

ALASKA LEGISLATURE

1016

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

90

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE (907) 344-0541

BOARDS SUPPORT SECTION

Anchorage Advisory
Committee
Box 454
Girdwood, AK 99587

March 4, 1994

Members of the Alaska State Senate
Members of the Alaska State House of Representatives
State Capitol
Juneau, Alaska

- Re: (1) Our Opposition to SB 217 (Expansion of University Land Entitlement),
(2) Our Opposition to HB 259 (Expansion of Lake and Peninsula Borough Land Entitlement)
(3) Mental Health Lands

Dear Senators and Representatives:

The Anchorage Fish and Game Advisory Committee, like other such committees in the state, is a publicly elected entity established by the Alaska Legislature. It provides advice to the Board of Fisheries and the Board of Game and other agencies on matters concerning fish and wildlife and the uses of them. Pursuant to regulations of the Department of Fish and Game, the committee is broadly representative. It is composed of recreational and commercial fishers, hunters, guides, lodge owners and others in the tourism industry, trappers, conservationists, non-consumptive users, and a variety of members who have worked for various state and federal resource agencies and natural resource law enforcement agencies. We represent the fish and wildlife interests of approximately half the state's population.

SB 217 and HB 259 are both land selection bills. Like the proposed Mental Health Settlement, they would result in

disposal of vast tracts of state land. The Anchorage Fish and Game Advisory Committee is strongly opposed to both SB 217 and HB 259 for the reasons set forth below.

A. Summary of SB 217 and HB 259, and Relation to Mental Health Settlement

SB 217 and HB 259, as well as the recently proposed Mental Health Lands Settlement (that will be submitted to the Legislature), hold the prospect of severely altering state land ownership in Southwest Alaska. The resources and the uses of resources in that region -- particularly in the drainages of the Kvichak River, Iliamna Lake, the Nushagak River and the Mulchatna River -- are very likely to be severely affected if land ownership changes because of these bills and the mental health settlement proposal.

We are addressing this letter jointly to members of both the House and the Senate because bills in both houses are involved.

SB 217 would allow the University to select an additional one million acres anywhere in the state. The bill provides that those lands would cease to be public lands and would be managed for income production. Sale by the University, charges for recreational and subsistence use, additional leasing for commercial development which only threatens existing businesses and invites further conflicts, as discussed below, all will result from this income production obligation.

HB 259 would raise the Lake and Peninsula Borough's land selection entitlement from approximately 29,000 acres, established pursuant to AS 29.65.030, to 187,000 acres. Arguably, the Borough is entitled to far less than 29,000 acres because the northwestern boundary of the Borough is the subject of current litigation.¹ The matter is now on appeal to the Alaska Supreme Court.

Nevertheless, the Borough has tentatively identified more than 100,000 acres that it would like to obtain. The lands include all the remaining state land around Lake Iliamna, Lower Talarik Creek, Copper River, Dream Creek, and most of the remaining state lands along the Mulchatna River and the Kvichak River. In short, the remaining state lands in the most productive salmon habitat in the world would cease to be state-owned.

The recent Mental Health settlement proposal would convey about 17,000 acres in the Iliamna area to the Mental Health Lands

¹ Villages that use the Nushagak/Mulchatna drainages sued successfully to overturn the election that ratified the boundary. They seek to exclude from the Borough, those lands in the Mulchatna drainage that they assert are within their traditional area.

Trust Corporation. Those lands would have to be managed for income production to the Trust. Again, sale by the Mental Health Trust, charges for use, and other dispositions are likely to result from this income production obligation.

B. Our Position

The Anchorage Fish and Game Advisory Committee opposes in the strongest possible terms SB 217 and HB 259. Both bills would result in further fragmenting ownership of the most important fish and wildlife habitat in Alaska -- the Bristol Bay drainages. Those drainages are the most productive in the world of commercial salmon, bar none. They produce on the order of 30 million sockeye salmon harvested each year with an escapement on the order of 10 million fish. By comparison, the Kenai River produces on the order of 5 million sockeye harvested with an escapement of 400,000 to 700,000. The lands are vitally important for subsistence. They provide world class recreation and support a valuable recreation industry. They contain the third largest caribou herd in Alaska -- the Mulchatna herd that is important for local subsistence and recreational hunting. The lands support the highest brown bear densities in Alaska -- in fact higher than Kodiak and Admiralty Island. They support the greatest rainbow trout fisheries in the world. They are widely recognized as essential to the recreation industry, as fragile due to small population size and late age of reproductivity, and are substantially managed as catch-and-release fisheries.

Presently the major land owners are the State, Native Corporations and the Federal Government. Further fragmentation of ownership -- by adding the University and Mental Health Lands Trust Corporation, and by increasing the Borough entitlement -- only invites problems, such as:

- (a) subdivision and sales of land title, as the pool of potential land sellers expands from the state and Native Corporations to include the University, the Mental Health Trust Corporation and the Borough;
- (b) increased allocation disputes between commercial fishing, subsistence and recreational interests, as more nonresidents come into the area as new property owners, permittees and users; and
- (c) increased regulatory costs for many agencies, such as DEC, ADF&G, DNR, the Boards of Fisheries and Game, as well as various federal agencies.

These problems already exist throughout the Cook Inlet region. They arise in the context of fisheries allocation disputes, game allocation disputes, and regulatory expenses involving fish habitat protection in the context of private

ownership of waterfront and riparian zone land. These problems should absolutely never be created in the Bristol Bay drainages.

The Committee strongly supports protecting existing uses (commercial fishing, subsistence and recreational businesses and use) and strongly oppose both bills as threats to those uses.

The purported purpose of SB 217 is supposedly to support the University. However, not one of the proponents of SB 217 advocates that the income would be substantial. For example, timber lands currently owned by the University contribute about two percent to the cost of the University and when amortized over a timber rotation, they contribute on the order of two-hundredths of one percent of those costs. In short, the bill simply uses (in our opinion abuses) the University as a vehicle for privatizing state land.

With respect to HB 259, we see no justification for the Legislature abrogating the statutory entitlement of the Borough, increasing it by six times, thereby threatening existing uses (subsistence, recreational and commercial), inexorably creating conflicts over allocation, and threatening habitat.

The history of land selection statutes is that they are poor public policy, do not accomplish their goals, and are costly and counter productive. Land available for selection is high-graded. Whatever is best becomes private. That land tends to be river-frontage, riparian zones, floodplain, and other riverain land important for fish, wildlife, subsistence, hunting, fishing and recreation and recreation business. Whatever is worst is left to the public who owned the land in the first place.

Far too frequently, therefore, the government simply ends up buying back what little it can afford. For example, much of our land acquisition budget in Alaska comes from federal taxes on recreational equipment and marine fuels (Dingle-Johnson and Wallop-Breaux accounts) that are partially matched with state monies from the Fish and Game Fund (derived from license sales). Almost without exception that land acquisition budget goes to buy parcels on riverfronts that should never have gone out of public ownership in the first place but went out under federal homestead laws during the territorial days. Those statutes essentially operated as land selection statutes. The fact that the public has to spend state and federal monies to buy back lands demonstrates the fallibility of land selection statutes. Similarly, current expenditures of Exxon Valdez monies for land acquisition is simply a testimonial of how land selection statutes lead to problems that should have been avoided if legislation had been drafted differently in the first place. In short, to the best of our knowledge, Alaska is the only state in the Union still enacting land selection statutes. That they are poor public policy has been historically demonstrated.

Furthermore, given that the State has spent nearly twenty years and untold litigation costs trying to resolve the Mental Health Lands controversy, one can only conclude that these similar dispositions of state land will only create the similar conflicts when public land ceases to be public. We urge you to learn from history, rather than repeat it. Keep Alaska's public lands public.

Sincerely yours,

for Larry Holmes
Laurence (Larry) Holmes
Chairman
Anchorage Fish and Game
Advisory Committee

cc: All Alaska State Senators and Representatives
Harry Noah, Commissioner, DNR
Carl Rosier, Commissioner, ADF&G
Iliamna Fish and Game Advisory Committee
Nushagak Advisory Committee
Dillingham Advisory Committee



Lake and Peninsula Borough

P.O. Box 495

King Salmon, Alaska 99613

Telephone: (907) 246-3421

Fax: (907) 246-6602



March 22, 1994

The Honorable Bill Williams, Chairman
House Resources Committee
House of Representatives
State Capitol, Room 128
Juneau, Alaska 99801-1182

RE: HB 259

Dear Chairman Williams:

This letter is in response to the March 4, 1994 correspondence from the Anchorage Fish and Game Advisory Committee. In short, the Lake and Peninsula Borough (LPB) strongly disagrees with a series of points made by the group. They include:

1. The lands LPB has identified through its planning process are not binding on DNR nor LPB. The Borough still needs to go through the process of selecting lands within DNR guidelines, including an extensive public hearing process. HB 259 only identifies an amount of land, not actual locations.
2. The letter is incorrect in its assertion that certain villages have successfully overturned the election that ratified the Borough boundaries. In fact, the villages are appealing the court decision because it is unfavorable to them. Even if the villages prevail in their appeal (which is very unlikely), a designated amount of acreage for the LPB would not necessarily affect lands in the disputed area.
3. The general statement that lands conveyed to local governments somehow threaten habitat and general public use is absurd. Resource management powers are still retained with lands transferred to a local government. Land conveyances to local governments often contain restrictions such as easements and rights-of-way. The LPB is at least as interested in protecting habitat and providing public access as the State.
4. The argument that land is only protected in state government is not only incorrect, but it reflects a short-sighted policy that does not promote economic development or growth.

The Honorable Bill Williams

March 22, 1994

Page Two

The LPB seeks a positive and cooperative relationship with the State on this issue, and has been pleased by the cooperative and understanding attitude exhibited by DNR and ADF&G staff. However, we consider the correspondence from the Anchorage Fish and Game Advisory Committee to be both uninformed and misleading. We appreciate the opportunity to express our concerns in this regard.

Sincerely,



Glen K. Vernon
Borough Manager

cc: Senator George Jacko
Representative Carl Moses
Lamar Cotten

Cross references. — For statement of purpose of 1978 Act that enacted the provisions from which this chapter derived, see § 1, ch 180, SLA 1978 in the Temporary and Special Acts.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
 - (2) City and Borough of Juneau -- 19,584 acres;
 - (3) City and Borough of Sitka — 10,500 acres;
 - (4) Bristol Bay Borough — 2,998 acres;
 - (5) Fairbanks North Star Borough — 112,000 acres;
 - (6) Haines Borough — 2,800 acres;
 - (7) Kenai Peninsula Borough — 155,780 acres;
 - (8) Ketchikan Gateway Borough — 11,593 acres;
 - (9) Kodiak Island Borough — 56,500 acres;
 - (10) Matanuska-Susitna Borough — 355,210 acres;
 - (11) North Slope Borough — 89,850 acres.
- (b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987)

Sec. 29.65.020. Determination of entitlement for cities. (a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land in the boundaries of each city at any time between the initial date of eligibility under former AS 29.18.190 and 29.18.200 and January 1, 1988. Within six months after January 1, 1988, the director shall determine the entitlement for each city eligible to receive general grant land under this section and certify that entitlement to the city.

(b) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am §§ 1, 12 ch 34 SLA 1987)

Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities. (a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

(b) Within two years and six months after the date of incorporation of the municipality, the director shall determine the entitlement of

each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality. However, the governing body of a city may, by resolution, request the director to certify the entitlement to the city on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

(c) *[Repealed, § 12 ch 34 SLA 1987.]* (§ 17 ch 74 SLA 1985; am §§ 2, 3, 12 ch 34 SLA 1987; am §§ 1, 2 ch 51 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 16, 1991, deleted the last two sentences in subsection (a) and added the last two sentences in subsection (b).

Editor's notes. — Section 11, ch. 34, SLA 1987 provides: "The general grant land entitlement authorized for the Northwest Arctic Borough under AS 29.65.030(a), as amended in sec. 2 of this Act, is a partial entitlement for the borough. After completion of the Northwest Area Plan prepared under AS 38.04.065, the governor shall submit to the legislature recommendations for additional general grant land entitlements for the Northwest Arctic Borough consistent with the general grant land entitlement policy developed by the governor. The governor shall also submit recommendations for additional general grant land entitlements for other newly-formed municipalities

consistent with the general grant land entitlement policy developed by the governor."

Section 9, ch. 51, SLA 1991 provides that, notwithstanding subsection (b), as amended by § 2, ch. 51, SLA 1991, "the director of lands may not certify an entitlement to a municipality until after January 2, 1994. Each entitlement for which certification is delayed under this section shall be certified by the director no later than January 1, 1996. The director shall by January 1, 1996, for each municipality incorporated after June 1, 1986, for which an entitlement was certified before June 16, 1991, redetermine and recertify the entitlement in accordance with AS 29.65.030(a), as amended in § 1, ch. 51, SLA 1991."

Under § 10, ch. 51, SLA 1991, the 1991 amendment to subsection (a) is retroactive to June 2, 1986.

Sec. 29.65.040. Status of entitlements. (a) After July 1, 1978, general grant land entitlements provided in former AS 29.18.201 and 29.18.202 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080. After January 1, 1988, general grant land entitlements provided in AS 29.65.010 are vested property rights that must be fulfilled as provided in AS 29.65.050 or 29.65.080.

(b) General grant land entitlements provided by AS 29.65.030 are property rights that vest on the date of incorporation of the municipality. The entitlement shall be fulfilled as provided in AS 29.65.050.

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under former AS 29.18.201 and 29.18.202 at any time before October 1, 1980. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010 at any time before October 1, 1990. However, if a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may, not later than 90 days after receipt of the rejection or final decision on an appeal filed under AS 29.65.050(d), select additional state land as necessary to satisfy its entitlement.



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421
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March 23, 1993

The Honorable Carl E. Moses
Alaska House of Representatives
Alaska State Legislature
Capitol Building, Room 204
Juneau, Alaska 99801-1182

RE: Lake and Peninsula Borough/State Land Selection

Dear Representative Moses:

I appreciated very much your recent telephone call and your willingness to take the time to discuss some of the issues facing the Lake and Peninsula Borough. We continue to be optimistic about the possibility of EDA funding for the Egegik Dock, and appreciate whatever you may be able to do to help assure some state funding for the project.

As I think I mentioned to you, the Borough is presently preparing its first comprehensive plan. One segment of the plan deals with the selection of state lands pursuant to the Alaska Statutes, Title 29, Chapter 65. Although AS 29.65.030 provides for the determination of entitlement for newly incorporated municipalities, it is our understanding that we may be able to receive our land entitlement under an amendment to AS 29.65.010. Accordingly, I have prepared and enclosed a bill for possible introduction to the Legislature that would amend AS 29.65.010 by adding an entitlement to the Lake and Peninsula Borough of 187,000 acres.

The Borough Planning Commission and Assembly have spent many hours reviewing land status maps, and have identified the lands that the Borough would like to have considered for selection. Very little land within the Borough is presently classified as Vacant, Unappropriated, and Unreserved (VUU). We have been encouraged by the director of the Division of State Lands, however, to identify those state lands that the Borough would like to select, regardless of status, and request re-classification.

Land parcels totaling 187,000 acres have been identified for possible selection. In order to pursue the selection process, the Borough needs to either have the Legislature provide for an entitlement under AS 29.65.010 or determine

RON
SWANSON
762-2692

The Honorable Carl E. Moses
March 23, 1993
Page Two

an entitlement under the formula set out in AS 29.65.030. The formula in AS 29.65.030 is very restrictive, and does not provide for a selection considered to be adequate by the Borough Planning Commission and Assembly. We understand that Representative Eileen Maclean is sponsoring a bill to amend AS 29.65.030, and that her amendment would provide for a more liberal entitlement. We have not seen the bill, but we would certainly support such an amendment.

Nevertheless, if it is possible, we would prefer to use the more direct approach to determining the Lake and Peninsula Borough's entitlement, and simply amend AS 29.65.010. Would you be willing to sponsor such a bill? It would probably be appropriate to ask Representative Nicholia to co-sponsor the bill, but we will wait to hear back from you before we approach her. Would it also be advisable to ask Senators Jacko and Lincoln to introduce an identical bill in the Senate?

I look forward to discussing this matter with you or your staff once you have had a chance to review it. Thank you for the North Pole satellite photos. We have distributed them as you requested.

Sincerely,



Glen K. Vernon
Borough Manager

Enclosure

HB

260

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 7, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/3/94

The FINANCE Committee considered:

HB 260

HOUSE BILL NO. 260

CHILKAT BALD EAGLE PRESERVE ADV. COUNCIL

"An Act relating to the membership of the Alaska Chilkat Bald Eagle Preserve Advisory Council."

RECOMMENDATIONS:

be replaced with _____ the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Review DNR _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Paul J. Larson</i>	<input checked="" type="checkbox"/>	<i>Eileen P. Machean</i>		<input checked="" type="checkbox"/>	
<i>Jan R. Powell</i>	<input checked="" type="checkbox"/>	<i>Mark Hasky</i>		<input checked="" type="checkbox"/>	
<i>Ben S. Grussindat</i>	<input checked="" type="checkbox"/>	<i>Leann Martin</i>		<input checked="" type="checkbox"/>	
<i>Mike Spivey</i>	<input checked="" type="checkbox"/>	_____			
<i>Jan Brown</i>	<input checked="" type="checkbox"/>	<i>Gene Tennant</i>		<input checked="" type="checkbox"/>	
<i>Richard J. [unclear]</i>	<input checked="" type="checkbox"/>				

Eileen P. Machean
 CO-CHAIRMAN'S SIGNATURE
Machean *Larson*

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB260

1994 LEGISLATIVE SESSION

Revision Date: 1-Mar-94

Dept Affected: Natural Resources

Title: "An Act relating to the membership of the Alaska

BRU: Parks and Recreation Management

Chilkat Bald Eagle Preserve Advisory Council."

Component: Parks Management

Sponsor: Representative Mackie

Requestor: Representative Mackie

Component Serial No. 452

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$

None

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

All meetings of the Advisory Council are held in Haines, and no additional expenses will be incurred if additional member(s) are appointed from the local community.

Prepared by: Neil Johannsen, Director

Phone: 762-2600

Division: Parks

Date: 1-Mar-94

Approved by Commissioner:

Harry A. Noah

Date: 1-Mar-94

Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska State Legislature

REPRESENTATIVE
JERRY MACKIE



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CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
(907) 826-2930 HOME

House of Representatives

SPONSOR STATEMENT

HB 260

I introduced HB 260 at the request of several residents of Haines. The bill would add one more member to the existing 12 member Alaska Chilkat Bald Eagle Preserve Advisory Council. The new member, appointed by the Governor, would be representative of landowners who have private property located within the preserve.

The Alaska Chilkat Bald Eagle Preserve was established in 1982 in order to manage and protect a unique concentration of our nation's symbol, the bald eagle. The area is renowned for the largest known gathering of bald eagles in North America.

An advisory council was also established at that time to assist the Department of Fish and Game and the Department of Natural Resources in the management of the preserve. The council is comprised in part of business, conservation, cultural, and fish and game interests local to the area. Also represented on the council are local government officials and state and federal government resource managers.

At the very beginning, the legislature recognized the concerns of citizens with land holdings located within the preserve. Rights of access and prohibition of eminent domain takings were some of the protections included in the enabling legislation to address these concerns. This group however was not directly represented on the advisory council.

HB 260 would allow inholders direct participation and involvement in the planning decisions of the Chilkat Bald Eagle Preserve. The increased representation on the advisory council would bring an added perspective from those citizens whose lands are necessarily affected by the management of the preserve.

Back-up

April 6, 1993

Ed Warren,

If Sen. Bill 796 was adopted we were promised that we would have a rep. from within the preserve on the proposed Eagle Preserve board (March, 1982 at the Haines ANB Hall, Haines, AK). Those that guaranteed this, Reed Stoops, Frank Rue representing John Katz Comm. of D.N.R. Al Adams put a fiscal note on 796 until we were granted a Rep., then the borough Mayor Bob Henderson said that he could recommend a place through the Gov. then they would amend 796 so that the people within the Eagle preserve (52,000 acres) would have a voice and policy on their land, now those people who live outside of the preserve (8 mile to 30 mile) make policy for us (taxation without representation). When Mayor Henderson retired and Mayor Shields took his place he recommended a tree hugger (we lost our slot on the board).

It's the same old story, promises, promises, but after the Preserve was passed (Sen. Bill 796), Reed Stoops, Frank Rues and the John Katzs forgot about their promises. We who live within this preserve feel like we're in a concentration camp due to the fact we do not have any voice in our destiny as policy is made in Haines, and the State government.

Hank Jacquot

April 6, 1993

Ed Warren

If Sen Bill 796 was adopted

We were promised that we would have a rep. from within the preserve on the proposed Eagle Preserve board (March 1982 at the Hains AFB Hall, Hains Ak.) Those that guaranteed this, Reed Stoops, Frank Rues representing John Katz Comm. of H.N.R.

Al Adams put a fiscal note on 796 until we were granted a Rep. then the borough Mayor ~~Henderson~~ that he could recommend a place through the Gov. then they would amend 796 so that the people within the Eagle preserve (52,000 acres) would have a voice and policy on their land, now those people who live outside of the preserve (5 mile ^{outside} to 30 mile) make policy for us (taxation without representation)

When Mayor Henderson retired on Mayor Shields took his place he recommended ~~not~~ a tree huggar (we lost our spot on the board)

Its the same old story promises, promises but ~~when~~ ^{after} the preserve was passed (Sen Bill 96) Reed Stoops, Frank Rues and the John Katz forgot about their promises. We who live within this preserve feel like were in a concentration camp due to the fact we do not have any voice in our destiny.

As policy is made in Hains, and the State government

H. J. JACOBI



Via Fax

April 2, 1993

Jerry Mackie, Representative
Room 602, Court
State Capitol
Juneau, AK 99801-1182

Dear Jerry,

Will you introduce the legislation House Bill No. 260 in the appropriate places and time periods.

The HB260 amends the 41.21.625, the current 12 members of the Advisory Council to 13. The 13th member shall be a individual property owner - not Mental Health or University of Alaska.

Presently, there is no one representing these individuals who own property within the Eagle Preserve. An affirmative vote on this amendment will insure two things:

- (1) Inholders' opportunity to represent themselves to protect their rights, such as access, tradition and customary uses as well as
- (2) providing an opportunity to participate in the management of the preserve with good detail knowledge of land and wildlife habits.

This certainly will enrich our management resource pool of making appropriate decisions on the bald eagle critical habitat.

Thank You,

Ed Warren
Sr. V.P. Klukwan, Inc.

EW:cr

cc: Klukwan, Inc. Board Members
Alaska Chilkat Bald Eagle Advisory Council
Inholders

KLUKWAN, INC.

P.O. BOX 1389 - HAINES, ALASKA 99827 - (907) 766-2211

Article 6. Alaska Chilkat Bald Eagle Preserve.

Section	Section
610. Purpose of AS 41.21.610 — 41.21.630	617. Other uses generally
611. Alaska Chilkat Bald Eagle Preserve established	618. Traditional uses
612. Land excluded	619. Access and rights-of-way
613. Eminent domain prohibited	620. Management plan
614. Native allotments	621. Additions or deletions to preserve
615. Fish and game management	622. Historical, cultural and burial sites
616. Regulations	625. Alaska Chilkat Bald Eagle Preserve Advisory Council
	630. Existing rights

Sec. 41.21.610. Purpose of AS 41.21.610 — 41.21.630. (a) The purpose of AS 41.21.610 — 41.21.630 is to establish the state-owned land and water described in AS 41.21.611(b) as the Alaska Chilkat Bald Eagle Preserve as part of the state park system. The primary purpose for establishing the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the Chilkat bald eagles and their essential habitats within the Alaska Chilkat Bald Eagle Preserve in recognition of their statewide, nationally, and internationally significant values in perpetuity.

(b) The Alaska Chilkat Bald Eagle Preserve is also established to

(1) protect and sustain the natural salmon spawning and rearing areas of the Chilkat River and Chilkoot River systems within the preserve in perpetuity;

(2) provide continued opportunities for research, study and enjoyment of bald eagles and other wildlife;

(3) ensure to the maximum extent practicable water quality and necessary water quantity under applicable laws;

(4) provide for other public uses consistent with the primary purpose for which the Alaska Chilkat Bald Eagle Preserve is established; and

(5) provide an opportunity for the continued traditional and natural resource based lifestyle of the people living in the general areas described in AS 41.21.611(b), consistent with the other purposes of this subsection and (a) of this section.

(c) It is the intent of the legislature in enacting AS 41.21.610 — 41.21.630 to provide sufficient protection for the purposes for which the Alaska Chilkat Bald Eagle Preserve is established. Accordingly, the establishment of the Alaska Chilkat Bald Eagle Preserve and the

Haines State Forest Resource Management Area (AS 41.15.300 — 41.15.330) is determined to represent a proper balance between the reservation of state public domain land and water for bald eagle preserve purposes and state public domain land and water more appropriate for multiple use. Therefore, the legislature determines that there is no need for legislation expanding or contracting the boundary of the Alaska Chilkat Bald Eagle Preserve in the future; the legislature further determines that study by a state agency of the expansion or contracting of the boundary of the preserve shall be conducted under AS 41.21.621.

(d) Inasmuch as the area described in AS 41.21.611(b) exceeds 640 acres, AS 41.21.610 — 41.21.630 are intended to close the area to multiple use in conformity with AS 38.05.300 and the land is dedicated as a special purpose site under art. VIII, § 7 of the state constitution. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.506. Renumbered in 1983.

Sec. 41.21.611. Alaska Chilkat Bald Eagle Preserve established. (a) Subject to valid existing rights, the land and water presently owned by the state and all land and water acquired in the future by the state lying within the boundaries described in (b) of this section are designated the Alaska Chilkat Bald Eagle Preserve and assigned to the department for control, development, and maintenance.

(b) Except university of Alaska grant land, the land and water owned by the state and all land and water acquired by the state in the future lying within the following described parcels are designated as the Alaska Chilkat Bald Eagle Preserve:

(1) Township 26 South, Range 55 East, Copper River Meridian

Section 12: that portion within USS 3708

Section 13: that portion within USS 3708

Section 23: SE¹/₄NE¹/₄, NE¹/₄SE¹/₄, E¹/₂NW¹/₄SE¹/₄, S¹/₂SE¹/₄

Sections 24 and 25

Section 26: E¹/₂

Section 33: SE¹/₄SE¹/₄SE¹/₄

Section 34: E¹/₂NE¹/₄, E¹/₂SW¹/₄NE¹/₄, SE¹/₄NE¹/₄SW¹/₄, E¹/₂SW¹/₄SW¹/₄, SW¹/₄SW¹/₄SW¹/₄, SE¹/₄SW¹/₄, SE¹/₄

Section 35

Section 36: NE¹/₄NW¹/₄NE¹/₄, W¹/₂W¹/₂NE¹/₄, NW¹/₄, N¹/₂SW¹/₄, N¹/₂SW¹/₄SW¹/₄, SW¹/₄SW¹/₄SW¹/₄, NW¹/₄SE¹/₄SW¹/₄, NW¹/₄SE¹/₄

(2) Township 26 South, Range 56 East, Copper River Meridian
Section 7: SW¹/₄NE¹/₄, that portion of the S¹/₂NW¹/₄ within USS 3708, S¹/₂

Section 8: SE¹/₄SW¹/₄NW¹/₄, SE¹/₄NW¹/₄, SW¹/₄, that portion of the S¹/₂NE¹/₄ within USS 3708

(8) Township 29 South, Range 56 East, Copper River Meridian

Section 1

Section 2: N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 4: W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 5: E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 6: N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ W $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 8, except SW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 9

Section 10: S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ N3E $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$

Section 11: S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$

Sections 12 — 14

Section 15: N $\frac{1}{2}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 16: E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 17: N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 22: N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 23: that portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$ lying west of Chilkat
Lake;

(9) Township 29 South, Range 57 East, Copper River Meridian.

Section 4: NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 5: except Lots 2 — 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$

Sections 7 and 8

USS 907

Section 9: W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$, S $\frac{1}{2}$

Section 10: Lots 1 — 4, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 14: that portion west of the Haines Highway

Section 15: that portion of Mosquito Lake except NE $\frac{1}{4}$ NE $\frac{1}{4}$ and
Lots 7 — 10, 13 — 14

Sections 16 — 18

USS 786

Section 19: NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 20: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Sections 21 and 22

Section 23: that portion west of the Haines Highway

Section 25: that portion west of the Haines Highway

Section 26: that portion west of the Haines Highway

Section 27

Section 28: NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 34: NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 35

Section 36: that portion west of the Haines Highway;

(10) Township 29 South, Range 58 East, Copper River Meridian

Section 3: S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 4: SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$

Section 9: NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 10: NE $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$

Section 31: that portion south of the Haines Highway;

(11) Township 30 South, Range 57 East, Copper River Meridian

Section 1

Section 2: NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 3: NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 12: NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

(12) Township 30 South, Range 58 East, Copper River Meridian

Section 6: that portion west of the Haines Highway

Section 7: that portion west of the Haines Highway

Section 8: that portion west of the Haines Highway

Section 16: that portion west of the Haines Highway

Section 17: that portion west of the Haines Highway

Section 18: Lots 1 — 3 and 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$. (§ 1 ch 95 SLA 1982; am §§ 55 — 62 ch
37 SLA 1986)

Revisor's notes. — Formerly AS 41.20.507(a) and (k). Renumbered in 1983.

Effect of amendments. — The 1986 amendment in subsection (b) in paragraph (1) added "that portion within USS 3708" concerning section 13; in paragraph (2) inserted "that portion of the" and "within USS 3708" concerning section 7; in paragraph (4) added "within the NE $\frac{1}{4}$ " concerning section 10, deleted "Section 16: that portion of Mosquito Lake," re-wrote the descriptions concerning sections

25, 26, 27, 30, 33, and 35, and made minor punctuation changes; in paragraph (5) re-wrote the descriptions concerning sections 29 and 34 and made minor punctuation changes; in paragraph (8) re-wrote part of the description concerning section 6 and made a minor punctuation change; in paragraph (9) re-wrote the description concerning section 5, added the description concerning section 6, substituted "Sections 7 and 8" for "Sections 6 — 8," and made a punctuation change; in paragraph (10) added the description concerning sec-

Section 17: $W\frac{1}{2}NW\frac{1}{4}$
Section 18
Section 19: $W\frac{1}{2}, SW\frac{1}{4}, SE\frac{1}{4}$
Section 30: $NE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}NW\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, W\frac{1}{2}SW\frac{1}{4};$
(3) Township 27 South, Range 55 East, Copper River Meridian
Section 2: $NW\frac{1}{4}, W\frac{1}{2}NE\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, N\frac{1}{2}SW\frac{1}{4}, SW\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4},$ except USS 3744
Section 3
Section 4: $NE\frac{1}{4}, NE\frac{1}{4}, NE\frac{1}{4}, S\frac{1}{2}NE\frac{1}{4}, NE\frac{1}{4}, E\frac{1}{2}SW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, E\frac{1}{2}SE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}$
Section 8: $SE\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}, N\frac{1}{2}SE\frac{1}{4}, SE\frac{1}{4}$
Section 9: $E\frac{1}{2}, E\frac{1}{2}NW\frac{1}{4}, N\frac{1}{2}NE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, SW\frac{1}{4}, S\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}$
Section 10: $W\frac{1}{2}, W\frac{1}{2}, NE\frac{1}{4}, W\frac{1}{2}$
Section 15: $NW\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, S\frac{1}{2}NW\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}, W\frac{1}{2}, SE\frac{1}{4}$
Section 16: $E\frac{1}{2}, NW\frac{1}{4}, N\frac{1}{2}SW\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, E\frac{1}{2}, SE\frac{1}{4}, SW\frac{1}{4}$
Section 17: $N\frac{1}{2}, NE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, E\frac{1}{2}, NE\frac{1}{4}, NW\frac{1}{4}, N\frac{1}{2}, NE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}$
Section 21: $E\frac{1}{2}, E\frac{1}{2}, E\frac{1}{2}, NW\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, E\frac{1}{2}, SW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, SW\frac{1}{4}$
Section 22: $SW\frac{1}{4}, NE\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}, E\frac{1}{2}, W\frac{1}{2}, SE\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}, W\frac{1}{2}, E\frac{1}{2}, SE\frac{1}{4}$
Section 26: $NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, S\frac{1}{2}, NW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, W\frac{1}{2}, E\frac{1}{2}, SW\frac{1}{4}, W\frac{1}{2}, SW\frac{1}{4}$
Section 27
Section 28: $E\frac{1}{2}, E\frac{1}{2}, W\frac{1}{2}, E\frac{1}{2}, W\frac{1}{2}, W\frac{1}{2}$
Section 33: $N\frac{1}{2}, NE\frac{1}{4}, E\frac{1}{2}, SW\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, E\frac{1}{2}, NE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, E\frac{1}{2}, NW\frac{1}{4}, SE\frac{1}{4}, N\frac{1}{2}, SE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}$
Section 34
Section 35: $NW\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, S\frac{1}{2}, NW\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, S\frac{1}{2}, SE\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}, SE\frac{1}{4}$
Section 36: $W\frac{1}{2}, SW\frac{1}{4}, SW\frac{1}{4};$
(4) Township 28 South, Range 55 East, Copper River Meridian
Section 1: $S\frac{1}{2}, SW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}$
Section 2
Section 3: $NE\frac{1}{4}, N\frac{1}{2}, NW\frac{1}{4}, N\frac{1}{2}, SW\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, N\frac{1}{2}, SE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}$
Section 4: $E\frac{1}{2}, NE\frac{1}{4}, NE\frac{1}{4}$
Section 10: that portion of Mosquito Lake within the $NE\frac{1}{4}$
Section 11: $N\frac{1}{2}, N\frac{1}{2}, SE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4},$ except USS 3431
Section 12
Section 13: $E\frac{1}{2}, NE\frac{1}{4}, NW\frac{1}{4}, E\frac{1}{2}, NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, E\frac{1}{2}, SE\frac{1}{4}, NW\frac{1}{4}$

Section 19: Lot 13
Section 24: $E\frac{1}{2}, E\frac{1}{2}, NE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}$
Section 25: except that portion north of the Haines Highway
Section 25: that portion west of the Haines Highway
Section 26: that portion south of the Haines Highway except Lots 2, 3, and the $SW\frac{1}{4}, SW\frac{1}{4}$
Section 27: that portion south of the Haines Highway except
Section 28, except $S\frac{1}{2}, S\frac{1}{2}$, the south 660 feet of Lots 5 — 7, and that portion north of the Haines Highway
Section 29, except $S\frac{1}{2}, S\frac{1}{2}, S\frac{1}{2}, NE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4},$ and Lots 9, 14, 15, and 18
Section 30: $E\frac{1}{2}, NE\frac{1}{4}, N\frac{1}{2}, NE\frac{1}{4}, SE\frac{1}{4}$
Section 33: $SE\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}$
Section 34: $S\frac{1}{2}, S\frac{1}{2}, S\frac{1}{2}$
Section 35: except $NW\frac{1}{4}, NE\frac{1}{4}, S\frac{1}{2}, NE\frac{1}{4}, NW\frac{1}{4}, S\frac{1}{2}$
Section 36, except $SW\frac{1}{4}, NW\frac{1}{4}, S\frac{1}{2},$ and the south 660 feet of Lots 3 — 4;
(5) Township 28 South, Range 56 East, Copper River Meridian
Section 7: $SW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, W\frac{1}{2}, NE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, NW\frac{1}{4}, SW\frac{1}{4}, S\frac{1}{2}, SW\frac{1}{4}, SW\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}$
Section 17: $W\frac{1}{2}, SW\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, SW\frac{1}{4}$
Section 18: $W\frac{1}{2}, W\frac{1}{2}, NE\frac{1}{4}, E\frac{1}{2}, SW\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, W\frac{1}{2}, SE\frac{1}{4}$
Section 19
Section 20: $W\frac{1}{2}, W\frac{1}{2}$
Section 29, except USS 948, USS 991, Lots 1, 2, and 4 — 7, $NE\frac{1}{4}, E\frac{1}{2}, NW\frac{1}{4}$
Section 30: except USS 991, USS 2455, and Lots 1, 2, and 24
Section 31
Section 32, except USS 991, USS 2455, and Lots 1, 2, and 24
Section 33: $S\frac{1}{2}$ except USS 2455 and Lots 18 — 21
Section 34: $W\frac{1}{2}, SW\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4},$ except $NE\frac{1}{4}, SW\frac{1}{4}$ and Lots 1 and 2;
(6) Township 28 South, Range 57 East, Copper River Meridian
Section 22: $NE\frac{1}{4}, SW\frac{1}{4}, E\frac{1}{2}, SE\frac{1}{4}, SW\frac{1}{4}, W\frac{1}{2}, NW\frac{1}{4}, SE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, SE\frac{1}{4}, S\frac{1}{2}, SE\frac{1}{4}, SE\frac{1}{4}$
Section 26: $W\frac{1}{2}, SW\frac{1}{4}, NW\frac{1}{4}, W\frac{1}{2}, W\frac{1}{2}, SW\frac{1}{4}$
Section 27: $E\frac{1}{2}, E\frac{1}{2}, N\frac{1}{2}, NW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}$
Section 34: $NE\frac{1}{4}, NE\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}$
Section 35: $SW\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, S\frac{1}{2}, NW\frac{1}{4}, NW\frac{1}{4}, S\frac{1}{2}, NW\frac{1}{4}, E\frac{1}{2}, SW\frac{1}{4}, NW\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4}, S\frac{1}{2}, NW\frac{1}{4}, SE\frac{1}{4}, S\frac{1}{2}, SE\frac{1}{4}, SW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4};$
(7) Township 29 South, Range 55 East, Copper River Meridian
Section 1: $S\frac{1}{2}, NE\frac{1}{4}, NE\frac{1}{4}, E\frac{1}{2}, SW\frac{1}{4}, NE\frac{1}{4}, N\frac{1}{2}, SE\frac{1}{4}, NE\frac{1}{4}, SW\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, NE\frac{1}{4}, SE\frac{1}{4}, NE\frac{1}{4}, NW\frac{1}{4}, SE\frac{1}{4};$

tion 31; and in paragraph (11) deleted the description of section 13.

Sec. 41.21.612. Land excluded. (a) Private land, approved or pending Native allotments, pending and approved land selections made by the Haines Borough under state law on July 1, 1982, University of Alaska grant land not located within the Chilkat River Critical Habitat Area established by AS 16.20.585, and existing transportation and utility corridors located partially or completely within the Alaska Chilkat Bald Eagle Preserve are excluded from the Alaska Chilkat Bald Eagle Preserve.

(b) University of Alaska grant land located within the boundary of the Chilkat River Critical Habitat Area established under AS 16.20.585 is excluded from the Alaska Chilkat Bald Eagle Preserve. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Subsection (a) was AS 41.20.507(n). Reorganized and renumbered in 1983. Formerly the first sentence of AS 41.20.507(b). Subsection (b) was formerly

Sec. 41.21.613. Eminent domain prohibited. The commissioner may not acquire private land or University of Alaska grant land located partially or completely within the Alaska Chilkat Bald Eagle Preserve by eminent domain for any purpose. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly the last sentence of AS 41.20.507(b). Reorganized and renumbered in 1983.

Sec. 41.21.614. Native allotments. Approved or pending Native allotments located partially or completely within the Alaska Chilkat Bald Eagle Preserve are not adversely affected by the establishment of the Alaska Chilkat Bald Eagle Preserve and all approved allotments and all pending allotments located partially or completely within the preserve shall be treated as private land. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(c). Renumbered in 1983.

Sec. 41.21.615. Fish and game management. The Department of Fish and Game is responsible for the management of fish and game resources in the Alaska Chilkat Bald Eagle Preserve

(1) under applicable law and consistent with the purposes of AS 41.21.610 — 41.21.630;

(2) subject to the authority of the Secretary of the Interior to permit the taking of bald eagles for the religious purposes of an Indian tribe

under 16 U.S.C. 668a (§ 2, Bald Eagle Protection Act). (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(d). Renumbered in 1983.

Sec. 41.21.616. Regulations. The department shall consult with the Department of Fish and Game, the United States Fish and Wildlife Service, a local governing body of a municipality, any local fish and game advisory committees, and the Alaska Chilkat Bald Eagle Preserve Advisory Council established by AS 41.21.625 before adoption of reasonable regulations governing public use and protection of the Alaska Chilkat Bald Eagle Preserve. The Department of Fish and Game shall consult with the department and the Alaska Chilkat Bald Eagle Preserve Advisory Council in proposing regulations governing fish and game management in the Alaska Chilkat Bald Eagle Preserve for adoption by the Board of Fisheries or the Board of Game. The Department of Fish and Game and the department shall cooperate with the United States Fish and Wildlife Service in its administration of federal law governing the conservation of bald eagles. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(e). Renumbered in 1983.

Sec. 41.21.617. Other uses generally. The state land and water described in AS 41.21.611(b) are closed to mineral entry under AS 38.05.135 — 38.05.275, to commercial harvest of timber, and to sale under state land disposal laws. The commissioner may lease the land described in AS 41.21.611(b) under AS 38.05.070 — 38.05.105 for a purpose consistent with AS 41.21.610(a) and (b). A municipality may select land within the Alaska Chilkat Bald Eagle Preserve under law. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(f). Renumbered in 1983.

Sec. 41.21.618. Traditional uses. Continued opportunities for traditional uses of the Alaska Chilkat Bald Eagle Preserve at levels and by methods and means that are compatible with the protection of the bald eagle population are guaranteed. These historically compatible uses include but are not limited to hunting, trapping, fishing, berry picking, other subsistence and recreational uses, operation of motorized vehicles, and the harvesting of personal-use firewood. The level and method or means of traditional use may continue subject to reasonable regulation unless the director of the division of parks of the department, after consultation with the Alaska Chilkat Bald Eagle

Preserve Advisory Council, makes a finding that the level or method and means of use is causing significant resource damage that is inconsistent with AS 41.21.610(a) and (b). The director of the division of parks shall hold a public hearing in Haines and Klukwan before restricting a traditional use permitted under this section. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(g). Renumbered in 1983.

Sec. 41.21.619. Access and rights-of-way. If privately owned land, University of Alaska grant land, a valid mining right, an existing mineral lease, a subsurface right on private land, or other valid occupancy is surrounded by state land of the Alaska Chilkat Bald Eagle Preserve or if privately owned land, University of Alaska grant land, federal land, municipal land, or state land not described in AS 41.21.611(b), a valid mining claim, subsurface right, or other valid occupancy on land not described in AS 41.21.611(b) does not have reasonable, timely, and economically feasible access and egress by means other than crossing land designated as Alaska Chilkat Bald Eagle Preserve land in AS 41.21.611(b), the director of the division of parks shall grant a private landowner, the University of Alaska, a holder of a valid existing right to land, or a state agency, municipality, or federal agency the rights necessary to assure reasonable, timely, and economically feasible access and egress. A permittee or licensee of an owner of land or the holder of a valid existing right to land may use access and egress granted under this subsection. The rights of access and egress granted under this subsection are subject to reasonable regulation and stipulations established by the director of the division of parks after consulting with the Alaska Chilkat Bald Eagle Preserve Advisory Council to protect the purposes and values of the Alaska Chilkat Bald Eagle Preserve and to minimize adverse environmental impacts in the preserve. As used in this subsection, "valid existing right" includes but is not limited to a valid mining right, an existing mineral right, and a subsurface right. The director of the division of parks shall give favorable consideration to applications for utility rights-of-way that are compatible with AS 41.21.610(a) and (b). (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(h). Renumbered in 1983.

Sec. 41.21.620. Management plan. (a) The director of the division of parks and the Alaska Chilkat Bald Eagle Advisory Council established under AS 41.21.625, in written consultation with the United States Fish and Wildlife Service, the Department of Fish and Game, the Chilkat Indian Village, the Chilkoot Indian Association,

and other appropriate groups, may use information gained through cooperative resource studies in the development of the management plan for the Alaska Chilkat Bald Eagle Preserve and in decisions affecting the management and administration of the preserve. The director of the division of parks and the advisory council shall investigate the need for additional research to increase the knowledge and understanding of the natural and cultural resources of the area and to enhance the effective management of the Alaska Chilkat Bald Eagle Preserve.

(b) The director of the division of parks and the director of the division of forestry shall consult in the preparation of the management plan prepared under (a) of this section to promote effective, efficient, and coordinated administration of the Haines State Forest Resource Management Area and the Alaska Chilkat Bald Eagle Preserve for the purposes and values for which each is established. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(l) and (m). Renumbered in 1983.

Sec. 41.21.621. Additions or deletions to preserve. An agency of the state may not participate or cooperate with a federal or private study considering additions to or deletions from the area of the Alaska Chilkat Bald Eagle Preserve without giving 90 days' prior notice to the Alaska Chilkat Bald Eagle Preserve Advisory Council. The director of the division of parks may waive the notice required by this subsection on the director's determination in writing to the advisory council that an emergency necessitates immediate study or a shorter period of notice to the advisory council. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(j). Renumbered in 1983.

Sec. 41.21.622. Historical, cultural and burial sites. Historical, cultural, and burial sites identified in the Alaska Chilkat Bald Eagle Preserve management plan are not available for surface disposal under AS 41.21.617 and shall be managed by the director of the division of parks to prevent vandalism, destruction, and desecration. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.507(i). Renumbered in 1983.

Sec. 41.21.625. Alaska Chilkat Bald Eagle Preserve Advisory Council. (a) A 12-member Alaska Chilkat Bald Eagle Preserve Advisory Council is established. The members of the advisory council shall be selected under this section.

(b) The governor shall appoint individuals to the Alaska Chilkat Bald Eagle Preserve Advisory Council representing the following interests for a two-year term:

(1) a resident of the Haines Borough representing a conservation organization;

(2) a representative of the United States Fish and Wildlife Service; and

(3) a member of the Upper Lynn Canal fish and game advisory committee.

(c) The mayor of the City of Haines, the mayor of the Haines Borough, the president of Klukwan, Inc., the chairman of the Council of the Chilkat Indian Village, and the chairman of the Chilkoot Indian Association are ex officio members of the Alaska Chilkat Bald Eagle Preserve Advisory Council. The mayor of the Haines Borough may recommend to the governor for appointment to the advisory council the name of a resident of the Haines Borough for the representation of commercial or industrial interests.

(d) The commissioner of fish and game, the director of the division of parks, and the director of the division of forestry, or their designees, serve ex officio as members of the Alaska Chilkat Bald Eagle Preserve Advisory Council.

(e) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall assist the department in the development and monitoring of a management plan for the Alaska Chilkat Bald Eagle Preserve. The management plan shall be presented at public hearings in Haines and Klukwan before approval and implementation by the department.

(f) Members of the Alaska Chilkat Bald Eagle Preserve Advisory Council selected under (b) — (d) of this section may select alternates to act as members of the advisory council in their absence. (§ 1 ch 95 SLA 1982)

Revisor's notes. — Formerly AS 41.20.618. Renumbered in 1983.

Sec. 41.21.630. Existing rights. The establishment of the Alaska Chilkat Bald Eagle Preserve under AS 41.21.610 — 41.21.630 does not enlarge, diminish, add to, or waive a requirement of law otherwise applicable to the management or use of the state land of the Haines State Forest Resource Management Area (AS 41.15.300 — 41.15.330) or private land. An activity allowed under law on land not described in AS 41.21.611(b), including but not limited to an activity described in AS 41.21.618, timber harvest, mining, resource development, and

HB

264

HFIN

FILE

HOUSE COMMITTEE REPORT

4/27

(11)
Date Referred: April 13, 1993

FURTHER REFERRALS:

to Calendar

Date of Committee Action: 4/27/93

The FINANCE Committee considered:

HB 264

HOUSE BILL NO. 264

FISHERY RESOURCE LANDING TAX

"An Act providing for a fishery resource landing tax; and providing for an effective date."

RECOMMENDATIONS:
be replaced with D.S HB 264 (Fin) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS:

fiscal impact _____

fiscal note(s) DCED 4/13/93
REV 4/13/93

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Larson</i>	(00)	<i>EP Mochan</i> Machean		✓	
_____	(00)	<i>Mal Hamley</i>		✓	
<i>Ben Grussendorf</i>	(00)	<i>Sen. [unclear]</i>		✓	
<i>Richard [unclear]</i>	(00)	<i>Lyman H. Hoffman</i>		✓	
<i>[unclear]</i>		<i>Mike Navarre</i>		✓	
		<i>Jan Brown</i>		✓	
		<i>Arnell Martin</i>		✓	
		<i>[unclear]</i>		X	
	(B)			(8)	

Ronald J. Larson *EP Mochan*
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1
 Bill Version: CSHB 264 (FSH)
 (H) Publish Date: 4/13/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: Fishery Resource Landing Tax

 Sponsor: House Rules
 Requestor: House Rules

Department Affected: Commerce and Economic Development
 BRU: Alaska Seafood Marketing Institute
 Component: _____
 COMPONENT SERIAL NO. 0393

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	860.0	860.0	860.0	860.0	860.0	860.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	860.0	860.0	860.0	860.0	860.0	860.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND						
SOURCE: General Fund	860.0	860.0	860.0	860.0	860.0	860.0

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	860.0	860.0	860.0	860.0	860.0	860.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	860.0	860.0	860.0	860.0	860.0	860.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) Impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Fred Fisher, Administrative Officer
 Division: Alaska Seafood Marketing Institute

Phone: 465-5571
 Date: 4/9/93

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 4-12-93

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Rev 11/92
ORIGINAL

FISCAL NOTE

N 121
 Bill Version: CSHB 264 (FSH)
 (H) Publish Date: 4/13/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Revenue
 Title: Fishery Resource Landing Tax BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: House Rules
 Requestor: House Rules COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	58.0	58.0	58.0	58.0	58.0	58.0
TRAVEL	20.0	20.0	20.0	20.0	20.0	20.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	94.0	84.0	84.0	84.0	84.0	84.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE: General Fund	4,300.0	4,300.0	4,300.0	4,300.0	4,300.0	4,300.0
FUNDING:	860.0	860.0	860.0	860.0	860.0	860.0

FUNDING:	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF	94.0	84.0	84.0	84.0	84.0	84.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	94.0	84.0	84.0	84.0	84.0	84.0

POSITIONS:	FY94	FY95	FY96	FY97	FY98	FY99
FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry E. Meyers, Director *Larry E. Meyers* Phone: 465-2320
 Division: Income and Excise Audit Division Date: April 1, 1993
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: April 1, 1993
 Agency: Department of Revenue

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HB 264
 Fiscal Note Analysis
 April 1, 1993
 Page 2 of 2

Analysis

This bill amends AS Title 43 by adding a chapter to provide for a fishery resource landing tax. The landing tax would be imposed on fisheries resources brought into or landed in the state. The tax would be calculated by multiplying the value of the fishery resource by 3.3%.

Persons subject to the landing tax would be required to file a return with the department on a calendar year basis. The return and tax payment would be due April 1 after the close of the calendar year. Taxes collected on .3% of the value of the fishery resource will be paid into a separate account, the balance of which may be appropriated by the legislature to the Alaska Seafood Marketing Institute (ASMI).

All remaining taxes collected will be paid into a separate account in the general fund. Of that amount, fifty percent will be shared to cities and boroughs in the same manner as fisheries business taxes under AS 75, subject to appropriation by the legislature.

Based on the Department of Revenue's 1991 Fish Tax Study, landing tax revenues are estimated as follows:

	<u>Value</u>	<u>3% Portion</u>	<u>.3% Portion</u>
Landing Tax	\$285,700.0	\$8,600.0	\$860.0
Less Amount Shared (50%)		<u>(4,300.0)</u>	<u>N/A</u>
Net Landing Tax		<u>\$4,300.0</u>	<u>\$860.0</u>

Operating Costs

Personal Services	
Revenue Auditor III - Anchorage (Range 18A)	58.0
Travel	
Compliance and Review	10.0
Audits	10.0
Contractual	5.0
Supplies	1.0
Equipment	
Computer and Modular Furniture (FY 94)	10.0

8-LS0941\X

Chenoweth

~~4/25/93~~

CS FOR HOUSE BILL NO. 264()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act levying and providing for the collection of and disposition of the
2 proceeds of a fishery resource landing tax; and providing for an effective date."

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

4 * Section 1. AS 43 is amended by adding a new chapter to read:

5 **CHAPTER 77. FISHERY RESOURCE LANDING TAX.**

6 **Sec. 43.77.010. LANDING TAX.** A person owning a fishery resource that is
7 not subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in,
8 this state is liable for and shall pay a landing tax on the value of the fishery resource.
9 The amount of the landing tax is 3.3 percent of the value of the fishery resource at the
10 place of the landing.

11 **Sec. 43.77.020. FILING RETURN AND PAYMENT OF TAX.** (a) A person
12 subject to the tax under this chapter shall file a return stating the value of fishery
13 resources landed in the state that are subject to the tax, the point of landing of the
14 fishery resource, and other information the department requires by regulation.

1 (b) The return shall be made on the basis of the calendar year to the
2 department at Juneau before April 1 after the close of the calendar year, and the tax
3 shall be paid with the return.

4 (c) The department may, under regulations it adopts, grant a reasonable
5 extension of time for the filing. A grant of an extension of time for filing does not
6 extend the time for payment of the tax.

7 Sec. 43.77.030. CREDIT FOR OTHER TAXES PAID. The department shall
8 grant a credit, not to exceed the taxpayer's liability for the tax under this chapter on
9 a fishery resource, to a taxpayer for taxes equivalent in nature to those imposed under
10 AS 43.75 and AS 43.76 that are paid to another jurisdiction in which the fishery
11 resource was either caught, processed, or sold.

12 Sec. 43.77.040. CREDIT FOR APPROVED CONTRIBUTIONS. (a) A
13 taxpayer who harvests a fishery resource under the provisions of a community
14 development quota may claim as a credit against not more than 45.45 percent of the
15 tax under this chapter that is due on the value of the fishery resource harvested under
16 the community development quota, the taxpayer's contributions made during the tax
17 year to a nonprofit corporation incorporated under the laws of the state that are used
18 ~~in the state~~ by the recipient for one or more of the following purposes:

19 (1) scholarships for study in the state in the disciplines of fisheries
20 management, fisheries business administration, or another related course or discipline;

21 (2) training in the state for employment in the seafood industry;

22 (3) making contributions of capital, in the form of loans or grants, to
23 construct or improve

24 (A) transportation facilities in the state such as airports and
25 docks that are used for the unloading, transferring, or shipment of fisheries
26 products; or

27 (B) facilities in the state at which fisheries products are canned,
28 frozen, or otherwise processed for inventory, including floating facilities that
29 are documented under the laws of the United States as defined in 46 U.S.C.
30 App. 801;

31 (4) awarding grants for research projects relating to Alaska fisheries.

1 (b) A taxpayer who makes a contribution that qualifies for the credit
2 authorized by (a) of this section must apply to obtain the credit. The taxpayer shall
3 apply to the department in the manner provided by the department by regulation, and
4 shall provide to the commissioner all information relating to the contribution that may
5 be required by the department. Upon receipt of a complete application, the
6 department, in consultation with the Department of Community and Regional Affairs,
7 shall approve or disapprove the application for the credit within 60 days.

8 (c) The department shall revoke a prior approval of a tax credit and may not
9 allow a tax credit under this section if (1) the department determines that the
10 contribution does not qualify under (a) of this section; or (2) the taxpayer claiming the
11 credit is in arrears in the payment of a tax levied in this title. For purposes of this
12 subsection, a taxpayer is not in arrears if the payment is under administrative or
13 judicial appeal.

14 (d) A contribution allowed as a credit under this section may not be claimed
15 as a credit under another provision of this title.

16 Sec. 43.77.050. SEPARATE ACCOUNTING. (a) An amount of tax paid
17 equal to 3/10 of one percent of the value of the fishery resource shall be paid into a
18 separate account in the general fund. The annual balance in the account may be
19 appropriated by the legislature to the Alaska Seafood Marketing Institute.

20 (b) After payment of the amount determined under (a) of this section, the
21 balance of the tax collected under this chapter shall be paid into a separate account in
22 the general fund. The annual balance in the account, less all tax credits approved by
23 the commissioner under AS 43.77.040(b), may be appropriated by the legislature for
24 revenue sharing under AS 43.77.060.

25 Sec. 43.77.060. REVENUE SHARING. (a) Subject to appropriation by the
26 legislature and except as provided in (b) of this section, the commissioner shall pay
27 to each

28 (1) unified municipality and to each city located in the unorganized
29 borough, 50 percent of the amount of tax revenue collected from taxes levied under
30 this chapter on the fishery resource landed in the municipality and accounted for under
31 AS 43.77.050(b);

1 (2) city located within a borough, 25 percent of the amount of the tax
2 revenue collected from taxes levied under this chapter on fishery resources landed in
3 the city and accounted for under AS 43.77.050(b); and

4 (3) borough

5 (A) 50 percent of the amount of the tax revenue collected from
6 taxes levied under this chapter on fishery resources landed in the area of the
7 borough outside cities and accounted for under AS 43.77.050(b); and

8 (B) 25 percent of the amount of the tax revenue collected from
9 taxes levied under this chapter on fishery resources landed in cities located
10 within the borough and accounted for under AS 43.77.050(b).

11 (b) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and
12 subject to appropriation by the legislature, the commissioner shall pay to each

13 (1) city that is located in a borough incorporated after the effective date
14 of this Act, the following percentages of the tax revenue collected from taxes levied
15 under this chapter on fishery resources landed in the city and accounted for under
16 AS 43.77.050(b):

17 (A) 45 percent of the tax revenue collected during the calendar
18 year in which the borough is incorporated;

19 (B) 40 percent of the tax revenue collected during the first
20 calendar year after the calendar year in which the borough is incorporated;

21 (C) 35 percent of the tax revenue collected during the second
22 calendar year after the calendar year in which the borough is incorporated; and

23 (D) 30 percent of the tax revenue collected during the third
24 calendar year after the calendar year in which the borough is incorporated; and

25 (2) borough that is incorporated after the effective date of this Act, the
26 following percentages of the tax revenue collected from taxes levied under this chapter
27 on fishery resources landed in the cities located within the borough and accounted for
28 under AS 43.77.050(b):

29 (A) five percent of the tax revenue collected during the calendar
30 year in which the borough is incorporated;

31 (B) 10 percent of the tax revenue collected during the first

1 calendar year after the calendar year in which the borough is incorporated;

2 (C) 15 percent of the tax revenue collected during the second
3 calendar year after the calendar year in which the borough is incorporated; and

4 (D) 20 percent of the tax revenue collected during the third
5 calendar year after the calendar year in which the borough is incorporated.

6 (c) Notwithstanding the provisions of (b) of this section, a city may adopt an
7 ordinance to transfer a portion of the funds received under (b)(1) of this section to the
8 borough in which the city is located.

9 (d) To the extent that appropriations are available for the purpose, and
10 notwithstanding the requirement of AS 37.07.080(e) that approval of the office of
11 management and budget is required, an amount equal to 50 percent of the tax revenue
12 that is collected under this chapter and is not subject to division with a municipality
13 under (a) - (c) of this section shall be transmitted each fiscal year, without the approval
14 of the office of management and budget, by the department to the Department of
15 Community and Regional Affairs for disbursal to eligible municipalities under
16 AS 29.60.450.

17 (e) In this section, "tax revenue collected" does not include amounts credited
18 against taxes under AS 43.77.040.

19 Sec. 43.77.070. REGULATIONS. The department shall adopt regulations to
20 implement and interpret this chapter.

21 Sec. 43.77.200. DEFINITIONS. In this chapter,

22 (1) "community development quota" has the meaning given that term
23 in a regulation adopted by the Office of the Governor, under authority granted by art.
24 III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the
25 North Pacific Fishery Management Council to set aside fisheries resources for
26 community development purposes in western Alaska;

27 (2) "fishery resource" means finfish, shellfish, and fish by-products,
28 including salmon, halibut, herring, flounder, crab, clams, cod, shrimp, and pollock;

29 (3) "landing" means the act of unloading or transferring a fishery
30 resource;

31 (4) "process"

1 (A) means any activity that modifies the physical condition of
2 the resource, including butchering, freezing, salting, cooking, canning,
3 dehydrating, or smoking;

4 (B) does not include decapitating shrimp, or gutting, gilling,
5 sliming, washing, or icing a resource solely for the purpose of maintaining the
6 quality of the fresh resource;

7 (5) "tax" means the fishery resource landing tax levied and collected
8 under this chapter;

9 (6) "value" means the unprocessed value of the fishery resource based
10 on the statewide average price paid for the fisheries resource as reported during the
11 year to the Department of Fish and Game under AS 16.05.690.

12 * Sec. 2. AS 29.60.450(b) is amended to read:

13 (b) The amount transmitted each fiscal year

14 (1) under AS 43.75.137 shall be apportioned by the department to each
15 management area based on the ratio of the management area's production value to the
16 total production value for all of the management areas; ~~the~~ [THE] department shall
17 allocate the amount available for each management area to each municipality in that
18 management area based on the demonstrated effects on the municipality of fisheries
19 business activities, the commercial fishing vessel days in that municipality, or both;

20 (2) under AS 43.77.060(d) shall be apportioned by the department
21 to each management area based on the ratio of the management area's fishery
22 resource landing tax production value to the total fishery resource landing tax
23 production value for all of the management areas; the department shall allocate
24 the amount available for each management area to each municipality in that
25 management area based on the demonstrated effects on the municipality of
26 fisheries activities that are subject to the tax levied under AS 43.77.

27 * Sec. 3. AS 29.60.450(f) is amended by adding a new paragraph to read:

28 (7) "fishery resource landing tax production value" has the meaning
29 given the term "value" by AS 43.77.200;

30 * Sec. 4. This Act takes effect January 1, 1994.

8-LS0941NR ✓
Chenoweth
4/23/93

CS FOR HOUSE BILL NO. 264()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act levying and providing for the collection of and disposition of the
2 proceeds of a fishery resource landing tax; and providing for an effective date."

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

4 * Section 1. AS 43 is amended by adding a new chapter to read:

5 CHAPTER 77. FISHERY RESOURCE LANDING TAX.

6 Sec. 43.77.010. LANDING TAX. A person owning a fishery resource that is
7 not subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in,
8 this state is liable for and shall pay a landing tax on the value of the fishery resource.
9 The amount of the landing tax is 3.3 percent of the value of the fishery resource at the
10 place of the landing.

11 Sec. 43.77.020. FILING RETURN AND PAYMENT OF TAX. (a) A person
12 subject to the tax under this chapter shall file a return stating the value of fishery
13 resources landed in the state that are subject to the tax, the point of landing of the
14 fishery resource, and other information the department requires by regulation.

1 (b) The return shall be made on the basis of the calendar year to the
2 department at Juneau before April 1 after the close of the calendar year, and the tax
3 shall be paid with the return.

4 (c) The department may, under regulations it adopts, grant a reasonable
5 extension of time for the filing. A grant of an extension of time for filing does not
6 extend the time for payment of the tax.

7 Sec. 43.77.030. CREDIT FOR TAXES PAID OTHER STATES. The
8 department shall grant a credit, not to exceed the taxpayer's liability for the tax under
9 this chapter on a fishery resource, to a taxpayer for taxes equivalent to those imposed
10 under AS 43.75 and AS 43.76 that are paid to another state in which the fishery
11 resource was either caught or processed.

12 Sec. 43.77.040. CREDIT FOR APPROVED CONTRIBUTIONS. (a) A
13 taxpayer who harvests a fishery resource under the provisions of a community
14 development quota may claim as a credit against not more than 45.45 percent of the
15 tax due under this chapter the taxpayer's contributions made during the tax year to a
16 nonprofit corporation incorporated under the laws of the state that are used in the state
17 by the recipient for one or more of the following purposes:

18 (1) scholarships for study in the disciplines of fisheries management,
19 fisheries business administration, or another related course or discipline;

20 (2) training for employment in the seafood industry;

21 (3) making contributions of capital, in the form of loans or grants, to
22 construct or improve

23 (A) transportation facilities such as airports and docks that are
24 used for the unloading, transferring, or shipment of fisheries products; or

25 (B) facilities at which fisheries products are canned, frozen, or
26 otherwise processed for inventory, including floating facilities that are
27 documented under the laws of the United States as defined in 46 U.S.C. App.
28 801;

29 (4) awarding grants for research projects relating to fisheries.

30 (b) A taxpayer who makes a contribution that qualifies for the credit
31 authorized by (a) of this section must apply to obtain the credit. The taxpayer shall

1 apply to the department in the manner provided by the department by regulation, and
2 shall provide to the commissioner all information relating to the contribution that may
3 be required by the department. Upon receipt of a complete application, the
4 department, in consultation with the Department of Community and Regional Affairs,
5 shall approve or disapprove the application for the credit within 60 days.

6 (c) The department shall revoke a prior approval of a tax credit and may not
7 approve an application for a tax credit under this section if (1) the department
8 determines that the contribution does not qualify under (a) of this section; or (2) the
9 taxpayer claiming the credit is in arrears in the payment of a tax levied in this title.
10 For purposes of this subsection, a taxpayer is not in arrears if the payment is under
11 administrative or judicial appeal.

12 (d) A contribution allowed as a credit under this section may not be claimed
13 as a credit under another provision of this title.

14 Sec. 43.77.050. SEPARATE ACCOUNTING. (a) An amount of tax paid
15 equal to 3/10 of one percent of the value of the fishery resource shall be paid into a
16 separate account in the general fund. The annual balance in the account may be
17 appropriated by the legislature to the Alaska Seafood Marketing Institute.

18 (b) After payment of the amount determined under (a) of this section, the
19 balance of the tax collected under this chapter shall be paid into a separate account in
20 the general fund. The annual balance in the account, less all tax credits approved by
21 the commissioner under AS 43.77.040, may be appropriated by the legislature for
22 revenue sharing under AS 43.77.060.

23 Sec. 43.77.060. REVENUE SHARING. (a) Subject to appropriation by the
24 legislature and except as provided in (b) of this section, the commissioner shall pay
25 to each

26 (1) unified municipality and to each city located in the unorganized
27 borough, 50 percent of the amount of tax revenue collected from taxes levied under
28 this chapter on the fishery resource landed in the municipality and accounted for under
29 AS 43.77.050(b);

30 (2) city located within a borough, 25 percent of the amount of the tax
31 revenue collected from taxes levied under this chapter on fishery resources landed in

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the city and accounted for under AS 43.77.050(b); and

(3) borough

(A) 50 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the area of the borough outside cities and accounted for under AS 43.77.050(b); and

(B) 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in cities located within the borough and accounted for under AS 43.77.050(b).

(b) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and subject to appropriation by the legislature, the commissioner shall pay to each

(1) city that is located in a borough incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b):

(A) 45 percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) borough that is incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the cities located within the borough and accounted for under AS 43.77.050(b):

(A) five percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the tax revenue collected during the second

1 calendar year after the calendar year in which the borough is incorporated; and

2 (D) 20 percent of the tax revenue collected during the third
3 calendar year after the calendar year in which the borough is incorporated.

4 (c) Notwithstanding the provisions of (b) of this section, a city may adopt an
5 ordinance to transfer a portion of the funds received under (b)(1) of this section to the
6 borough in which the city is located.

7 (d) To the extent that appropriations are available for the purpose, and
8 notwithstanding the requirement of AS 37.07.080(e) that approval of the office of
9 management and budget is required, an amount equal to 50 percent of the tax revenue
10 that is collected under this chapter and is not subject to division with a municipality
11 under (a) - (c) of this section shall be transmitted each fiscal year, without the approval
12 of the office of management and budget, by the department to the Department of
13 Community and Regional Affairs for disbursement to eligible municipalities under
14 AS 29.60.450.

15 (e) In this section, "tax revenue collected" does not include amounts credited
16 against taxes under AS 43.77.040.

17 Sec. 43.77.070. REGULATIONS. The department shall adopt regulations to
18 implement and interpret this chapter.

19 Sec. 43.77.200. DEFINITIONS. In this chapter,

20 (1) "community development quota" has the meaning given that term
21 in a regulation adopted by the Office of the Governor, under authority granted by art.
22 III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the
23 North Pacific Fishery Management Council to set aside fisheries resources for
24 community development purposes in western Alaska;

25 (2) "fishery resource" means finfish, shellfish, and fish by-products,
26 including salmon, halibut, herring, flounder, crab, clams, cod, shrimp, and pollock;

27 (3) "landing" means the act of unloading or transferring a fishery
28 resource;

29 (4) "market value" means the highest price a willing buyer would pay
30 and a willing seller would accept for a fishery resource if both are fully informed and
31 neither is under any compulsion to buy or sell, as determined by the department under

1 regulations adopted to make value determinations;

2 (5) "process"

3 (A) means any activity that modifies the physical condition of
4 the resource, including butchering, freezing, salting, canning,
5 dehydrating, or smoking;

6 (B) does not include decapitating shrimp, or gutting, gilling,
7 sliming, washing, or icing a resource solely for the purpose of maintaining the
8 quality of the fresh resource;

9 (6) "tax" means the fishery resource landing tax levied and collected
10 under this chapter;

11 (7) "value" means the lesser of

12 (A) the market value of the processed fishery resource at the
13 time and place the resource becomes subject to the tax under this chapter; or

14 (B) the statewide average price paid in the year for unprocessed
15 fisheries resources as reported to, and the results compiled and released by, the
16 Department of Fish and Game.

17 * Sec. 2. AS 29.60.450(b) is amended to read:

18 (b) The amount transmitted each fiscal year

19 (1) under AS 43.75.137 shall be apportioned by the department to each
20 management area based on the ratio of the management area's production value to the
21 total production value for all of the management areas; ~~the~~ [THE] department shall
22 allocate the amount available for each management area to each municipality in that
23 management area based on the demonstrated effects on the municipality of fisheries
24 business activities, the commercial fishing vessel days in that municipality, or both;

25 (2) under AS 43.77.060(d) shall be apportioned by the department
26 to each management area based on the ratio of the management area's fishery
27 resource landing tax production value to the total fishery resource landing tax
28 production value for all of the management areas; the department shall allocate
29 the amount available for each management area to each municipality in that
30 management area based on the demonstrated effects on the municipality of
31 fisheries activities that are subject to the tax levied under AS 43.77.

1 * Sec. 3. AS 29.60.450(f) is amended by adding a new paragraph to read:

2 (7) "fishery resource landing tax production value" has the meaning
3 given the term "value" by AS 43.77.200;

4 * Sec. 4. This Act takes effect January 1, 1994.

8-LS0941NO
Chenoweth
4/21/93

CS FOR HOUSE BILL NO. 264()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act levying and providing for the collection of and disposition of the
2 proceeds of a fishery resource landing tax; and providing for an effective date."

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

4 * Section 1. AS 43 is amended by adding a new chapter to read:

5 CHAPTER 77. FISHERY RESOURCE LANDING TAX.

6 Sec. 43.77.010. LANDING TAX. A person owning a fishery resource that is
7 not subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in,
8 this state is liable for and shall pay a landing tax on the value of the fishery resource.
9 The amount of the landing tax is 3.3 percent of the value of the fishery resource at the
10 place of the landing.

11 Sec. 43.77.020. FILING RETURN AND PAYMENT OF TAX. (a) A person
12 subject to the tax under this chapter shall file a return stating the value of fishery
13 resources landed in the state that are subject to the tax, the point of landing of the
14 fishery resource, and other information the department requires by regulation.

1 apply to obtain the credit. The taxpayer shall apply in the manner provided by the
2 department by regulation, and shall provide to the commissioner all information
3 relating to the contribution that may be required by the department. Upon receipt of
4 a complete application, the department shall approve or disapprove the application for
5 the credit within 60 days.

6 (c) The department may not approve a tax credit under this section if (1) the
7 department determines that the contribution does not qualify under (a) of this section;
8 or (2) the taxpayer claiming the credit is in arrears in the payment of the tax levied by
9 this chapter. For purposes of this subsection, a taxpayer is not in arrears if the
10 payment is under administrative or judicial appeal.

11 (d) A contribution allowed as a credit under this section may not be claimed
12 as a credit under another provision of this title.

13 Sec. 43.77.050. SEPARATE ACCOUNTING. (a) An amount of tax paid
14 equal to 3/10 of one percent of the value of the fishery resource shall be paid into a
15 separate account in the general fund. The annual estimated balance in the account may
16 be appropriated by the legislature to the Alaska Seafood Marketing Institute.

17 (b) After payment of the amount determined under (a) of this section, the
18 balance of the tax collected under this chapter shall be paid into a separate account in
19 the general fund. The annual balance in the account, less all tax credits approved by
20 the commissioner under AS 43.77.040, may be appropriated by the legislature for
21 revenue sharing under AS 43.77.060.

22 Sec. 43.77.060. REVENUE SHARING. (a) Subject to appropriation by the
23 legislature and except as provided in (b) of this section, the commissioner shall pay
24 to each

25 (1) unified municipality and to each city located in the unorganized
26 borough, 50 percent of the amount of tax revenue collected from taxes levied under
27 this chapter on the fishery resource landed in the municipality and accounted for under
28 AS 43.77.050(b);

29 (2) city located within a borough, 25 percent of the amount of the tax
30 revenue collected from taxes levied under this chapter on fishery resources landed in
31 the city and accounted for under AS 43.77.050(b); and

8-LS0941NO
Chenoweth
4/21/93

CS FOR HOUSE BILL NO. 264()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act levying and providing for the collection of and disposition of the
2 proceeds of a fishery resource landing tax; and providing for an effective date."

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4 * Section 1. AS 43 is amended by adding a new chapter to read:

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9 The amount of the landing tax is 3.3 percent of the value of the fishery resource at the
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14 fishery resource, and other information the department requires by regulation.

1 (b) The return shall be made on the basis of the calendar year to the
2 department at Juneau before April 1 after the close of the calendar year, and the tax
3 shall be paid with the return.

4 (c) The department may, under regulations it adopts, grant a reasonable
5 extension of time for the filing. A grant of an extension of time for filing does not
6 extend the time for payment of the tax.

7 Sec. 43.77.030. CREDIT FOR TAXES PAID OTHER STATES. The
8 department shall grant a credit, not to exceed the taxpayer's liability for the tax under
9 this chapter on a fishery resource, to a taxpayer for taxes equivalent to those imposed
10 under AS 43.75 and AS 43.76 that are paid to another state in which the fishery
11 resource was either caught or processed.

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13 taxpayer who harvests a fishery resource under the provisions of a community
14 development quota may claim as a credit against not more than 45.45 percent of the
15 tax due under this chapter the taxpayer's contributions made during the tax year to a
16 nonprofit corporation incorporated under the laws of the state that are used by the
17 recipient for one or more of the following purposes:

18 (1) scholarships for study in the disciplines of fisheries management,
19 fisheries business administration, or another related course or discipline;

20 (2) training for employment in the seafood industry;

21 (3) making contributions of capital, in the form of loans or grants, to
22 construct or improve

23 (A) transportation facilities such as airports and docks that are
24 used for the unloading, transferring, or shipment of fisheries products; or

25 (B) facilities at which fisheries products are canned, frozen, or
26 otherwise processed for inventory, including floating facilities that are
27 documented under the laws of the United States as defined in 46 U.S.C. App.
28 801;

29 (4) awarding grants for research projects relating to fisheries.

30 (b) A taxpayer who makes a contribution that qualifies for the credit
31 authorized by (a) of this section and who claims a credit for the contribution must

1 apply to obtain the credit. The taxpayer shall apply in the manner provided by the
2 department by regulation, and shall provide to the commissioner all information
3 relating to the contribution that may be required by the department. Upon receipt of
4 a complete application, the department shall approve or disapprove the application for
5 the credit within 60 days.

6 (c) The department may not approve a tax credit under this section if (1) the
7 department determines that the contribution does not qualify under (a) of this section;
8 or (2) the taxpayer claiming the credit is in arrears in the payment of the tax levied by
9 this chapter. For purposes of this subsection, a taxpayer is not in arrears if the
10 payment is under administrative or judicial appeal.

11 (d) A contribution allowed as a credit under this section may not be claimed
12 as a credit under another provision of this title.

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14 equal to 3/10 of one percent of the value of the fishery resource shall be paid into a
15 separate account in the general fund. The annual estimated balance in the account may
16 be appropriated by the legislature to the Alaska Seafood Marketing Institute.

17 (b) After payment of the amount determined under (a) of this section, the
18 balance of the tax collected under this chapter shall be paid into a separate account in
19 the general fund. The annual balance in the account, less all tax credits approved by
20 the commissioner under AS 43.77.040, may be appropriated by the legislature for
21 revenue sharing under AS 43.77.060.

22 Sec. 43.77.060. REVENUE SHARING. (a) Subject to appropriation by the
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24 to each

25 (1) unified municipality and to each city located in the unorganized
26 borough, 50 percent of the amount of tax revenue collected from taxes levied under
27 this chapter on the fishery resource landed in the municipality and accounted for under
28 AS 43.77.050(b);

29 (2) city located within a borough, 25 percent of the amount of the tax
30 revenue collected from taxes levied under this chapter on fishery resources landed in
31 the city and accounted for under AS 43.77.050(b); and

1 (3) borough

2 (A) 50 percent of the amount of the tax revenue collected from
3 taxes levied under this chapter on fishery resources landed in the area of the
4 borough outside cities and accounted for under AS 43.77.050(b); and

5 (B) 25 percent of the amount of the tax revenue collected from
6 taxes levied under this chapter on fishery resources landed in cities located
7 within the borough and accounted for under AS 43.77.050(b).

8 (b) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and
9 subject to appropriation by the legislature, the commissioner shall pay to each

10 (1) city that is located in a borough incorporated after the effective date
11 of this Act, the following percentages of the tax revenue collected from taxes levied
12 under this chapter on fishery resources landed in the city and accounted for under
13 AS 43.77.050(b):

14 (A) 45 percent of the tax revenue collected during the calendar
15 year in which the borough is incorporated;

16 (B) 40 percent of the tax revenue collected during the first
17 calendar year after the calendar year in which the borough is incorporated;

18 (C) 35 percent of the tax revenue collected during the second
19 calendar year after the calendar year in which the borough is incorporated; and

20 (D) 30 percent of the tax revenue collected during the third
21 calendar year after the calendar year in which the borough is incorporated; and

22 (2) borough that is incorporated after the effective date of this Act, the
23 following percentages of the tax revenue collected from taxes levied under this chapter
24 on fishery resources landed in the cities located within the borough and accounted for
25 under AS 43.77.050(b):

26 (A) five percent of the tax revenue collected during the calendar
27 year in which the borough is incorporated;

28 (B) 10 percent of the tax revenue collected during the first
29 calendar year after the calendar year in which the borough is incorporated;

30 (C) 15 percent of the tax revenue collected during the second
31 calendar year after the calendar year in which the borough is incorporated; and

1 (D) 20 percent of the tax revenue collected during the third
2 calendar year after the calendar year in which the borough is incorporated.

3 (c) Notwithstanding the provisions of (b) of this section, a city may adopt an
4 ordinance to transfer a portion of the funds received under (b)(1) of this section to the
5 borough in which the city is located.

6 (d) To the extent that appropriations are available for the purpose, and
7 notwithstanding the requirement of AS 37.07.080(e) that approval of the office of
8 management and budget is required, an amount equal to 50 percent of the tax revenue
9 that is collected under this chapter and is not subject to division with a municipality
10 under (a) - (c) of this section shall be transmitted each fiscal year, without the approval
11 of the office of management and budget, by the department to the Department of
12 Community and Regional Affairs for disbursal to eligible municipalities under
13 AS 29.60.450.

14 (e) In this section, "tax revenue collected" does not include amounts credited
15 against taxes under AS 43.77.040.

16 Sec. 43.77.070. REGULATIONS. The department shall adopt regulations to
17 implement and interpret this chapter.

18 Sec. 43.77.200. DEFINITIONS. In this chapter,

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20 in a regulation adopted by the Office of the Governor, under authority granted by art.
21 III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the
22 North Pacific Fishery Management Council to set aside fisheries resources for
23 community development purposes in western Alaska;

24 (2) "fishery resource" means finfish, shellfish, and fish by-products,
25 including salmon, halibut, herring, flounder, crab, clams, cod, shrimp, and pollock;

26 (3) "landing" means the act of unloading or transferring a fishery
27 resource;

28 (4) "market value" means the highest price a willing buyer would pay
29 and a willing seller would accept for a fishery resource if both are fully informed and
30 neither is under any compulsion to buy or sell, as determined by the department under
31 regulations adopted to make value determinations;

1 (5) "process"

2 (A) means any activity that modifies the physical condition of
3 the resource, including butchering, freezing, salting, cooking, canning,
4 dehydrating, or smoking;

5 (B) does not include decapitating shrimp, or gutting, gilling,
6 sliming, washing, or icing a resource solely for the purpose of maintaining the
7 quality of the fresh resource;

8 (6) "tax" means the fishery resource landing tax levied and collected
9 under this chapter;

10 (7) "value" means the lesser of

11 (A) the market value of the processed fishery resource at the
12 time and place the resource becomes subject to the tax under this chapter; or

13 (B) the statewide average price paid in the year for unprocessed
14 fisheries resources reported to, and the results compiled and released by, the
15 Department of Fish and Game.

16 * Sec. 2. AS 29.60.450(b) is amended to read:

17 (b) The amount transmitted each fiscal year

18 (1) under AS 43.75.137 shall be apportioned by the department to each
19 management area based on the ratio of the management area's production value to the
20 total production value for all of the management areas; ~~the~~ [THE] department shall
21 allocate the amount available for each management area to each municipality in that
22 management area based on the demonstrated effects on the municipality of fisheries
23 business activities, the commercial fishing vessel days in that municipality, or both;

24 (2) under AS 43.77.060(d) shall be apportioned by the department
25 to each management area based on the ratio of the management area's fishery
26 resource landing tax production value to the total fishery resource landing tax
27 production value for all of the management areas; the department shall allocate
28 the amount available for each management area to each municipality in that
29 management area based on the demonstrated effects on the municipality of
30 fisheries activities that are subject to the tax levied under AS 43.77.

31 * Sec. 3. AS 29.60.450(f) is amended by adding a new paragraph to read:

- 1 (7) "fishery resource landing tax production value" has the meaning
2 given the term "value" by AS 43.77.200:
3 * Sec. 4. This Act takes effect January 1, 1994.

Amendments

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 264(FSH)

Page 2, line 7, after "CREDIT FOR":

Insert "OTHER"

After "PAID"

Delete "OTHER STATES"

Page 2, line 10:

Delete "state"

Insert "jurisdiction"

Page 2, line 11:

Delete "either caught or processed"

Insert "caught, processed, or sold"

AMENDMENT 8-LSO941/I-9

The purpose of this amendment would be to ensure that companies operating from Alaska are not discriminated against when operating in foreign commerce.

This section of the bill currently provides credit for taxes paid to other states. To ensure a fair and level playing field for our fishing fleet, this amendment would allow a credit for taxes paid when entering a foreign market.

Absent this amendment, the American fishing fleet would be subject to paying a double tax on all exported fish products to a foreign country. In the highly competitive world-wide fishing market, the American fisherman would be at a disadvantage to the foreign fishermen of Japan, who don't pay these taxes or fees.

In addition, this amendment would go a long way toward satisfying a concern as to whether the proposed law could be challenged under "supremacy clause", Article IV, Clause 2 of the United States Constitution. Under this clause, a state law is void to the extent it conflicts with a federal statute, such as the Magnuson Act.

This amendment would also set to rest the question as to whether this legislation would violate the implied limitation or prohibition on U.S. Congressional authority to regulate foreign commerce. Under Article I, Sec. 8, the U.S. Congress is authorized to exercise power with respect to the regulation of foreign commerce, while Article I, Sec. 10, constrains the States from imposing any "duty of tonnage" without Congressional consent.

Foster

AMENDMENT TO PROPOSED FINANCE CS HOUSE BILL 264

P. 2, line 16 - delete "in the state"

line 18, add "in the state" following the word "scholarships"

line 20, add "in the state" following the word "training"

line 23, add "in the state" following facilities

line 25, add "in the state" following facilities

line 29, add "Alaska" before "fisheries"

P. 3, lines 6 and 7, delete "may not approve an application for"
and replace with "shall not allow"

Hoffma
A M E N D M E N T

OFFERED IN THE HOUSE

TO: ~~CSHR 104~~ (FSH)

4/23/93 AB 264 DRAFT

Page 5, lines 29-31 - 23:

page 6, line 1

Delete all material.

Renumber the following paragraphs accordingly.

Page 6, lines 11-16 - 7:

Delete all material and insert:

"(5) "Value" means the unprocessed value of the finfish or shellfish utilized in the production of the processed fishery product subject to the tax under this chapter; and shall be based on the state-wide average ex-vessel prices paid for such species as reported to the Department of Fish and Game pursuant to AS 16.05.690."

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

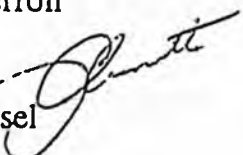
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 23, 1993

SUBJECT: Treatment of "value" for purposes of CSHB 264 (Work Order No. 8LS-0941W)

TO: Representative Lyman Hoffman
ATTN: Bob Herron

FROM: Jack Chenoweth 
Legislative Counsel

For purposes of determining the amount due under the proposed fishery resource landing tax, CSHB 264(FSH) applies a "market value" notion analogous to that used in assessment of real property--the theoretical price at which a willing buyer and a willing seller, both being fully informed and not compelled to buy or sell, would be willing to complete the deal. CSHB 264(FSH) authorizes the commissioner to adopt regulations to put that market valuation process into effect.

The amendment scraps the theoretical market value approach and substitutes in its place a figure calculated statewide by species based on the resources' ex vessel or unprocessed price, using fish tickets and other records of actual purchase.

My guess is that, if there is no substantial price variance among regions of the state, the approach set out in the amendment will yield a more accurate value determination and one that is marginally lower.

JBC:gc
93-360.glc

4

A M E N D M E N T

Martin

OFFERED IN THE SENATE

TO: CSHB 264(FSH)

Page 5, line 22, after "AS 43.77":

Insert: "for purposes of making allocations within management areas as required by this paragraph,

(A) the municipality to which amounts may be allocated has the burden of demonstrating to the department with specificity the changes within the municipality that are directly attributable to the fisheries activities that are subject to the tax levied under AS 43.77; and

(B) the department, in making allocations under this paragraph, may consider only the effects on the municipality that are directly attributable to activities that are subject to the tax levied under AS 43.77 and may not consider effects not directly attributable to activities that are not subject to that tax"

A M E N D M E N T

Martin

OFFERED IN THE HOUSE

TO: CSHB 264 (FSH)

Page 4, lines 20 - 23:

Delete all material.

Renumber the following paragraphs accordingly.

Page 5, lines 2 - 7:

Delete all material and insert:

"(5) "Value" means the unprocessed value of the finfish or shellfish utilized in the production of the processed fishery product subject to the tax under this chapter; and shall be based on the state-wide average ex-vessel prices paid for such species as reported to the Department of Fish and Game pursuant to AS 16.05.690."

A M E N D M E N T

OFFERED IN THE HOUSE

BY *Martin*

TO: CSHB 264 (FIN)

Page 2, line 13:

after resource insert "including those"

*Page 2. Line . . .
after recipient insert "in the State".*

This amendment allows a credit for the Bering Sea Fisheries Development Foundation.

CLARIFICATION OF "VALUE" AMENDMENT

The proposed amendment to the "value" language of HB 264 is designed to more clearly define the value against which the tax rate is to be applied. The language of the bill applies a "lesser of" test between the value of the product landed or the value of the unprocessed fish as reported to ADF&G. Since the alleged purpose is to tax on an equivalent basis to shoreside plants, the tax must be based not on the value of the processed product landed (\$1.00 per pound fillets, for example), but on the round weight, unprocessed fish that were utilized in the production of the fillets (ex: 4 lbs of raw fish yield 1 lb of fillets). The price paid for raw fish by shoreside plants is about 10 cents a pound, thus, the "value" of the raw fish used to produce the fillets is \$.40; and the tax due would be $\$.40 \times .033 = \$.0132$ not $\$1.00 \times .033 = \$.033$.

In other words, the shoreside plants pay the tax on the raw unprocessed fish - not the finished product. Off-shore plants should be treated identically. The proposed amendment clarifies this objective. Fish tickets supplied by shoreside processors to ADF&G reflect the price paid for each species of fish delivered. The proposed amendment would use the state-wide average fish ticket price reported to ADF&G as the value for unprocessed fish utilized in the production of the product landed. This is the same value that the shoreside plants use in calculating their fisheries business tax; and the same one that should be used in calculating any off-shore tax.

This is the purpose of the amendment and is theoretically consistent with the State's objective as discussed in the Dept. of Revenue testimony to Carl Moses' committee last week.

Back-up

PROPOSED FINANCE COMMITTEE SUBSTITUTE FOR HB 264

House Bill 264 would establish a new tax on fisheries resources that are caught and processed in the Exclusive Economic Zone (those waters under U.S. jurisdiction that are directly off of Alaska) but are then landed within Alaska's jurisdiction. These processed resources are currently not subject to any Alaska state tax, yet Alaska provides significant benefits and services to the offshore fleet, and incurs additional fishery management and enforcement costs as a result of the offshore fisheries. Coupled with the impact the operations have on local Alaska communities, the tax is one way to compensate the state for these services.

The proposed landing tax is 3.3% of the value of the processed resource. ASMI would receive the .3% portion of the tax collected.

The proposed Finance Committee CS for HB 264 would authorize a very narrow tax credit (p. 2, line 12) that would be limited to those taxpayers who harvest a fishery resource under a community development quota program. The potential value of this tax credit is about \$290,000, a very small portion of the Department of Revenue's estimated total tax of \$8.6 million generated by this legislation. The tax credit would only be allowed if the equivalent amount of funds was given to a nonprofit corporation for use in Alaska fisheries development, training and employment. The Department of Revenue, in consultation with the Department of Community and Regional Affairs, would determine if a proposed credit qualified.

The proposed committee substitute has been reviewed by the Department of Revenue and incorporates all of their recommended changes.

HOUSE BILL NO. 264
LANDING TAX QUESTIONS AND ANSWERS

Question 1. Who is impacted by this legislation?

Answer Those operators who both catch and process outside Alaska and bring the processed product into the state. The legislation is aimed at catcher/processors in the Exclusive Economic Zone ("EEZ") that currently pay no Fisheries Business Tax.

Question 2. Why are the EEZ catcher/processors not subject to the Fisheries Business Tax?

Answer The Fisheries Business Tax only applies if fishery resources are either caught or processed in Alaska. Since the catcher/processors catch and process in the EEZ exclusively, the Fisheries Business Tax does not apply to them.

Question 3. Why should the state impose the tax if the resources are not caught or processed in Alaska?

Answer Alaska provides significant benefits and services and incurs fishery management costs with respect to the resources to various degrees. Coupled with the impact the operations have on local Alaska communities, the tax is one way to compensate the state for these services.

Question 4. Will the Fisheries Business Tax and the Landing Tax apply to the same resource and result in a double tax burden?

Answer No. The Fisheries Business Tax applies to unprocessed fishery resources while the Landing Tax applies to processed fishery resources. If the Fisheries Business Tax applies, the Landing Tax will never be applicable.

Question 5. Does the Landing Tax apply to fishery resources that are first landed in another state or foreign country and again landed in Alaska?

Answer No. The Landing Tax only applies if the first landing is in this state.

Question 6. Does the Landing Tax apply to fishery resources that are first landed in Alaska and then immediately shipped outside the state?

Answer Yes. The Landing Tax applies to fishery resources that are unloaded or transferred in Alaska without regard to the final destination.

Question 7. Which party is subject to the Landing Tax where a sale occurs upon the first landing in Alaska?

Answer The seller will generally be liable for the tax. The tax is imposed on the owner of the resource at the moment of unloading or transfer.

Question 8. How is taxable value determined?

Answer Value is the lesser of the fair market value of the processed resource at the time and place of the transfer or the statewide average price paid for the unprocessed resource as determined by the Department of Fish and Game. Generally, the statewide average price will be the lower value. The statewide average prices will be determined by Fish and Game and made available to taxpayers for use in filing the tax returns.

Question 9. Is the taxable value zero if there is no statewide average price for a particular year?

Answer No. The Department will adopt regulations to substitute other prices in that event or require the use of fair market value.

Question 10. How does the landing tax rate compare to the rates under the Fisheries Business Tax?

Answer The Landing Tax rate of 3.3% is equivalent to the 3.3% paid by a shore-based fisheries business under the Fisheries Business Tax and Alaska Seafood Marketing Institute ("ASMI") provisions.

Question 11. Is the Landing Tax revenue shared with municipalities?

Answer Yes. The tax collected on .3% of the value is envisioned for ASMI and 50% of the remaining tax is shared in the same manner as under the Fisheries Business Tax provisions as summarized below:

Landings Within Municipalities

--Unified municipalities and cities in unorganized boroughs	50%
--City located within a borough	25%
--Borough where landed within city	25%
--Borough where landed outside a city	50%

except for a city within a borough incorporated after June 16, 1987:

--Year of incorporation	45% to city	5% to borough
--1st year after incorporation	40% to city	10% to borough
--2nd year after incorporation	35% to city	15% to borough
--3rd year after incorporation	30% to city	20% to borough

except a city may adopt an ordinance to transfer some of its revenues to the borough.

Landings Outside Municipalities

--50% of the tax that is otherwise not shared is transmitted to the Department of Community and Regional Affairs for sharing under AS 29.60.450.

**DEPARTMENT OF REVENUE
SECTIONAL ANALYSIS
CS FOR HOUSE BILL NO. 264 (FSH)**

An Act Levying and Collecting A Fishery Resource Landing Tax and Providing For An Effective Date.

Section 1 adds a new chapter in AS 43 to implement a landing tax. The landing tax is both designed and intended to be a compensatory tax to complement the fisheries business tax under AS 43.75. The landing tax is intended to compensate the state for the burdens that the EEZ catcher/processor fleet imposes upon the state and local communities, as well as for the benefits the EEZ catcher/processor fleet receives from the state and local communities.

The state has various research, management and enforcement responsibilities in connection with the offshore fisheries, and the EEZ catcher/processor fleet has a significant presence in the state including transferring the processed product, taking on and disembarking crew, taking on fuel and supplies, discharging waste, and seeking sheltered waters. The state and local communities are impacted through the additional burdens placed upon educational systems, road maintenance, public safety, airports, docks, hospitals, and other social programs.

Fisheries businesses in the state pay for these benefits and burdens through the fisheries business tax and the landing tax is a substantially equivalent levy designed to impose a comparable burden on interstate commerce. In a real sense, the EEZ catcher processors are conducting fisheries businesses in the state to no less a degree than in-state operators. The landing tax is not a fee on the fisheries resources simply moving through the state, it is a quid pro quo for the services and benefits conferred upon the processed resources whereby they pay their own way. The landing tax thus achieves an equality of treatment between local and interstate commerce conducting fisheries businesses in the state.

The landing tax imposed under AS 43.77.010 will apply to processed fishery resources that are not subject to AS 43.75 (the Fisheries Business Tax provisions). A fisheries resource that is subject to tax under AS 43.75 is not subject to the landing tax in AS 43.77.

The Fisheries Business Tax in AS 43.75 applies to fishery resources that are either caught or processed in Alaska. Therefore, the landing tax provisions will apply to fishery resources that were both caught and processed outside the jurisdiction of Alaska and thereafter brought into the state and first landed in this state.

Department of Revenue
CS For House Bill No. 264
April 15, 1993

The landing tax will apply to processed resources that are first landed in the state of Alaska rather than in another state or foreign country. The landing tax does not apply if the processed resources are first landed in another state or foreign country. A first landing outside the jurisdiction of a state or foreign country, such as in United States jurisdictional waters, is not a landing in a state or foreign country and does not prevent the Alaska tax from applying. The tax rate is 3.3% of the value of the processed fishery resources at the place of the landing.

AS 43.77.020 provides that a person subject to the tax must file a return reporting the value of the resources landed that are subject to the tax and the point of landing, as well as such other information as may be required by the department in regulations. The return is to be made on a calendar year basis and is due before April 1 of the following year, as is the case with the Fisheries Business tax return. An extension of time to file may be granted by the department but the tax remains due and payable before April 1.

AS 43.77.030 provides a credit against the landing tax on a fishery resource for processing and salmon enhancement taxes paid to a state in which the fishery resource was caught or processed prior to landing in Alaska. In this provision, we interpret "state" to include foreign countries. The Department understands this credit provision is intended to avoid certain constitutional challenge to the tax, and recognizes that in reality few, if any, resources that are first landed in Alaska will have been subject to tax by another state or foreign country.

AS 43.77.040 provides that the tax collected on the levy of .3% of the value of the fishery resource is to be deposited into the general fund in an account for the use of the Alaska Seafood Marketing Institute upon appropriation by the legislature. Similarly, the tax collected on the levy of 3% of the value of the fishery resource shall be deposited into the general fund and may be appropriated by the legislature for revenue sharing purposes under AS 43.77.050 and for other public purposes.

AS 43.77.050 contains the revenue sharing provisions. The amount available for sharing with municipalities and cities is 50% of the tax collected on 3% of the value of the fisheries resources. These revenue sharing provisions generally mirror the revenue sharing provisions in AS 43.75.130 and AS 43.75.137 that apply to the Fisheries Business Tax.

However, there exists the potential for differences in revenue sharing under the

Department of Revenue
CS For House Bill No. 264
April 15, 1993

fisheries business tax provision in AS 43.75 and the landing tax provision in AS 43.77 with respect to cities located in boroughs incorporated after June 16, 1987 but before the effective date of the landing tax act. The reason is that the fisheries business tax provisions provide for a four year phaseout of greater sharing to cities located in boroughs incorporated after June 16, 1987 while the landing tax provision will apply the phaseout to cities located in boroughs incorporated after the effective date of the landing tax act.

CSHB 253 would amend the basis for determining shared fisheries taxes under AS 43.75 to municipalities. Pursuant to the bill, "tax revenue collected" would be defined as 95% of the revenue received from the fisheries business tax. The purpose of the reduction is to defray some of the costs to the state for the enforcement of the tax and administration of the shared tax program.

The Department recommends that the revenue sharing provisions in AS 43.75 and AS 43.77 be identical in all these respects.

AS 43.77.060 gives the department the authority to adopt regulations to interpret and implement the landing tax provisions.

AS 43.77.200 contains definitions. A taxable fishery resource for purposes of this chapter is necessarily a fishery resource that has been processed. An unprocessed fishery resource in the state, if otherwise taxable, would be subject to AS 43.75.

Landing is defined as the act of unloading or transferring a fishery resource. A taxable landing can take place over water or on land. For instance, a factory ship might catch and process fishery resources on the high seas outside the Alaska 3 mile limit, transfer the processed resources to a second vessel on the high seas, and the second vessel might enter the 3 mile jurisdiction of Alaska and transfer the product to a third vessel. The Fisheries Business Tax under AS 43.75 would not apply because the fishery resources were both caught and processed outside the state. However, the landing tax would apply at the point the second vessel transferred the product to the third vessel. There has been no previous landing in any other state or foreign country so the first landing of the processed resources is in Alaska. The owner of the fishery resources aboard the second vessel at the moment of unloading or transfer is liable for the landing tax.

Department of Revenue
CS For House Bill No. 264
April 15, 1993

The valuation of the fishery resources for purposes of computing the tax differs from that under the Fisheries Business Tax provisions. The value is the lesser of the actual market value of the processed fishery resource at the point of the landing in the state or the statewide average price paid for the fishery resource in that tax year as reported by the Department of Fish and Game. The statewide average price paid for the fishery resource is an average value for unprocessed fisheries resources as reported on fish tickets. The values reflected on the fish tickets are generally ex vessel values, or the value of the resource at the vessel after harvesting.

The use of the statewide average price paid is intended to accomplish two results. First, it will simplify the determination of the tax value since the market value for the processed product may otherwise be difficult to ascertain. Second, it will roughly approximate the value that would otherwise have been applicable under the Fisheries Business Tax provisions.

While the value for purposes of the landing tax, as a result of the use of a statewide average unprocessed price as a base, may be lower than the actual value as determined by a similar taxpayer under AS 43.75, the landing tax will not generally result in a higher tax burden than that incurred under AS 43.75. That is because the statewide average price paid is based on unprocessed product and therefore does not include the value added from the act of processing. The value added to fishery resources from processing is not included in taxable value under AS 43.75, and CSHB 264 thereby achieves an equality in the tax burden.

Section 2 amends AS 29.60.450(b) to provide for apportionment and allocation of landing tax shared revenues by the Department of Community and Regional Affairs to eligible municipalities.

Section 3 amends AS 29.60.450(f) to provide that "fishery resource landing tax production value" has the meaning given the term "value" under the landing tax provisions in AS 43.77.

Section 4 provides that the Act takes effect on January 1, 1994 and applies to fishery resources that are first landed in the state on that date.

The Department of Revenue strongly supports CS for House Bill No. 264.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

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APR 7 1993
April 6, 1993

The Honorable Carl Moses, Chairman
House Special Committee on Fisheries
Alaska House of Representatives
Room 204
State Capitol
Juneau, Alaska 99811-1182

RE: HB 264 - relating to
a fisheries landing tax

Dear Representative Moses:

We have reviewed the memorandum from Legislative Affairs attorney Jack Chenoweth to House Speaker Ramona Barnes as requested at the hearing on HB 264 on April 5. This memo explores the possible constitutional bases for challenge of the legislation.

We agree with the memo's identification of constitutional issues and the discussion of the two important commerce clause cases cited. Applying the holdings of *Complete Auto Body v. Brady*, 430 U.S. 274 (1977) to the taxing scheme envisioned by HB 264, we believe the tax can be defended. First, the activity has a substantial nexus with Alaska and fairly relates to services provided or available. The vessels used to transport the fisheries resources either use or have the availability of use of Alaska port facilities, refueling capabilities, navigational aids, safety and rescue availability, as well as others. Second, the tax would be fairly apportioned; there would be no discrimination in favor of residents.

We believe *Maryland v. Louisiana*, 451 U.S. 725 (1981) can be distinguished. In that case, Louisiana only taxed natural gas that would go into interstate commerce after merely passing through Louisiana; residents were given substantial protection from the impact of the tax. These are the chief failures of the Louisiana scheme. In addition, Louisiana asserted that the tax was linked to severance taxes, however, the Court rejected this argument as the gas subject to the tax came exclusively from outside Louisiana's

The Honorable Carl Moses, Chairman
House Special Committee on Fisheries

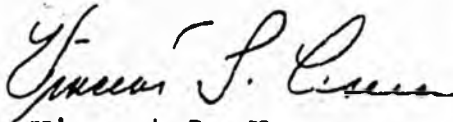
April 6, 1993
Page 2

jurisdiction. House Bill 264 would establish a tax on landings within the State of Alaska. It is clearly not a severance tax.

Once again, we are not making a definitive determination of constitutionality and agree that the legislation may be subject to challenge. We do continue to believe that the landing tax is defensible.

If you wish to discuss this, please do not hesitate to contact me; my number is 465-2398.

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Vincent L. Usera
Assistant Attorney General

cc: Jack Chenoweth
D. Behr

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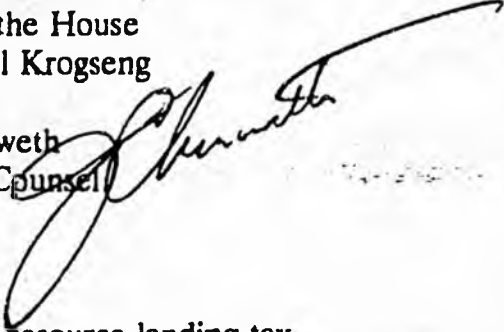
MEMORANDUM

March 31, 1993

SUBJECT: Potential constitutional questions in House Bill 264 (Work Order No. 8-LS0941(E))

TO: Representative Ramona Barnes
Speaker of the House
ATTN: Mel Krogseng

FROM: Jack Chenoweth
Legislative Counsel



House Bill 264 imposes a fishery resource landing tax.

A fishery resource land tax involving fish harvested outside the state but brought into or landed in the jurisdiction may raise questions under the United States Constitution's commerce clause, clause 3, section 8 of article I; a question under the federal due process provision of the Fourteenth Amendment; a potential "supremacy clause" question under clause 2 of article VI of the United States Constitution; and a possible claim under applicable provisions of the federal constitution involving federal regulation of foreign commerce.

I

The most serious constitutional question is probably the one relating to scrutiny under the United States Constitution's commerce clause--clause 3, section 8 of article I. Historically, that clause has served as a significant check on state efforts to expose business activities to multiple tax liability and to unique forms of regulatory action.

A state tax is not per se invalid because it imposes a burden on interstate commerce. States may require goods and services in interstate commerce that enter the taxing jurisdiction to contribute to the jurisdiction's treasury.

The approach generally invoked in commerce clause analysis has involved consideration of the links that exist between the taxpayer and the taxing jurisdiction, on the

one hand, versus the burden that the tax would impose on interstate commerce. The approach generally adopted in recent cases derives from the United States Supreme Court's disposition of Complete Auto Transit v. Brady, 430 U.S. 274, 51 L.Ed.2d 326, 97 S.Ct. 1076 (1977), in which the court identified the factors or elements that needed to be considered in evaluating the effects of a state- or locally-imposed tax on goods or services in interstate commerce: (1) does the activity that is subject to tax have a substantial nexus with the taxing state; (2) does it discriminate against interstate commerce; (3) does it fairly relate to services claimed to be provided within or by the taxing state; and (4) is the tax fairly apportioned. As a general rule, a tax on interstate commerce will be sustained if the court can find that the state has a sufficient connection to the business activity that is to be taxed; that, as between in-state and interstate commerce, the tax is imposed equitably; and that the tax imposed fairly relates to the state's nexus—its contact or connection—to the business activity that is the subject of the tax. If all of these factors are properly addressed, the tax should survive a commerce clause challenge.

However, in a decision that would seem to be important for this state's efforts to tax resources brought in from outside the limits of the state's jurisdiction, under the Complete Auto Transit test, the court has struck down a first-use tax on federal outer continental shelf natural gas imposed by Louisiana. Maryland v. Louisiana, 451 U.S. 725, 68 L.Ed.2d 576, 101 S.Ct. 2114 (1981). The tax had been imposed on the "first use" of any natural gas imported into the state of Louisiana which had not been previously subjected to taxation by another state or by the United States. Most OCS-produced gas was piped ashore for processing, chiefly the removal of liquid hydrocarbons. Conceding that Louisiana has an interest in protecting natural resources within its jurisdiction, the court nonetheless rejected the state's contention that the levy was a proper compensatory tax. It found that there was no evidence of justification for the levy and collection of the tax in order to equalize tax treatment of natural gas in interstate and local commerce, and declared that the state does not have an interest in being compensated for the severance or removal of resources from adjacent federally owned lands of the outer continental shelf.

II

The levy imposed by HB 264 may prompt a due process objection under the 14th Amendment. However, to the extent the commerce clause test is met, satisfaction of that test should also answer the usual concerns that attend due process objections.

III

The state's taxation of goods and services in interstate commerce also offers grounds for a potential "supremacy clause" challenge. Generally, under that clause, a state statute is void to the extent it conflicts with a federal statute. The courts are prepared to find evidence of conflict if compliance with the state law stands as an

Representative Ramona Barnes

March 31, 1993

Page 3

obstacle to the accomplishment of the objectives of Congress. While there has been much Congressional interest in fisheries at least since initial passage of the Magnuson Act, I don't know of any particular federal statutory or regulatory provision that would bar or otherwise present an asserted obstacle to a proposed state levy of the kind you have briefly described. Still, in any legislative review of the proposed measure, the point deserves consideration.

IV

Finally, to the extent that the fisheries products leave a state dock or airport bound for another nation, the proposed levy may be construed to violate the implied limitation or prohibition on Congressional authority to regulate foreign commerce. My hunch, however, is that federal authority as to goods and services in foreign commerce would not provide a basis for challenge of a tax statute independent of that provided by the interstate commerce clause.

JBC:pl
93-261.plm

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 26, 1993

Hon. Darrel Rexwinkel
Commissioner
Department of Revenue
P.O. Box 110400
Juneau, Alaska 99811-0400

Dear Commissioner Rexwinkel:

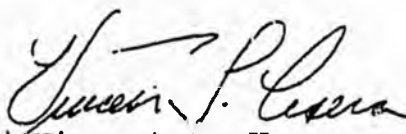
You have asked that we comment on the constitutionality of the proposed legislation which would institute a landing tax on processed fisheries resources taken outside Alaskan waters but subsequently brought into the State. "Landing" would be defined as the act of unloading or transferring a fishery resource inside Alaska waters.

We believe the tax to be constitutionally defensible because the tax would be triggered only by activities within State waters and because there is a sufficient nexus between the availability of State services and resources and a vessel to justify the tax. See, e.g., *Sjong v. State, Dep't of Revenue*, 622 P.2d 967 (Alaska 1981).

This letter will serve to confirm the Department of Law's position that the proposed legislation is constitutionally defensible. We will be available for further analysis should you require.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Vincent L. Usera
Assistant Attorney General

VLU/ps
cc: K. Lethin, Leg. Liaison
Office of the Governor

D. Behr, AAG

WALTER J. HICKEL, GOVERNOR

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MAR 26 1993

COMMISSIONER'S OFFICE



Coastal Villages Fishing Cooperative

204 N. Franklin, Suite 1 • Juneau, AK 99801 • Phone 907-586-2360 • Fax 907-586-2331

April 9, 1993

Representative Carl Moses
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Representative Moses:

On behalf of the Coastal Villages Fishing Cooperative (CVFC), the Norton Sound Economic Development Corporation (NSEDC), and the Yukon Delta Fisheries Development Association (YDFDA), I would like to provide these comments to the House Special Committee on Fisheries concerning HB 264 "An Act Providing for a Fishery Resource Landing Tax; and Providing for an Effective Date." These two corporations represent over 30 villages participating in the Community Development Quota (CDQ) pollock fishery of the Bering Sea. Unfortunately, I will not be able to attend Monday's hearing and would appreciate the committee's consideration of these comments and the enclosed amendment. Karl Ohls will be available on teleconference to answer any questions.

CVFC, NSEDC, and YDFDA agree with the need for the State of Alaska to obtain revenues from fishing activities which occur in the EEZ off Alaska. We agree that the State puts a significant effort into managing these resources and that the State is an important staging area for offshore activities.

We would be able to strongly support this legislation with the adoption of one amendment, which is enclosed with this letter. This amendment would allow companies participating in CDQ fisheries to deposit 50% of their tax liability into a non-profit corporation or foundation to serve four specific "governmental" purposes, similar to the uses landing ports make of their share of the tax revenues. These purposes are (1) training residents to work in the seafood industry, (2) obtaining education in the various aspects of fisheries and fisheries business, (3) building the infrastructure for the communities to become active members of the fishing industry, and (4) conducting basic research into fisheries.

CVFC, NSEDC, and YDFDA understand the justification for providing revenue sharing to communities with ports where landings actually occur. However, we also believe that there is significant justification for allocating a small portion of the revenue to communities without ports, as would be allowed by the adoption of the proposed amendment.

- * There is precedent for the Legislature to provide tax credits for purposes similar to those covered by this amendment. In current law there are two tax credits to the fisheries business tax: the Fisheries Business Education tax credit found at AS 43.75.018 and the "Win Brindle" Memorial Scholarship tax credit found at AS 43.75.032.
- * The purpose of the CDQ program is to establish fishing economies in economically-depressed Bering Sea coastal communities. By providing a source of funding for what are in essence "governmental" functions [education, training, infrastructure, and research], the State will help ensure that successful fishing economies are created.
- * Allowing fishing companies which participate in the CDQ fisheries access to this tax credit does not impose any unfair burdens on other offshore fishing companies as all of the companies will pay the same amount of tax; the only difference is the end use of the funds made available.
- * Fisheries infrastructure development in more coastal communities will result in more fishery resources landed in Alaska and more revenue to the State.
- * With declining State revenues, funds for scholarships, training, and infrastructure development will be less available in the future to coastal communities which do not receive revenue sharing from the landing tax. Providing this source of funding will in small measure compensate for the upcoming budget reductions.
- * The CDQ fisheries will be providing revenues to the general fund equal to the amount provided by any other offshore fishing activity.
- * In addition to providing a much needed source of employment and investment dollars, several CDQ fishing enterprises are now contributing revenues directly to the State through the fisheries business tax, the State Corporate Income Tax, and through self-assessment of the fisheries business tax. Paying our fair share to the State through the landing tax is appropriate. However, this tax credit amendment will provide an added benefit to the State and the CDQ communities as a source of funding for governmental-type services that are essential for the success of the CDQ business ventures.

For each of these reasons, the Coastal Villages Fishing Cooperative, the Norton Sound Economic Development Corporation, and the Yukon Delta Fisheries

Representative Moses
Page 3

Development Foundation request that HB 264 be amended and the bill be passed out of committee to its next committee of referral.

Thank you for your consideration of our views.

Very truly yours,

A handwritten signature in black ink, appearing to read "Norman A. Cohen", with a long horizontal flourish extending to the right.

Norman A. Cohen
Executive Director

cc: Commissioner Fuhs
Commissioner Rosier
Commissioner Rexwinkel
Clem Tillion
CDQ groups
Rep. MacLean
Rep. Hoffman
Rep. Foster

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 264

Page 2, following line 11:

Insert a new section to read:

"Sec. 43.77.035. CREDIT FOR APPROVED CONTRIBUTIONS. (a) A taxpayer who harvests a fishery resource under the provisions of a community development quota may claim as a credit against not more than 50 percent of the tax due under this chapter the taxpayer's contributions made during the tax year to a nonprofit corporation incorporated under the laws of the state that are used by the recipient for one or more of the following purposes:

(1) scholarships for study in the disciplines of fisheries management, fisheries business administration, or another related course or discipline;

(2) training for employment in the seafood industry;

(3) making contributions of capital, in the form of loans or grants, to construct or improve

(A) transportation facilities such as airports and docks that are used for the unloading, transferring, or shipment of fisheries products; or

(B) facilities at which fisheries products are canned, frozen, or otherwise processed for inventory, including floating facilities that are documented under the laws of the United States as defined in 46 U.S.C. App. 801;

(4) awarding grants for research projects relating to fisheries.

(b) A taxpayer who makes a contribution that qualifies for the credit authorized by (a) of this section and who claims a credit for the contribution must apply to obtain the credit. The taxpayer shall apply in the manner provided by the department by regulation, and shall provide to the commissioner all information relating to the contribution that may be required by the department. Upon receipt of