hatchery is located, shall expend the remain-
19 ing funds on fisheries research, salmon rehabilitation projects, or
20 other fisheries activities. Fish returning to [SOLD BY] hatcheries
21 and sold for human consumption shall be of comparable quality to fish
22 harvested by commercial fisheries in the area, and shall be sold at
23 prices commensurate with the current market.

24 * Sec. 8. AS 16.10.470 is amended to read:

25 Sec. 16.10.470. ANNUAL REPORT. A person who holds a permit for
26 the operation of a salmon hatchery under secs. 400 - 470 of this chapter
27 shall submit an annual report to the department and to the qualified
28 regional association of the area in which the hatchery is located to
29 include but not be limited to

1 [(1) A COMPLETE DESCRIPTION OF ALL SIGNIFICANT HATCHERY
2 OPERATIONS;]

3 (2) statistics on the numbers of eggs and fish handled by the
4 hatchery, whether for production or sale[;

5 (3) FUTURE RECOMMENDATIONS FOR MODIFICATIONS OF THE HATCHERY
6 PROGRAM;

7 (4) ANY OTHER RELEVANT DATA REQUIRED BY THE DEPARTMENT].

8 * Sec. 9. AS 16.10.500 is amended to read:

9 Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the
10 state, under secs. 500 - 550 of this chapter, to promote the enhancement
11 of the state's fisheries by means of grants for organizational purposes
12 to regional associations which have qualified under sec. 380 of this
13 chapter, and by means of long-term, low interest loans for hatchery
14 planning, [AND] construction, and operation.

15 * Sec. 10. AS 16.10.510(1) is amended to read:

16 (1) make loans to permit holders, under secs. 400 - 470 of
17 this chapter, including those holders issued permits before the effec-
18 tive date of this Act, for the planning, [AND] construction, and opera-
19 tion of hatchery facilities;

20 * Sec. 11. AS 16.10.510 is amended by adding a new paragraph to read:

21 (9) make grants for organizational purposes to qualified
22 regional associations which have formed a nonprofit corporation in
23 amounts not exceeding \$150,000 per region.

24 * Sec. 12. AS 16.10.520(a) and (c) are amended to read:

25 (a) A single fisheries enhancement loan may not exceed \$3,000,000
26 for a hatchery constructed under a permit granted to a qualified re-
27 gional association which has formed a nonprofit corporation [, OR TO A
28 LOCAL NONPROFIT CORPORATION ESTABLISHED OR APPROVED BY A QUALIFIED
29 REGIONAL ASSOCIATION]. A loan for any other nonprofit hatchery corpor-

1 ation project may not exceed \$300,000.

2 (c) All loans must be secured by collateral satisfactory to the
3 commissioner, including but not limited to a first deed of trust,
4 assignment of lease and leasehold improvements, sale of surplus fish
5 from the hatchery, or assessments from the fishermen levied under
6 sec. 530 [SECS. 530 - 540] of this chapter.

7 * Sec. 13. AS 16.10.530(a) is repealed and re-enacted to read:

8 (a) The commissioner of commerce and economic development, on
9 request of the qualified regional association for the area in which the
10 assessment is to be levied, shall establish areas in which an assessment
11 shall be levied on the sale of one or more species of salmon by persons
12 licensed under AS 16.05.540 - 16.05.600. An assessment levied under
13 this section shall be for the purpose of providing revenue for the
14 qualified regional association for the area in which the assessment is
15 made. The rate and conditions of assessments shall be stated by the
16 appropriate qualified regional association in conjunction with the
17 request to the commissioner of commerce and economic development under
18 this subsection.

19 * Sec. 14. AS 16.10.530(c) and (d) are amended to read:

20 (c) The commissioner and the appropriate qualified regional asso-
21 ciation must agree on a means of collection of the assessment [BEFORE A
22 LOAN IS MADE,] and the commissioner may, by regulation, require its
23 collection by buyers of the salmon upon the sale of which an assessment
24 is levied.

25 (d) The assessment shall terminate upon request of the qualified
26 regional corporation when all financial obligations relating to the
27 loans have been met [THE PRINCIPAL AND INTEREST ON THE LOAN IS PAID].

28 * Sec. 15. AS 16.10.400(d) and 16.10.520(b) are repealed.

29 * Sec. 16. AS 16.10.510(8) is repealed and re-enacted to read:

1 (8) no repayment of principal may be required for an initial
2 period of six years, and the loan does not bear interest during that
3 period.

4 * Sec. 17. AS 16.10 is amended by adding new sections to read:

5 Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association
6 qualified under sec. 380 of this chapter as a regional association is
7 given the authority to form a regional salmon enhancement authority.
8 There is created with respect to each of the associations qualified
9 under sec. 380 of this chapter a public body corporate and politic as a
10 political subdivision of the state to function in the operating areas of
11 the individual associations. Each authority may exercise all powers
12 conferred by secs. 600 - 690 of this chapter.

13 (b) A regional salmon enhancement authority may not transact
14 business or exercise powers granted to it until the governing body of
15 the association has, by resolution, declared there is a need for the
16 authority to function, given it the authority to function and appointed
17 persons to serve as the board of commissioners of the authority. The
18 number of members of the board of commissioners, their terms of office
19 and the filling of vacancies in office shall be determined by resolution
20 of the governing body of the association.

21 (c) The regional salmon enhancement authority has jurisdiction to
22 operate in all or part of the operating area of the individual associa-
23 tion as determined by resolution of the governing body of the associa-
24 tion.

25 Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement author-
26 ity is exempt from payment of taxes or assessments for a period of 20
27 years from the effective date of this Act on property owned by the
28 authority which is used for salmon enhancement purposes.

29 (b) All obligations issued under secs. 600 - 690 of this chapter

1 are issued by a body corporate and public which is a political sub-
2 division of the state and for an essential public and governmental
3 purpose, and the obligations, and the interest and income on and from
4 the obligations, and all fees, charges, funds, revenues, income and
5 other money pledged or available to pay or secure the payment of the
6 obligations or interest are exempt from taxation for a period of 20
7 years from the effective date of this Act, except for transfer, inheri-
8 tance and estate taxes.

9 (c) All obligations or liabilities of a regional salmon enhance-
10 ment authority remain its own and are not obligations or liabilities of
11 the state.

12 Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement
13 authority has the general power to

- 14 (1) adopt, alter and use a corporate seal;
- 15 (2) prescribe, adopt, amend and repeal bylaws;
- 16 (3) sue and be sued in its own name;
- 17 (4) appoint officers, agents and employees and vest them with
18 powers and duties and to fix, change and pay compensation for their
19 services as the authority may determine;
- 20 (5) borrow money, make and issue bonds, notes and other
21 evidences of indebtedness of the authority for any of its corporate
22 purposes and to secure payment of its bonds and of other obligations
23 by pledge of or lien on all or any of its assets, contracts, revenue and
24 income;
- 25 (6) make and issue bonds for the purpose of funding, refund-
26 ing, purchasing, paying or discharging any of the outstanding bonds or
27 obligations issued or assumed by it or bonds or obligations the princi-
28 pal or interest of which is payable in whole or in part from its revenue;
- 29 (7) make and execute agreements, contracts and other instru-

1 ments necessary or convenient in the exercise of its powers and func-
2 tions, including contracts with any person, firm, corporation, government
3 agency or other entity;

4 (8) receive, administer and comply with the conditions and
5 requirements of an appropriation, gift, grant or donation of property or
6 money;

7 (9) invest or reinvest money or funds held by the authority
8 in obligations or other securities or investments in which banks or
9 trust companies in the state may legally invest funds held in reserves
10 or sinking funds or funds not required for immediate disbursement, and
11 in certificates of deposits or time deposits;

12 (10) acquire, hold, use, lease, sell or otherwise dispose of
13 property of any kind, real, personal or mixed or any interest in it;

14 (11) do all acts and things necessary, convenient or desirable
15 to carry out the powers granted or implied in secs. 600 - 690 of this
16 chapter;

17 (12) adopt, amend and repeal rules and regulations necessary
18 for the exercise and performance of its powers and duties.

19 Sec. 16.10.630. BONDS AND NOTES. (a) The authority, by board
20 of commissioners resolution, may issue bonds and bond anticipation notes
21 in order to provide funds to carry out and effectuate its purposes.

22 (b) The principal and interest on these bonds or notes is payable
23 from authority funds. Bond anticipation notes may be payable from the
24 proceeds of the sale of bonds or from the proceeds of sale of other bond
25 anticipation notes or, if bond or bond anticipation note proceeds are
26 not available, such notes may be paid from other funds or assets of the
27 authority. Bonds or notes may be additionally secured by a pledge of a
28 grant or contribution from the federal or state government, a corpora-
29 tion, association, institution or person, or a pledge of money, income,

1 or revenues of the authority from any source.

2 (c) Bonds or bond anticipation notes may be issued as provided by
3 board resolution, in one or more series and shall (1) be dated; (2) bear
4 interest at the prescribed rate per year or within the maximum rate; (3)
5 be in a certain denomination or form, either coupon or registered; (4)
6 carry the conversion or registration provisions; (5) have rank or
7 priority; (6) be executed in a certain manner and form; (7) be payable
8 from the sources in the medium of payment and place or places inside or
9 outside the state; (8) be subject to authentication by a trustee or
10 fiscal agent; and (9) be subject to terms of redemption, with or without
11 premium. Bond anticipation notes mature at a time determined by the
12 authority. Bonds mature at a time, not exceeding 50 years from the date
13 of their issuance, as determined by the authority. Before the prepara-
14 tion of definitive bonds or bond anticipation notes, the authority may
15 issue interim receipts or temporary bonds or bond anticipation notes,
16 without or without coupons, exchangeable for bonds or bond anticipation
17 notes when the definitive bonds or bond anticipation notes have been
18 executed and are available for delivery.

19 (d) Bond or bond anticipation notes may be sold in the manner, on
20 the terms, and at the price the authority determines.

21 (e) If an officer whose actual or facsimile signature appears on
22 any bonds or notes or coupons attached to them ceases to be an officer
23 before the delivery of the bond, note or coupon, his signature is valid
24 as if he had remained in office until delivery.

25 (f) In a resolution by the board of commissioners of the authority
26 authorizing or relating to the issuance of bonds or bond anticipation
27 notes, the authority may, with the holders of the bonds or bond antici-
28 pation notes,

29 (1) pledge to any payment or purpose all or any part of

1 revenues to which it is or will be entitled to and similarly pledge the
2 money derived from the revenues, and the proceeds of any bonds or notes;

3 (2) covenant against pledging all or any part of its revenues,
4 or against permitting or suffering a lien on the revenues or its pro-
5 perty;

6 (3) covenant as to the use and disposition of any and all
7 payments of principal or interest received by the authority on mortgage
8 loans, construction loans or other investments held by the authority;

9 (4) covenant as to establishment of reserves or sinking funds
10 and the making of provision for and the regulation and disposition of
11 the reserves or sinking funds;

12 (5) covenant with respect to or against limitations on a
13 right to sell or otherwise dispose of property of any kind;

14 (6) covenant as to bonds and notes to be issued, and their
15 limitations, terms and conditions, and as to the custody, application
16 and disposition of the proceeds of the bonds and notes;

17 (7) covenant as to the issuance of additional bonds or notes,
18 or as to limitations on the issuance of additional bonds or notes and
19 the incurring of the other debts;

20 (8) covenant as to the payment of the principal of or inter-
21 est on the bonds or notes, as to the sources and methods of the payment,
22 as to the rank or priority of the bonds or notes with respect to a lien
23 or security, or as to the acceleration of the maturity of the bonds or
24 notes;

25 (9) provide for the replacement of lost, stolen, destroyed or
26 mutilated bonds or notes;

27 (10) covenant against extending the time for the payment of
28 bonds or notes or interest on the bonds or notes;

29 (11) covenant as to the redemption of bonds or notes and

1 privileges of their exchange for other bonds or notes of the authority;

2 (12) covenant to create or authorize the creation of special
3 funds of money to be held in pledge or otherwise for operation expenses,
4 payment or redemption of bonds or notes, reserves or other purposes, and
5 as to use and disposition of the money held in the funds;

6 (13) establish the procedure, if any, by which the terms of
7 any contract or covenant with or for the benefit of the holders of bonds
8 or notes may be amended or abrogated, the amount of bonds or notes the
9 holders of which must consent to amendment or abrogation, and the manner
10 in which the consent may be given;

11 (14) covenant as to the custody of any of its properties or
12 investments, their safekeeping and insurance, and the use and disposi-
13 tion of insurance money;

14 (15) covenant as to the time or manner of enforcement or
15 restraint from enforcement of any rights of the corporation arising by
16 reason of or with respect to nonpayment of principal or interest of any
17 mortgage loans or construction loans;

18 (16) provide for the rights and liabilities, powers and duties
19 arising upon the breach of a covenant, condition or obligation, and to
20 prescribe the events of default and the terms and conditions upon which
21 any or all of the bonds, notes or other obligations of the authority
22 become or may be declared due and payable before maturity and the terms
23 and conditions upon which such a declaration and its consequences may be
24 waived;

25 (17) vest in a trustee or trustees inside or outside the state
26 property, rights, powers and duties in trust as the authority may
27 determine, which may include any or all of the rights, powers and duties
28 of a trustee appointed by the holders of bonds or notes, and to limit or
29 abrogate the right of the holders of bonds or notes of the authority to

1 appoint a trustee under secs. 600 - 690 of this chapter or limit the
2 rights, powers and duties of the trustee;

3 (18) pay the costs or expenses incident to the enforcement of
4 the bonds or notes or of the provisions of the resolution or of a
5 covenant or agreement of the authority with the holders of its bonds or
6 notes;

7 (19) agree with a corporate trustee which may be a trust
8 company or bank having the powers of a trust company inside or outside
9 the state as to the pledging or assigning of revenues or funds to which
10 or in which the authority has any rights or interest; and further pro-
11 vide for other rights and remedies exercisable by the trustee as may be
12 proper for the protection of the holders of any bonds or notes of the
13 authority and not otherwise in violation of law and may provide for the
14 restriction of the rights of an individual holder of bonds or notes of
15 the authority;

16 (20) appoint and provide for the duties and obligations of a
17 paying agent or other fiduciary, by resolution, inside or outside the
18 state;

19 (21) limit the rights of the holders of bonds or notes to
20 enforce a pledge or covenant securing bonds or notes;

21 (22) make covenants other than expressly authorized in this
22 section, of like or different character, and to make covenants as may be
23 necessary or desirable, to better secure bonds or notes or which, in the
24 discretion of the authority, will tend to make bonds or notes more
25 marketable, notwithstanding the fact that the covenants are not enumer-
26 ated in this section.

27 Sec. 16.10.640. VALIDITY OF PLEDGE. The pledge of assets or
28 revenues of the authority to the payment of the principal or interest of
29 obligations of the authority is valid and binding from the time the

1 pledge is made and assets or revenues pledged are immediately subject to
2 the lien of the pledge without physical delivery or further action. The
3 lien of a pledge is valid and binding against all parties having claims
4 of any kind in tort, contract or otherwise against the authority,
5 irrespective of whether those parties have notice of the lien of the
6 pledge. Nothing prohibits the authority from selling assets subject to
7 a pledge, except that a sale may be restricted by the trust agreement or
8 resolution providing for the issuance of the obligations.

9 Sec. 16.10.650. REMEDIES. A holder of obligations or coupons
10 attached to them issued under the provisions of secs. 600 - 690 of this
11 chapter, and a trustee under a trust agreement or resolution authorizing
12 the issuance of the obligations, if not restricted by the trust agree-
13 ment or resolution, either at law or in equity, may enforce all rights
14 granted under the coupons or under the trust agreement or resolution, or
15 under any other contract executed by the authority under secs. 600 - 690
16 of this chapter, and may enforce and compel the performance of all
17 duties required by secs. 600 - 690 of this chapter or by the trust
18 agreement or resolution to be performed by the authority or by an officer
19 of it.

20 Sec. 16.10.660. NEGOTIABLE INSTRUMENTS. All obligations and
21 interest coupons attached to the obligations are negotiable instruments
22 under the laws of this state, subject only to applicable registration
23 provisions.

24 Sec. 16.10.670. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
25 issued under the provisions of secs. 600 - 690 of this chapter are
26 securities in which all public officers and public bodies of the state
27 and its political subdivisions, all insurance companies, trust companies,
28 banking associations, investment companies, executors, administrators,
29 trustees and other fiduciaries may properly and legally invest funds,

1 including capital in their control or belonging to them. These obliga-
2 tions may be deposited with the state or municipal officer of an agency
3 or political subdivision of the state for any purpose for which the
4 deposit of bonds, notes or obligations of the state is authorized by
5 law.

6 Sec. 16.10.680. REFUNDING OBLIGATIONS. (a) The authority may
7 provide for the issuance of refunding obligations for the purpose of re-
8 funding obligations then outstanding which have been issued under the
9 provisions of secs. 600 - 690 of this chapter, including the payment of
10 redemption premium on them and interest accrued or to accrue to the date
11 of redemption of the obligations. The issuance of the obligations, the
12 maturities and other details of them, the rights of the holders of them,
13 and the rights, duties and obligations of the authority in respect of
14 them are governed by the provisions of secs. 600 - 690 of this chapter
15 which relate to the issuance of appropriate obligations.

16 (b) Refunding obligations may be sold or exchanged for outstanding
17 obligations issued under secs. 600 - 690 of this chapter. If sold, the
18 proceeds may be applied, in addition to other authorized purposes, to
19 the purchase, redemption or payment of the outstanding obligations.
20 Pending the application of the proceeds of any such refunding obligations,
21 with any other available funds, to the payment of the principal (accrued
22 interest and any redemption premium on the obligations being refunded,
23 and, if so provided or permitted in the resolution authorizing the
24 issuance of the refunding obligations or in the trust agreement securing
25 them, to the payment of any interest on the refunding obligations and
26 any expenses in connection with the refunding), the proceeds may be
27 invested in direct obligations of, or obligations the principal of and
28 the interest on which are unconditionally guaranteed by, the United
29 States of America which mature or which will be subject to redemption,

1 at the option of the holders of them, not later than the respective
2 dates when the proceeds, together with the interest accruing on them,
3 will be required for the purposes intended.

4 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued
5 under the provisions of secs. 600 - 690 of this chapter do not consti-
6 tute a debt, liability or obligation of the state or of any other
7 political subdivision of the state or a pledge of the faith and credit
8 of the state or a political subdivision of the state but are payable
9 solely from the revenues or assets of the authority. Each obligation
10 issued under secs. 600 - 690 of this chapter shall contain on its face a
11 statement that the authority is not obligated to pay it nor the interest
12 on it except from the revenues or assets pledged for it and that neither
13 the faith and credit nor the taxing power of the state or of a political
14 subdivision of the state is pledged to the payment of the principal of
15 or interest on the obligation.

16 * Sec. 18. This Act takes effect immediately in accordance with AS 01.10.-
17 070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 264
 Title An Act relating to fisheries enhancement
 Requested by Rep. Terry Gardiner Date 2/28/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
 Program Category Affected Development
 Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	<u>NONE</u>					
	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	<u>NONE</u>					
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	<u>NONE</u>					
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact.

IV. DATE 3/1/77 PREPARED BY Pete Jeans
 AGENCY Division of Business Loans
 PHONE 465-2525
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

497

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CSHB 264 (Finance)
 Title An Act Relating to Fisheries Enhancement
 Requested by House Finance Committee Date April 5, 1977

II. FISCAL DETAIL
 Agency Affected Commerce & Economic Development
 Program Category Affected Development
 Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	900.0	900.0				
TOTAL						

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	900.0	900.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 77: Grants in the amount of \$900,000 shall cover six regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim, and Prince William Sound. \$900,000 allows \$100,000 per region attempting to organize and to Prince William Sound (6 regions x \$100.0 = \$600.0) and a second matching-assessment grant for three regions (3 regions x \$100.0 = \$300.0).

FY 78: Calculated as above, anticipating that an additional six regions will organize.

IV. DATE 4/5/77 PREPARED BY Alison Farnan for House Finance Comm.
 AGENCY Fiscal Analyst, Legislative Finance
 PHONE 465-3795
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

March 23, 1977

The Honorable Terri Gardner
Alaska State Representative
State Capitol
Juneau, Alaska 99811

Dear Representative Gardner:

Re: Senate Bill 39 - an Act Authorizing the
Creation of Salmon Enhancement Authorities
and Providing for an Effective Date

You have requested the Department of Revenue to review the proposed Senate Bill 39 and point out our concerns on the bill. Subsequently the Department has requested Mr. Eric Wohlforth of the firm of Wohlforth and Flint to review Senate Bill 39 and respond to us in writing.

Mr. Wohlforth's response indicates that there were some legal questions concerning the creation of an authority as a "political subdivision" of the State and that that wording should probably be amended to read something similar to an "authority as a public corporation and body politic" or words similar to that effect. Mr. Wohlforth indicates that the creation of political subdivisions may not be constitutional. With that in mind I would suggest that the committees working on the bill draft amendments which remove the "political subdivision" clause. The response also points out a problem with the delegation of powers to the proposed authorities. The committee may have to consider amending this section as well.

If you have any questions concerning this memorandum or the comments in the bill please don't hesitate to contact me.

Sincerely,

Jim Edenso
Deputy Commissioner

JE:ge

Enclosures

cc: The Honorable Jalmar Kerttula
Mr. Bob Palmer
Mr. Eric Wohlforth

LAW OFFICES

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ERIC E. WOHLFORTH
ROBERT B. FLINT
TIMOTHY G. MIDDLETON

TELEPHONE
AREA CODE 907
274-2519
272-9489

M E M O R A N D U M

TO: Jim Edenso, Deputy Commissioner of Revenue
FROM: Timothy G. Middleton, Wohlforth & Flint *JLM*
DATE: March 17, 1977

You have asked in your letter of March 10, 1977 some questions concerning Senate Bill No. 39, which could create Salmon Enhancement Authorities. Specifically, you have asked:

1. If the State would be liable for obligations issued by the authorities should they default?
2. Would these authorities affect the State's credit rating?

Before addressing your questions I feel compelled to address some underlying questions as to the very inception of these entities. The Supreme Court of Alaska has consistently held that "statewide" authorities are creatures of, and instrumentalities of the State but having a legal existence of their own. This is based on rather specific language found in enabling legislation. For example, in DeArmond v. Alaska State Development Corporation, 376 P2d 717 (Alaska, 1962) the Court said at 724:

The fact that the statute declares that the corporation shall have a legal existence independent of and separate from the State does not add weight to appellant's argument. This is nothing more than a declaration of the legal relationship that most corporations have with respect to their creators.

These authorities, ASHA, AHFC, ASMA, ASDC, and more recently AMBBA, cannot and have not obligated the "State" on their numerous bond issues. The bill here however, does not create another such authority. Rather it purports to create a political subdivision.

Memorandum
March 17, 1977
Page Two

IMPERMISSIBLE CREATION OF ANOTHER
POLITICAL SUBDIVISION

The classification by the bill of this entity as a "political subdivision" is probably impermissible. The Alaska Constitution, Article X, Section 2 says, "All local government powers shall be vested in boroughs and cities." While this section does not mention the term "political subdivision", it is clear that the term means boroughs and cities in this State. Certainly, for example, an authority mentioned in the paragraph above, is not a "political subdivision". See City of Nome v. Block H, Lots 5, 6, & 7, 502 P2d 124 (Alaska, 1972). Also, throughout the finance and taxation article (Article IX) of the Constitution the term "political subdivision" is mentioned. The point here is that the legislature cannot create another species of political subdivision. This is buttressed by Section 1, Article X, wherein it is said the purpose of the Article is to provide for a minimum of local government units. Finally, that a political subdivision is a city or borough is supported by case law, e.g.,:

Attributes which are generally regarded as distinctive of "political subdivisions" . . . are that it exists for purpose of discharging some function of local government, that it has prescribed area, and that it possesses authority for subordinate self government by officers selected by it. McClanahan v. Cochise College, 540 P2d 744, 747.

These entities whatever they are, cannot be political subdivisions.

IMPROPER DELEGATION OF GOVERNMENTAL POWERS

If the entities created are not political subdivisions, notwithstanding the appellation as such contained therein, then the bill probably constitutes an invalid delegation of governmental power to a private body, i.e., the regional association which has the authority to create them and choose the boards of directors. The bill purports to create a "public body" corporate and political, yet the powers to

Memorandum
March 17, 1977
Page Three

create and to appoint officers therefor is delegated to a private organization. The bill also sets up so-called governmental purposes to be carried out by those entities. It is a pretty well established tenet of Constitutional law that a legislature may not delegate its legislative power to a private body or private person. Potter v. State, 509 P2d 933, (Oklahoma, 1973); and Blumenthal v. Board of Medical Examiners, 368 P2d 101, Cal Reprtr 501, (California, 1962). While the appointment selection of a board of directors may be an executive function, (probably also impermissible) the determination of the need for such an authority is legislative.

Because the bill provides that the authority is created by and officers selected by a private body, the regional association, means it could not qualify as a "constituted authority" under IRS proposed regulations entitling it to issue bonds the interest on which is tax exempt. This is because of the lack of either organizational or supervisory control over such an entity by the State. The Internal Revenue Code and regulations also has requirements to qualify as a political subdivision which these authorities might not meet, even if other problems were absent.

In summary, there appear to be some basic constitutional infirmities with the bill. Absent these infirmities, the State could insulate itself from liability just as it has with State created and State organized and controlled authorities. The bill, of course, provides language which would accomplish this.

Your second question dealt with the State's credit rating. This is not a legal question but a financial one. It would depend, I'm certain, on the facts of each case, including number of authorities defaulting and amount of money involved etc. It is certainly conceivable the State's credit rating could be diminished.

TGM: jr

GOVERNMENT
ASSOCIATION

ERIC E. WOHLFORTH
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RECEIVED
MAR 23 1977
TELEPHONE
AREA CODE 907
274-2519
272-9489

March 18, 1977

ALASKA DEPARTMENT OF REVENUE
TREASURY DIVISION

Mr. James Edenso
Deputy Commissioner
State of Alaska
Department of Revenue
Pouch SB
Juneau, Alaska 99810

RE: S.B. No. 39 "An Act Authorizing
the Creation of Salmon Enhance-
ment Authorities and Providing
for an Effective Date"

Dear Jim,

I enclose a copy of a memorandum prepared by Timothy G. Middleton from this office, dealing with the questions of the use of the term "political subdivision" in the creation of the salmon enhancement authorities and the question of the constitutionality of permitting a private body to create a public body or a political subdivision.

As is clear from the memorandum, the infirmity of creating the authority as a "political subdivision" can probably be readily cured by simply using the language from other State public corporation and authority acts creating such bodies "as a public corporation and body politic" or words to that effect. The delegation point is a more substantial one which I think is clear from the memorandum.

Additionally, I would note that the ultimate ability of such an authority to finance hatchery facilities depends upon the validity of its powers pursuant to A.S. 16.10.530 pursuant to which assessments may be levied on the sale of salmon. We have not specifically addressed this question as we assumed it was addressed by the Department of Law at the time of enactment of A.S. 16.10.375 to A.S. 16.10.475. Ultimately, of course, there would have to be bond holder assurance that the assessments agreed to be levied were required to be paid by persons selling salmon.

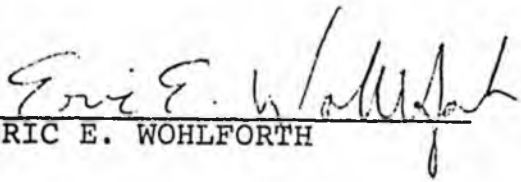
Beyond this we would suggest that financial advice be taken at an early stage by the appropriate legislative body to determine whether or not there is a reasonable possibility that publically offered bonds by an enhancement authority would be saleable based upon the security of the assessments

to be levied. Advice of this nature taken from a qualified source at an early stage could help result in the formulation of a statutory scheme. We note that CS House Bill 264 received this morning, deals with the same subject matter. We have not yet had an opportunity to analyze this bill.

I hope these comments are responsive to your letter of inquiry of March 10, 1977, and we are available for further consultation if you wish.

Very truly yours,

WOHLFORTH & FLINT

BY: 
ERIC E. WOHLFORTH

EEW/cro
Enclosure: One

HB 264

94TH CONGRESS
2D SESSION

H. R. 14695

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 1976.

Mr. LEGGETT (for himself, Mrs. SULLIVAN, Mr. FORSYTHE, Mr. BREWEN, Mr. MOSHER, Mr. MURPHY of New York, Mr. EMERY, Mr. YOUNG of Alaska, Mr. DE LA GARZA, Mr. DE LUCA, Mr. OBERSTAR, Mr. ANDERSON of California, Mr. LENT, Mr. GINN, Mr. McCOIN, Mr. ROGERS, Mr. RINALDO, Mr. DU PONT, Mr. STUDDS, Mr. DOWNING of Virginia, Mr. BONKER, Mr. BIAGGI, and Mr. PRITCHARD) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To provide for the development of aquaculture in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "National Aquaculture"
4 Organic Act of 1976".

5 SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

6 (a) The Congress finds that—

7 (1) the world production of seafood has declined
8 since 1970 and that the harvest of some populations of

1 fish and shellfish have exceeded levels of maximum sus-
2 tainable yield;

3 (2) certain stocks of fish and shellfish of importance
4 to the United States are depleted, or are declining, and
5 such depletion or decline has an undesirable impact on
6 both commercial and recreational fisheries;

7 (3) there is an extensive market for seafood in
8 the United States, but the United States imports 50
9 percent of its fish and shellfish for human consumption
10 (which imports are ten times the level of exports), and
11 this dependence on imports as a source of protein makes
12 it difficult to insure continuous supplies and suggests
13 that alternatives such as aquaculture be developed;

14 (4) aquaculture is contributing significantly to the
15 economies of many countries; for example, Japan and
16 Czechoslovakia rely on aquaculture for over 10 percent
17 of their total fisheries production, whereas less than 3
18 percent of the United States fisheries production results
19 from aquaculture;

20 (5) the stocking of advanced life stages of fish
21 and shellfish produced by aquaculture is a means of re-
22 building and augmenting fish and shellfish populations
23 and establishing new fisheries;

24 (6) the application of aquaculture technology offers
25 opportunities for the recovery of wasted thermal energy,

1. . . . nutrients, and other resources, and may be a more effi-
2 . . . cient use of energy for food production than current
3 . . . methods of agriculture;
4 . . . (7) lands and waters, whether fresh, brackish, or
5 . . . marine, which are suitable for aquaculture are diminish-
6 . . . ing, and those which are so suitable are underutilized;
7 . . . (8) current efforts to develop aquaculture in the
8 . . . United States are highly diffuse, and a strong commit-
9 . . . ment by the Federal Government could make aquacul-
10 . . . ture more efficient and competitive, thereby stimulating
11 . . . public and private investment and development; and
12 . . . (9) while some scientific and technological prob-
13 . . . lems are unsolved, there is sufficient knowledge to fur-
14 . . . ther the development of aquaculture production systems
15 . . . for many species of fish and shellfish.

16 . . . (b) The purposes of this Act are to promote commer-
17 . . . cial aquaculture in the United States by establishing and
18 . . . implementing a national plan for aquaculture in order to de-
19 . . . velop programs and to encourage activities which will result
20 . . . in the coordination of domestic aquaculture efforts, the con-
21 . . . servation and increased availability of fisheries resources, the
22 . . . creation of new industries and job opportunities, and other
23 . . . national benefits.

24 SEC. 3. DEFINITIONS.

25 As used in this Act—

(1) The term "appropriate Secretary" means the Secretary of Commerce or the Secretary of the Interior as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970.

(2) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments.

(3) The term "aquaculture facility" means any land, structure, or other appurtenance used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(4) The term "aquatic species" means any species of finfish, mollusk or crustacean (or other invertebrate), amphibian, reptile, or aquatic plant, but does not mean any species of finfish or aquatic plant primarily used for ornamental purposes.

(5) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 10.

(6) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, or other entity organized or existing under the laws of any State.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of

1 Puerto Rico, American Samoa, the Virgin Islands,
2 Guam, and any other Commonwealth, territory, or
3 possession of the United States.

4 (8) The term "United States", when used in a
5 geographical context, means all States.

6 SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

7 (a) (1) Before the close of the 1-year period be-
8 ginning on the date of the enactment of this Act, the Sec-
9 retary of Commerce shall by regulation establish a National
10 Aquaculture Development Plan (hereinafter in this Act
11 referred to as the "plan"). The Secretary shall give inter-
12 ested persons an opportunity to participate in the rulemaking
13 (with opportunity for oral presentation) with respect to the
14 plan in such areas of the United States as he deems appro-
15 priate.

16 (2) (A) After consultation with the Secretary of the
17 Interior, the Secretary of Commerce shall establish, and
18 appoint members of such advisory committees as he deems
19 appropriate to assist in the initial development of the plan.
20 Persons appointed to such committees shall be knowledge-
21 able or experienced in the principles or practices of aqua-
22 culture.

23 (B) While away from their homes or regular places of
24 business in the performance of services on any advisory
25 committee established pursuant to paragraph (2) (A),

1 members of the committee shall be allowed travel expenses,
 2 including per diem in lieu of subsistence, in the same manner
 3 as persons employed intermittently in the Government serv-
 4 ice are allowed expenses under section 5703 (b) of title 5
 5 of the United States Code.

6 (b) The plan shall—

7 (1) identify each aquatic species (hereafter re-
 8 ferred to in this Act as "priority aquatic species") which
 9 the appropriate Secretary determines can be cultured
 10 on a commercial basis, after taking into account—

11 (A) the extent of commercial aquaculture, if
 12 any, currently being carried out with respect to such
 13 species, and the projected economic feasibility of
 14 culturing such species;

15 (B) the extent to which aquaculture research
 16 and development have been undertaken, within the
 17 public and private sectors, with respect to such
 18 species;

19 (C) the time and resources which will be re-
 20 quired to develop aquaculture technology to the
 21 point where the species can be cultured on a com-
 22 mercial basis; and

23 (D) such other factors as such Secretary deter-
 24 mines to be appropriate; and

25 (2) contain a program of aquaculture development

1. prepared by the appropriate Secretary for each priority
 2. aquatic species.

3. (c) The program contained in the plan for each priority
 4. aquatic species shall set forth those actions which the appro-
 5. priate Secretary determines should be undertaken, and the
 6. period of time within which each such action should be
 7. completed, to provide for the culture of each such spe-
 8. cies on a commercial basis. Such actions, with respect to each
 9. priority aquatic species, shall include—

10. (1) such research and development as may be nec-
 11. essary and appropriate regarding—

12. (A) aquaculture facility design and operation,

13. (B) water quality management,

14. (C) utilization of waste products (including
 15. thermal effluents),

16. (D) nutrition and the development of economi-
 17. cal feeds; and

18. (E) life history, genetics, physiology, and
 19. pathology and disease control, (including research
 20. regarding organisms which may not be harmful to
 21. fish and shellfish but are injurious to humans);

22. (2) research with respect to processing and market
 23. development;

24. (3) research with respect to production manage-
 25. ment and quality control;

(4) the construction, purchase, lease, or acquisition
of necessary developmental aquaculture facilities; and
(5) such other actions as such Secretary deems
necessary and appropriate.

(d) In preparing a program under the plan for any
priority aquatic species, and in reviewing any such program
pursuant to subsection (e), the appropriate Secretary shall,
to the extent practicable, take into account any significant
action which has been, or which is proposed to be, under-
taken by any other Federal or State agency or by any
person, which may affect the accomplishment of the pro-
gram.

(e) (1) The appropriate Secretary shall review on an
annual basis—

(A) each aquatic species not identified as a priority
aquatic species; and

(B) the program established under the plan for
each priority aquatic species to determine whether the
actions specified in the program are being accomplished
on a successful and timely basis.

(2) If as a result of the review conducted pursuant
to paragraph (1) (A), the appropriate Secretary finds that
any aquatic species can be cultured on a commercial basis
after taking into account the criteria set forth in subsection
(b) (1), the Secretary of Commerce shall by regulation

1 amend the plan to identify such species as a priority aquatic
 2 species and establish a program for such species pursuant
 3 to subsection (c).

4 (3) If as a result of the review conducted pursuant to
 5 paragraph (1) (B), the appropriate Secretary finds that—

6 (A) any action so specified should be revised, such
 7 Secretary shall make such revision as he deems neces-
 8 sary and appropriate; or

9 (B) sufficient progress is not being made with re-
 10 spect to any such program or that actions taken under
 11 any such program indicate that culture of the priority
 12 aquatic species concerned on a commercial basis is doubt-
 13 ful, such Secretary shall cancel the program.

14 The Secretary of Commerce shall by regulation amend the
 15 plan whenever any revision or cancellation is made pursuant
 16 to this subsection.

17 SEC. 5. FUNCTIONS.

18 (a) The appropriate Secretary shall—

19 (1) implement the plan established pursuant to
 20 section 4;

21 (2) provide advisory, educational, and technical
 22 services (including training) with respect to aquaculture
 23 to interested public and private organizations and indi-
 24 viduals; but in providing such services, shall, to the
 25 maximum extent practicable, avoid duplication of like

1. services regarding aquaculture which are provided by
2. other Federal agencies;

3. (3) consult and cooperate with interested persons,
4. Federal, State, and local government agencies, regional
5. commissions, and educational institutions regarding the
6. development of aquaculture technology;

7. (4) identify legal and regulatory constraints which
8. inhibit the development of aquaculture; and

9. (5) prescribe such regulations as may be necessary
10. to carry out the provisions of this Act.

11. (b) The appropriate Secretary may—

12. (1) for the purpose of assessing the economic
13. feasibility of any aquaculture system—

14. (A) conduct scale tests of the system, and, if
15. necessary for the conduct of any such test, construct,
16. operate, and maintain developmental aquaculture
17. facilities, and

18. (B) conduct such other tests or analyses as
19. may be necessary;

20. (2) develop methods to enhance natural fish and
21. shellfish stocks by aquaculture; and

22. (3) carry out such studies and research with re-
23. spect to aquatic species as may be appropriate regard-
24. less of whether such species is or has been identified as
25. a priority aquatic species; and

1. (4) take such other actions as he deems necessary
2 and appropriate to carry out the purposes of this Act.

3. (c) In addition to carrying out such other functions
4 as are required of him by this Act, the Secretary of Com-
5 merce shall—

6 (1) establish and maintain an aquaculture infor-
7 mation center which shall function as a national clear-
8 ouse for the collection, selection, analysis, and dis-
9 semination of scientific, technical, legal, and economic
10 information relating to aquaculture;

11 (2) maintain an inventory of public and private
12 aquaculture being carried out in the United States with
13 respect to each aquatic species, which shall include, but
14 shall not be limited to, information on acreages, water
15 use, production, and culture techniques;

16 (3) arrange for the mutual exchange of informa-
17 tion relating to aquaculture with foreign nations; and

18 (4) submit to Congress, before February 1 of each
19 year, a report on the implementation of the provisions

20 of this Act during the immediately preceding fiscal
21 year, which report may include any recommendation

22 (including suggested legislation) which in his opinion

23 is necessary and appropriate to achieve further the pur-

24 poses of this Act.

1: SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES
2: . . . REGARDING AQUACULTURE.

3: (a) (1) There is established the Interagency Commit-
4: tee on Aquaculture (hereafter in this Act referred to as the
5: "Committee") which shall be composed of the following
6: officers or their designees:

7: (A) The Secretary of Commerce, who shall be the
8: Chairman of the Committee.

9: (B) The Secretary of the Interior.

10: (C) The Secretary of Agriculture.

11: (D) The Administrator of the Environmental Pro-
12: tection Agency.

13: (E) The Administrator of the Energy Research
14: and Development Administration.

15: (F) The Commissioner of Food and Drugs.

16: (G) The chief executive officer of any other Fed-
17: eral agency which the Secretary of Commerce finds to
18: have significant functions which relate, or may relate,
19: to the development and implementation of aquaculture.

20: (2) The functions of the Committee shall be—

21: (A) to insure that there is a continuing exchange
22: of information, among the agencies represented on the
23: Committee with respect to the nature and status of the
24: programs or projects being carried out by such agencies

1 . which relate, or which may apply, to aquaculture in
2 :general or to the implementation of the plan; and

3 . (B) to review on a continuing basis the relevant
4 programs and projects of all Federal agencies to deter-
5 mine whether they are being carried out in compliance
6 with subsection (b).

7 (b) Each Federal agency which has any function or
8 responsibility with respect to aquaculture or has jurisdiction
9 over any activity which affects (or may affect) the achieve-
10 ment of the purposes of this Act, shall, in consultation with
11 the appropriate Secretary and to the maximum extent prac-
12 ticable, carry out such function, responsibility, and activity
13 in a manner which is consistent with the purposes of this
14 Act.

15 (c) Nothing in this Act shall be construed to amend,
16 repeal, or otherwise modify the authority of any Federal
17 officer or any Federal agency to carry out any functions
18 relating to aquaculture which are authorized under any other
19 provision of law.

20 **SEC. 7. CONTRACTS AND GRANTS.**

21 (a) The appropriate Secretary may carry out any func-
22 tion under this Act (other than any function under section
23 4 relating to the identification of priority aquatic species and
24 the preparation of plan programs for such species) through

1 grants to, or contracts with, any other Federal agency, any
2 agency of any State or political subdivision thereof, any
3 regional commission, any educational institution, or any
4 person.

5 (b) Any contract entered into, or any grant made,
6 pursuant to this section shall contain such conditions and
7 limitations as the appropriate Secretary shall by regulation
8 prescribe as being necessary and appropriate to protect the
9 interests of the United States; except that no contract may
10 be entered into, and no grant may be made, pursuant to this
11 section unless the applicant submits with his application
12 therefor a certification from each appropriate State agency
13 and each appropriate local government agency stating that
14 nothing in the laws administered by such agency prevents
15 the carrying out of the project to which the contract or
16 grant will be applied.

17 (c) The amount of any grant made pursuant to this
18 section may not exceed one-half of the estimated cost of the
19 project for which the grant is made.

20 (d) Any person who receives a grant or contract under
21 this section shall make available to the Secretary and to
22 the Comptroller General of the United States, or any of
23 their authorized representatives, for purposes of audit and
24 examination, any books, documents, papers, and records that

1 are pertinent to the funds received by such person under
2 such grant or contract.

3 SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR
4 AQUACULTURE FACILITIES.

5 (a) (1) The Secretary may, subject to the provisions
6 of this section, guarantee, or make a commitment to guaran-
7 tee, the payment of interest on, and the principal amount
8 of, any obligation issued by an obligor for any of the follow-
9 ing purposes:

10 (A) The financing of the construction, reconstruc-
11 tion, or reconditioning of any aquaculture facility within
12 the United States (including the financing of the pur-
13 chase cost of any aquaculture facility to be reconstructed
14 or reconditioned); except that no obligation may
15 be guaranteed under this section later than 2 years after
16 the date of the completion of the construction, recon-
17 struction, or reconditioning of the aquaculture facility
18 involved.

19 (B) The financing of the initial operating expenses
20 of any aquaculture facility within the United States.

21 (C) The refinancing of any existing obligation
22 issued for any of the purposes specified in subparagraph
23 (A) or (B), whether or not guaranteed under this
24 section, including, but not limited to, any short-term

1 obligation incurred for the purpose of obtaining tem-
2 porary funds for refinancing.

3 (2) The full faith and credit of the United States is
4 pledged to the payment of all guarantees made under this
5 section with respect to both principal and interest, including
6 any interest, if provided for in the guarantee, which may
7 accrue between the date of default under a guaranteed obli-
8 gation and the payment in full of the guarantee.

9 (3) Any guarantee, or commitment to guarantee, made
10 by the Secretary under this section shall be conclusive evi-
11 dence of the eligibility of the obligations for such guarantee,
12 and the validity of any guarantee, or commitment to guaran-
13 tee, so made shall be incontestable.

14 (4) The aggregate unpaid principal amount of all obli-
15 gations guaranteed under this section and outstanding at
16 any one time shall not exceed \$100,000,000.

17 (b) (1) Obligations guaranteed under this section—
18 (A) shall have an obligor approved by the Secre-
19 tary as being responsible and possessing the ability, ex-
20 perience, financial resources, and other qualifications
21 necessary for the adequate operation and maintenance of
22 the aquacultural facilities;

23 (B) shall be in an aggregate principal amount
24 which does not exceed 87½ percent of the actual cost

1 involved or the depreciated actual cost, as determined
2 by the Secretary;

3 (C) shall have maturity dates satisfactory to the
4 Secretary, but not to exceed 25 years;

5 (D) shall provide for payments by the obligor
6 satisfactory to the Secretary; and

7 (E) shall bear interest (exclusive of charges for
8 the guarantee and service charges, if any) at rates not
9 to exceed such percentage per annum on the unpaid prin-
10 cipal as the Secretary determines to be reasonable, tak-
11 ing into account the range of interest rates prevailing in
12 the private market for similar loans and the risks as-
13 sumed by the Secretary.

14 (2) No obligation shall be guaranteed under this sec-
15 tion unless the obligor conveys or agrees to convey to the
16 Secretary such security interest as the Secretary may re-
17 quire to reasonably protect the interests of the United
18 States.

19 (c) (1) The Secretary may charge a fee for any obli-
20 gation guaranteed under this section, the amount of which
21 shall be established by the Secretary by regulation but
22 which may not exceed one-half of 1 percent per annum of
23 the outstanding principal balance of the obligation. Fee
24 payments shall be made by the obligor to the Secretary

1 when moneys are first advanced under a guaranteed obliga-
2 tion and at least 60 days before each anniversary date
3 thereafter.

4 (2) The Secretary shall charge and collect from the ob-
5 ligor such amounts as he may deem reasonable for the in-
6 vestigation of the application for any guarantee, for the
7 appraisal of properties offered as security for any guarantee,
8 and for the inspection of such properties during construc-
9 tion, reconstruction, or reconditioning; except that such
10 charges shall not aggregate more than one-half of 1 percent
11 of the original principal amount of the obligation to be
12 guaranteed.

13 (3) All fees and other amounts received by the Secre-
14 tary under the provisions of this subsection shall be de-
15 posited in the Fund.

16 (4) Obligations guaranteed under this section, and
17 agreements relating thereto, shall contain such other provi-
18 sions with respect to the protection of the security interests
19 of the United States (including acceleration and subroga-
20 tion provisions and the issuance of notes by the obligor to
21 the Secretary), liens and releases of liens; payments of
22 taxes, and such other matters as the Secretary may prescribe;

23 (d) (1) In the event of a default, which has continued
24 for 30 days; in any payment by the obligor of principal or
25 interest due under any obligation guaranteed under this

1 section, the obligee or his agent shall have the right to
2 demand, at or before the expiration of such period as may
3 be specified in the guarantee or related agreements, but not
4 later than 90 days from the date of such default, payment
5 by the Secretary of the unpaid principal amount of said
6 obligation and of the unpaid interest thereon to the date
7 of payment. Within such period as may be specified in the
8 guarantee or related agreements, but not later than 30 days
9 from the date of such demand, the Secretary shall promptly
10 pay to the obligee or his agent the unpaid principal amount
11 of the obligation and unpaid interest thereon to the date of
12 payment; except that the Secretary shall not be required
13 to make such payment if before the expiration of such period
14 he finds that there was no default by the obligor in the pay-
15 ment of principal or interest or that such default has been
16 remedied before any such demand.

17 (2) Payments required to be made by the Secretary
18 under paragraph (1) shall be made by the Secretary from
19 moneys which may be appropriated to the Fund or obtained
20 from the Secretary of the Treasury pursuant to paragraph
21 (5).

22 (3) In the event of any payment by the Secretary
23 under paragraph (1), the Secretary shall have all rights in
24 any security held by him relating to his guarantee of such
25 obligations as are conferred upon him under any security

1 agreement with the obligor. Notwithstanding any other pro-
2 vision of law relating to the acquisition, handling, or disposal
3 of property by the United States, the Secretary may, under
4 such terms and conditions as the Secretary prescribes or
5 approves, complete, recondition, reconstruct, renovate, re-
6 pair, maintain, operate, or sell any property acquired by
7 him pursuant to a security agreement with the obligor.

8 (4) After any default referred to in paragraph (1),
9 the Secretary shall take such action against the obligor or
10 any other parties liable thereunder that, in his discretion, may
11 be required to protect the interests of the United States.
12 Any suit may be brought in the name of the United States
13 or in the name of the obligee and the obligee shall make
14 available to the United States all records and evidence neces-
15 sary to prosecute any such suit. The Secretary may accept
16 a conveyance of title to and possession of property from the
17 obligor or other parties liable to the Secretary and may pur-
18 chase the property for an amount not greater than the un-
19 paid principal amount of such obligation and interest there-
20 on. In the event the Secretary receives through the sale of
21 property an amount of cash in excess of any payment made
22 to an obligee under paragraph (1) and the expenses of
23 collection of such amounts, he shall pay such excess to the
24 obligor.

25 (5) If at any time the moneys in the Fund are not

1 sufficient to pay any amount the Secretary is obligated to
2 pay under paragraph (1), the Secretary shall issue to the
3 Secretary of the Treasury notes or other obligations (only
4 to such extent and in such amounts as may be provided for
5 in appropriation Acts); in such forms and denominations,
6 bearing such maturities, and subject to such terms and con-
7 ditions as the Secretary of the Treasury prescribes. Such
8 notes or other obligations shall bear interest at a rate deter-
9 mined by the Secretary of the Treasury, taking into consid-
10 eration the current average market yield on outstanding
11 marketable obligations of the United States of comparable
12 maturities during the month preceding the issuance of such
13 notes or other obligations. The Secretary of the Treasury
14 shall purchase any notes and other obligations to be issued
15 hereunder and for such purpose he may use as a public debt
16 transaction the proceeds from the sale of any securities issued
17 under the Second Liberty Bond Act, as amended, and the
18 purposes for which securities may be issued under such Act,
19 as amended, are extended to include any purchases of such
20 notes and obligations. The Secretary of the Treasury at any
21 time may sell any of the notes or other obligations acquired
22 by him under this paragraph. All redemptions; purchases;
23 and sales by the Secretary of the Treasury of such notes
24 or other obligations shall be treated as public debt trans-
25 actions of the United States. Moneys borrowed under this

1 paragraph shall be deposited in the Fund and redemptions
2 of such notes and obligations shall be made by the Secretary
3 from such Fund.

4 (G) Whoever, for the purpose of obtaining any loan
5 or advance of credit from any person with the intent that
6 an obligation relating to such loan or advance of credit shall
7 be offered to or accepted by the Secretary to be guaranteed,
8 or for the purpose of obtaining any extension or renewal of
9 any loan, advance of credit, or mortgage relating to an
10 obligation guaranteed by the Secretary, or the acceptance,
11 release, or substitution of any security on such a loan,
12 advance of credit, or for the purpose of influencing in any
13 way the action of the Secretary under this section, makes,
14 passes, utters, or publishes, or causes to be made, passed,
15 uttered, or published any statement, knowing the same to be
16 false, or alters, forges, or counterfeits, or causes or procures
17 to be altered, forged, or counterfeited, any instrument, paper,
18 or document, or utters, publishes, or passes as true, or causes
19 to be uttered, published, or passed as true, any instrument,
20 paper, or document, knowing it to have been altered, forged,
21 or counterfeited, or willfully overvalues any security, asset,
22 or income shall be guilty of a misdemeanor.

23 (c) The Secretary shall promulgate such rules and
24 regulations as may be deemed necessary or appropriate to
25 carry out the purposes and provisions of this section.

1 (f) For purposes of this section—

2 (1) The term “actual cost” of an aquaculture fa-
3 cility, as of any specified date, means the aggregate, as
4 determined by the Secretary, of—

5 (A) all amounts paid by, or for the account
6 of, the obligor with respect to such facility on or
7 before that date; and

8 (B) all amounts which the obligor is then obli-
9 gated to pay from time to time thereafter, for the
10 construction, reconstruction, or reconditioning of
11 such facility.

12 (2) The terms “construction”, “reconstruction”,
13 or “reconditioning” include, but are not limited to, de-
14 signing, inspecting, outfitting, and equipping, of the
15 aquaculture facility involved.

16 (3) The term “depreciated actual cost” means the
17 actual cost depreciated on a straightline basis over the
18 useful life of the property involved as determined by the
19 Secretary.

20 (4) The term “obligation” means any note, bond;
21 debenture, or other evidence of indebtedness issued for
22 one of the purposes specified in subsection (a).

23 (5) The term “obligee” means the holder of any
24 obligation.

25 (6) The term “obligor” means any person pri-

1 marily liable for payment of the principal of or interest
2 on any obligation.

3 SEC. 9. DISASTER LOANS.

4 (a) (1) The Secretary may make one or more loans
5 to any person who has any obligation which is guaranteed
6 under section 8 to assist such person, if—

7 (A) the aquaculture facility to which such guar-
8 antee applies is damaged or destroyed as a result of a
9 natural disaster; or

10 (B) the stock of aquatic species at the facility to
11 which such guarantee applies is damaged or destroyed
12 by disease, pollution, or contamination (caused by rea-
13 sons other than a natural disaster or the willful or negli-
14 gent action of such person)

15 to accomplish one or more of the following objectives:

16 (i) The repair, rehabilitation, or replacement
17 of such facility.

18 (ii) The replacement of aquatic species stock.

19 (iii) To continue aquaculture operations while
20 any such repair, rehabilitation, or replacement is in
21 progress.

22 (iv) The purchase, construction, or reconstruc-
23 tion of an aquaculture facility at another location if
24 the Secretary finds that—

25 (I) the damage to the facility is so exten-

1 sive that its repair or rehabilitation is imprac-
2 ticable;

3 (II) the replacement of the destroyed fa-
4 cility at the same location is impracticable; or

5 (III) the pollution or contamination re-
6 ferred to in subparagraph (B) is likely to per-

7 sist for such period of time that continued
8 aquaculture operations at the same location are

9 impracticable.

10 (v) To meet payments of principal and in-

11 terest on the obligation so guaranteed for such

12 period of time as the Secretary deems appropriate,

13 taking into account the degree of damage to such

14 facility or stock.

15 (vi) To retire in full such obligation.

16 (2) No loan may be made under this section for any

17 damage or destruction—

18 (A) which is compensated for by insurance (in-

19 cluding insurance paid under section 11) or otherwise;

20 or

21 (B) for which assistance is available under any

22 other Federal disaster assistance program.

23 (b) Any loan made pursuant to this section shall—

24 (1) mature in not more than 20 years;

25 (2) bear interest at a rate not less than the rate

1 . . . determined by the Secretary of the Treasury taking
 2 into consideration the average market yield on outstand-
 3 . . . ing Treasury obligations of comparable maturity;

4 . . . (3) be approved only upon the furnishing of such
 5 . . . security or other reasonable assurance of repayment
 6 . . . as the Secretary may require; and

7 . . . (4) be subject to such other terms and conditions
 8 . . . as the Secretary may require to protect the interests
 9 of the United States.

10 . . . (c) The Secretary may consent to the modification of
 11 any term or condition of any loan made under this section,
 12 including, but not limited to, reduction of the rate of inter-
 13 est, deferment of any installment of principal or interest,
 14 or change in any security requirement.

15 SEC. 10. FEDERAL AQUACULTURE ASSISTANCE FUND.

16 . . . (a) There is established in the Treasury of the United
 17 States a Federal Aquaculture Assistance Fund. The Fund
 18 shall be available to the Secretary as a revolving fund for
 19 the purpose of carrying out the provisions of sections 8 and
 20 9. The Fund shall consist of—

21 . . . (1) any sums appropriated to the Fund;

22 . . . (2) any fees received in connection with any guar-
 23 antee made under section 8;

24 . . . (3) recoveries and receipts under security, subro-

1 gation, and other rights and authorities described in sec-
2 tion 8; and

3 (4) payments of principal and interest received
4 under any loan made under section 9.

5 All payments made by the Secretary to carry out the pro-
6 visions of sections 8 and 9 including reimbursements to
7 other Government accounts), shall be paid from the Fund,
8 only to the extent provided in appropriation Acts. Sums in
9 the Fund which are not currently needed for the purposes of
10 sections 8 and 9 shall be kept on deposit or invested in
11 obligations of, or guaranteed by, the United States.

12 SEC. 11. INSURANCE AGAINST CERTAIN LOSSES IN-
13 CURRED IN AQUACULTURE FACILITY OPERA-
14 TIONS.

15 (a) The Secretary of Commerce shall establish an in-
16 surance program to insure any person who has any obliga-
17 tion guaranteed under section 8 against—

18 (1) any loss of or damage to (A) the aquaculture
19 facility to which such guarantee applies, and (B) the
20 stock of aquatic species being cultured at such facility;

21 and (2) any liability of such person which results from
22 the carrying out of operations at such facility.

1 (b) (1) The insurance program required to be estab-
2 lished by subsection (a) shall offer all-risk coverage; except
3 that no person may be insured under such program for any
4 risk for which insurance is otherwise available at rates which
5 the Secretary determines to be reasonable.

6 (2) No payment shall be made under the insurance
7 provided for in this section with respect to any loss, damage,
8 or liability covered by any other policy of insurance or any
9 other provision of law.

10 (c) (1) Any person who desires insurance provided
11 for under this section shall make application therefor to the
12 Secretary of Commerce.

13 (2) The Secretary of Commerce shall establish pre-
14 miums for the insurance provided for under this section at
15 such rates as the Secretary of Commerce deems sufficient to
16 cover claims arising therefrom. Any such premiums shall be
17 reduced by the amount of a Government contribution which
18 shall not exceed 75 percent of the amount of the premium.

19 (d) The Secretary shall prescribe such regulations as
20 may be necessary to carry out the provisions of this section,
21 including, but not limited to, regulations which specify (1)
22 the types of risks for which insurance may be issued under
23 this section, and (2) the adjustment and payment proce-
24 dures which shall apply with respect to claims made under
25 such insurance.

1 SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

2 (a) For purposes of carrying out the provisions of this
3 Act other than sections 8, 9, and 11—

4 (1) there are authorized to be appropriated to
5 the Secretary of Commerce not to exceed—

6 (A) \$1,500,000 for fiscal year 1978, none of
7 which may be used for making grants under section
8 7, and

9 (B) \$12,500,000 for each of the fiscal years
10 1979 and 1980; and

11 (2) there are authorized to be appropriated to the
12 Secretary of the Interior not to exceed—

13 (A) \$1,000,000 for fiscal year 1978, none of
14 which may be used for making grants under sec-
15 tion 7, and

16 (B) \$7,500,000 for each of the fiscal years
17 1979 and 1980.

18 (b) There are authorized to be appropriated, without
19 fiscal year limitation, to the Fund not to exceed \$150,000,-
20 000, of which not to exceed \$100,000,000 shall be used
21 for purposes of section 8 and not to exceed \$50,000,000
22 shall be used for purposes of section 9.

23 (c) There are authorized to be appropriated to the
24 Secretary of Commerce such sums as may be necessary and
25 appropriate for purposes of carrying out section 11.

94TH CONGRESS
2d SESSION

H. R. 14695

A BILL

To provide for the development of aquaculture
in the United States, and for other purposes.

By Mr. LEGGETT, Mrs. SULLIVAN, Mr. FORSYTHE,
Mr. BREAUX, Mr. MOSHER, Mr. MURPHY of
New York, Mr. EMERY, Mr. YOUNG of
Alaska, Mr. DE LA GARZA, Mr. DE LUCCO, Mr.
OBERSTAR, Mr. ANDERSON of California, Mr.
LENT, Mr. GINN, Mr. AUCOIN, Mr. ROGERS,
Mr. RINALDO, Mr. DU PONT, Mr. STUDDS, Mr.
DOWNING of Virginia, Mr. BONKER, Mr.
BIAGGI, and Mr. PRITCHARD

JULY 2, 1976

Referred to the Committee on Merchant Marine and
Fisheries