

**ALASKA LEGISLATURE**

**2261**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**2001 - 2002**

## **CS HB287 (FIN)**

**“An Act relating to the exemption of commercial fishing entry permits from claims of creditors and execution on an interest in a limited entry permit; and providing for a effective date.”**

### **Major goal of the bill:**

- Amend several statutes to make state laws more firm, clear and consistent on the point that commercial fishing entry permits are not property, and instead, constitute a “use privilege” that the legislature may change or revoke without compensation.

### **CSHB287 presents an important opportunity at a critical time:**

- Hard times in Alaska's salmon industry likely to push more fishermen into financial trouble
- The need to firm up what Alaska has always contended, that permits constitute a use privilege and not property, has never been greater
- A recent federal maritime case (Quality One) has heightened the need to firm up the legal status of limited entry permits. Federal legislation may be introduced soon in response to the ruling in that case to state clearly in federal law that the federal government shall honor the legal status bestowed upon fishing permits by the governmental entity issuing the permits. Thus clarity and consistency in state law will be more important and significant than ever. Passage of this bill will put Alaska in a much better position to fully benefit from such federal legislation.
- The provisions of CSHB287 are consistent with the positions the state has taken in the past with regard to the legal status of limited entry permits as a use privilege, including the state's strong stand against efforts by creditors, such as the IRS, to seize Alaska limited entry permits.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

State Capitol  
Juneau, Alaska 99801-1132  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 8, 2002

**SUBJECT:** Sectional summary of CSHB 287(FIN), An Act relating to the exemption of commercial fishing entry permits from claims of creditors and execution on an interest in a limited entry permit. (Work Order No. 22-LS1106/S)

**TO:** Representative Drew Sculzi  
Attn: Pat Hartley

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of CSHB 287(FIN), An Act relating to the exemption of commercial fishing entry permits from claims of creditors and execution on an interest in a limited entry permit.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

**Section 1** of the bill amends AS 09.38.015(a) to provide that limited entry permits are not exempt property for purposes of AS 09.38 which relates to property that is exempt from execution to satisfy claims of creditors.

**Section 2** of the bill amends AS 16.43.170(g) to provide that the subsection applies to the transfer of an entry permit due to execution on a permit holder's interest in the permit if the execution is to enforce a lien to collect child support that is recorded with the commission under AS 25.27.230(c).

**Section 3** of the bill adds a new section (16.43.945) to AS 16.43 to provide that commercial fishing privileges, including entry permits, are exempt from claims of creditors. Only claims of the commercial fishing loan program under AS 16.10.333 - 16.10.338, claims to collect child support obligations under AS 16.43.170(g), and claims of the Commercial Fishing and Agriculture Bank under provisions of AS 44.81 may be asserted against commercial fishing privileges and entry permits.

**Section 4** of the bill provides that the bill takes effect immediately under AS 01.10.070(c).

GU:med  
02-477.med

# Bill History/Action Display



BILL: HB 287

SHORT TITLE: EXEMPT ENTRY PERMITS  
FROM CREDITOR CLAIMS

BILL VERSION: CSHB 287(FIN)

SPONSOR(S): REPRESENTATIVE(S) SCALZI, Hudson, Fate, Dyson,  
James

CURRENT STATUS: (S) RES

STATUS DATE: 05/01/02

THEN FIN

HEARING: (S) RES May 08 3:30 PM BUTROVICH 205 TELECONFERENCE

TITLE: "An Act relating to the exemption of commercial fishing entry permits from claims of creditors and execution on an interest in a limited entry permit; and providing for an effective date."




Jm-Date	Jm-Page	Action
01/04/02	<u>1950</u>	(H) PREFILE RELEASED 1/4/02
01/14/02	<u>1950</u>	(H) READ THE FIRST TIME - REFERRALS
01/14/02	<u>1950</u>	(H) FSH, RES, FIN
01/18/02	<u>2014</u>	(H) COSPONSOR(S): HUDSON
01/30/02	<u>2101</u>	(H) COSPONSOR(S): FATE
03/06/02	<u>2484</u>	(H) FSH RPT CS(FSH) NT 3DP 2AM
03/06/02	<u>2484</u>	(H) DP: SCALZI, KAPSNER, STEVENS;
03/06/02	<u>2484</u>	(H) AM: COGHILL, KERTTULA
03/06/02	<u>2485</u>	(H) FN1: ZERO(DFG)
03/06/02	<u>2485</u>	(H) FN2: (CED)
03/13/02	<u>2516</u>	(H) RES RPT CS(FSH) NT 6DP
03/13/02	<u>2516</u>	(H) DP: STEVENS, GREEN, MCGUIRE, FATE,
03/13/02	<u>2516</u>	(H) KAPSNER, SCALZI
03/13/02	<u>2517</u>	(H) FN1: ZERO(DFG)
03/13/02	<u>2517</u>	(H) FN2: (CED)
04/26/02	<u>3163</u>	(H) FIN RPT CS(FIN) NT 8DP 3NR
04/26/02	<u>3163</u>	(H) DP: BUNDE, HARRIS, MOSES, LANCASTER,
04/26/02	<u>3163</u>	(H) HUDSON, FOSTER, MULDER, WILLIAMS;
04/26/02	<u>3163</u>	(H) NR: WHITAKER, CROFT, DAVIES
04/26/02	<u>3163</u>	(H) FN1: ZERO(DFG)
04/26/02	<u>3163</u>	(H) FN3: ZERO(CED)
04/30/02	<u>3240</u>	(H) RULES TO CALENDAR 4/30/02
04/30/02	<u>3240</u>	(H) READ THE SECOND TIME
04/30/02	<u>3241</u>	(H) FIN CS ADOPTED UNAN CONSENT
04/30/02	<u>3241</u>	(H) ADVANCED TO THIRD READING UNAN CONSENT
04/30/02	<u>3241</u>	(H) READ THE THIRD TIME CSHB 287(FIN)

04/30/02 3241 (H) PASSED Y39 E1  
04/30/02 3241 (H) EFFECTIVE DATE(S) SAME AS PASSAGE  
04/30/02 3248 (H) COSPONSOR(S): DYSON, JAMES  
04/30/02 3248 (H) TRANSMITTED TO (S)  
04/30/02 3248 (H) VERSION: CSHB 287(FIN)  
05/01/02 3065 (S) READ THE FIRST TIME - REFERRALS  
05/01/02 3065 (S) RES, FIN  
05/01/02 3065 (S) REFERRED TO RESOURCES

Similar Subject Match or Exact Subject Match

CHILD SUPPORT

CREDIT

DEBT

FISH & GAME (FISH)

LICENSING

LIENS

LIMITED ENTRY

LOANS

PERMITS

TAXATION

VESSELS

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Bill Root:  Display Bill Root



TO REPORT PROBLEMS WITH BASIS INQUIRY

LIVE KTOO STREAMS 

Return to Basis Main Menu (22 Legislature)

Return to Legislature Home Page



# THE FISHERMEN'S NEWS

Quality One Case

Vol. 57, No. 5

The Voice of the Pacific Coast Fishing Fleet Since 1945

\$2.00

## Own a Permit? Read this...

By Edward M. Keech

A federal appeals court in Boston has held that a maritime lien on a fishing boat extends to the boat's fishing permits. This decision increases the risks that owners of fishing permits face from the ordinary operations of fishing boats. This article describes the decision, illustrates how it affects the owners of fishing permits and discusses ways that owners of the permits might reduce the risks.

### The Quality One Decision

On March 30, 2001, the First Circuit Court of Appeal decided *Gowen, Inc. v.*

*F/V Quality One*, No. 00-1808 (1<sup>st</sup> Cir., March 30, 2001). The court held that fishing permits were included as "appurtenances" of a fishing boat, and were subject to a maritime lien for necessities. The maritime lien execution sale, therefore, transferred ownership of the permits. The permits in question were owned by the owner of the boat, but the result would have been the same if the permits had been leased to the boat owner.

Although this decision seems wrong, there was already some suggestion from

*Continued on page 3 Permit?*

*(Stevens) is looking at legislation that would federally firm up the State issuing permits guidelines on how they view their own classification of permits as property or not.*

## Permit?

*Continued from front page*

the Court of Appeals for the Ninth Circuit, whose decisions control on the West Coast, that fishing permits are appurtenances. *Bank of America v. F/V Penguin*, 175 F.3d 1109, 1119 (9th Cir.), cert. denied, 528 U.S. 872 (1999). In that case, the appeals court merely noted that the permits had been sold with the boat pursuant to a lien sale. There is no indication that the court actually considered whether the permits are appurtenances.

### Problems Created

The *Quality One* decision creates two problems.

The first problem is straightforward. The financial risk of not paying suppliers may now be greater than anyone anticipated. This is true both for owner/operators and for those who lease their permits out to boat operators. The owner/captain has to worry that creditors may seize the permits as well as his boat.

The second problem affects permit owners who lease out their permits. The court in the *Quality One* noted rules from other cases that provides that a preferred ship mortgage does not extend to leased appurtenances, for example a fathometer

on lease, but liens for necessities, which include fuel, ice, repairs and insurance premiums, do extend to the leased appurtenances. This means that the mortgage does not cover leased permits, but other maritime liens do. As a result, a ship mortgage does not create a security interest in leased-out permits that will come ahead of lien claims for necessities.

A permit owner who wishes to lease out permits might think that the answer to these problems is to create a security interest in the permits and to record that security interest under state law. This, however, will not work. That state law security interest is not enforceable in a maritime lien foreclosure action. The permit owner will always be stuck with the problem that a preferred ship mortgage does not extend to the leased permits, while a state-law security interest is not enforceable in a maritime lien foreclosure action.

Nor would it necessarily help to cross-default the mortgage and the lease of the permits. No matter how much debt, or what kind of debt is secured by the ship mortgage, the mortgage lien does not extend to the permits, and the proceeds their sale will not flow to the mortgagee. The suppliers can, therefore, always benefit by auctioning off the boat and the permits.

# Petersburg Vessel Owners Association

P.O. Box 232  
Petersburg, Alaska 99833  
Phone (907) 772-9323 Fax (907) 772-4495

March 8, 2002

Representative Mulder  
Representative Williams  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

RE: Support HB 287 Exempt Entry Permits From Claims of Creditors

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in a variety of fisheries statewide. Income from commercial fishing is very important to our community and to the Alaskan economy. We support this legislation to clarify the state's position that limited entry permits are access privileges, not property, and cannot be seized by creditors.

We believe that an individual's limited entry permit is his or her livelihood. If we allow permits to be seized by creditors, fishermen in debt will be unable to make a living. They will be incapable of repaying their debts or supporting themselves and their families. We feel that the language in this bill, clearly stating that entry permits cannot be seized, is essential to protect commercial fishermen, their way of life, and their ability to weather hard times.

We also support the removal of the mandatory one-half percent refinancing fee. Many fishermen have seen dramatic drops in the value of their permits and their gross revenues from fishing. Allowing refinancing at lower interest rates without additional charges and fees will allow a greater percentage of these fishermen to remain financially stable and repay the loans granted to them by the Division of Investments.

We appreciate your consideration of these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Cromie  
Director

Cc: Representative Scalzi, Representative Wilson

**SUPPORT LETTER**

# SENATE COMMITTEE REPORT

DATE: 5/1/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/8/02

Resources Committee considered CS FOR HOUSE BILL NO. 287(FIN)

*HB 287 EXEMPT ENTRY PERMITS FROM CREDITOR CLAIMS*

"An Act relating to the exemption of commercial fishing entry permits from claims of creditors and execution on an interest in a limited entry permit; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
FG	3/4/02		✓	1
DCED	4/26/02		✓	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Adrian L. Taylor</i>			✓	
<i>Ben Stumm</i>	✓			
<i>Gary White</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

SENATE FINANCE COMMITTEE  
HB 287-EXEMPT ENTRY PERMITS FROM CREDITOR CLAIMS  
SIGN-IN

NAME: William Craig Subject/Bill No: HB 287  
Co./Dept./Title: \_\_\_\_\_ Phone: 907-747-5917  
Address: 2013 Degroff St. Sitka Zip: 99835  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

**HB**

**288**

HFIN

FILE



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB288(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
 Title Commercial fisheries entry permit buy-back BRU Comm Fish Entry Commission  
programs, relinquishment of permits Component Comm Fish Entry Commission  
 Sponsor Rep. Scalzi  
 Requester House Finance Component No. 471

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
 Division Commercial Fisheries Entry Commission Date/Time 3/1/02 3:54 PM  
 Approved by: Mary McDowell, Commissioner Date 03/01/2002  
 Agency Commercial Fisheries Entry Commission

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB288(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Limited Entry Buy-Back Program BRU Revenue Operations  
 Component Treasury  
 Sponsor Representative Scalzi  
 Requester House Finance Component No. 121

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1066 Public School Trust						
1098 Children's Trust						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

As long as the fund set up to hold the permit buy-back assessments is invested in the General Fund and Other Non-Segregated Investments (GeFONSI) Fund, there will be no charges from Treasury. If the fund is to be managed separately, there would be actual and allocated costs from Treasury. The amounts depend in part on the balance in the fund. Currently, we are assuming that it will NOT have to be invested separately, so we would have no additional costs.

If the fund is to keep the investment income earned on the balance, the bill should clearly state that.

Prepared by: Betty Martin, Comptroller Phone 907-465-2352  
 Division: Treasury Division Date/Time 3/5/02 9:44 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
 Agency: Department of Revenue

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB288(FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Limited Entry Buy-Back Program BRU Revenue Operations  
 Component Tax Division  
 Sponsor Rep. Scalzi  
 Requester House Finance Component No. 2476

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

\* See second page for explanation of possible costs to administer the assessment program in this legislation.

Prepared by: Chuck Harlamert, Revenue Audit Supervisor Phone 465-4773  
 Division Tax Division Date/Time 3/5/02 9:22 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 288(FIN)

ANALYSIS CONTINUATION

Bill Analysis

The bill provides for the establishment of permit buy-back assessments at the discretion of the Alaska Commercial Fisheries Entry Commission. The assessment applies to permit holders of the specified fishery and may not exceed 7% of the value determined for fisheries business tax purposes. The buyer or exporter must withhold and remit the assessment on a monthly return and file a summary report by March 1 of the following calendar year.

It is possible that the enforcement and collection provisions of AS 43.05 and AS 43.10, which apply to taxes under AS 43, may not apply to the assessments. We recommend that the bill be modified to add a new subsection AS 43.76.230(e):

(e) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and collection of a permit buy-back assessment under AS 43.76.220 – 43.76.240.

The bill does not contain provisions governing the effective date of permit buy-back assessments. We recommend that the assessments be declared on a calendar year basis and initiated on January 1. We also suggest that a minimum notice period be established in order to allow affected buyers, fishers and the division to prepare for an assessment.

Administrative Costs

We are unable to provide precise estimates of administrative resources necessary to administer the assessments under this legislation. These costs are dependent on the number and complexity of permit buy-back assessments that may be established under CSHB 288. Salmon fisheries with few catcher-processors represent very little additional work for the division. In contrast, other fisheries and salmon fisheries with significant catcher-processor participation may require a significantly higher level of staff resources to administer the assessment program. The division needs to know both the number and identity of designated fisheries in order to project our administrative costs.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB288(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
 Title Commercial fisheries entry permit buy-back BRU Comm Fish Entry Commission  
programs, relinquishment of permits Component Comm Fish Entry Commission  
 Sponsor Rep. Scalzi  
 Requester House Finance Component No. 471

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
 Division: Commercial Fisheries Entry Commission Date/Time 3/1/02 3:54 PM  
 Approved by: Mary McDowell, Commissioner Date 03/01/2002  
 Agency: Commercial Fisheries Entry Commission

# FISCAL NOTE

**STATE OF ALASKA**  
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 Component Treasury  
 Sponsor Representative Scalzi  
 Requester House Finance Component No. 121

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

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Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1066 Public School Trust						
1098 Children's Trust						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

As long as the fund set up to hold the permit buy-back assessments is invested in the General Fund and Other Non-Segregated Investments (GeFONSI) Fund, there will be no charges from Treasury. If the fund is to be managed separately, there would be actual and allocated costs from Treasury. The amounts depend in part on the balance in the fund. Currently, we are assuming that it will NOT have to be invested separately, so we would have no additional costs.

If the fund is to keep the investment income earned on the balance, the bill should clearly state that.

Prepared by: Betty Martin, Comptroller Phone 907-465-2352  
 Division Treasury Division Date/Time 3/5/02 9:44 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
 Agency Department of Revenue

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB288(FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title Limited Entry Buy-Back Program BRU Revenue Operations  
Component Tax Division  
Sponsor Rep. Scalzi  
Requester House Finance Component No. 2476

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

\* See second page for explanation of possible costs to administer the assessment program in this legislation.

Prepared by: Chuck Harlamert, Revenue Audit Supervisor Phone 465-4773  
Division Tax Division Date/Time 3/5/02 9:22 AM  
Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 288(FIN)

ANALYSIS CONTINUATION

**Bill Analysis**

The bill provides for the establishment of permit buy-back assessments at the discretion of the Alaska Commercial Fisheries Entry Commission. The assessment applies to permit holders of the specified fishery and may not exceed 7% of the value determined for fisheries business tax purposes. The buyer or exporter must withhold and remit the assessment on a monthly return and file a summary report by March 1 of the following calendar year.

It is possible that the enforcement and collection provisions of AS 43.05 and AS 43.10, which apply to taxes under AS 43, may not apply to the assessments. We recommend that the bill be modified to add a new subsection AS 43.76.230(e):

(e) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and collection of a permit buy-back assessment under AS 43.76.220 – 43.76.240.

The bill does not contain provisions governing the effective date of permit buy-back assessments. We recommend that the assessments be declared on a calendar year basis and initiated on January 1. We also suggest that a minimum notice period be established in order to allow affected buyers, fishers and the division to prepare for an assessment.

**Administrative Costs**

We are unable to provide precise estimates of administrative resources necessary to administer the assessments under this legislation. These costs are dependent on the number and complexity of permit buy-back assessments that may be established under CSHB 288. Salmon fisheries with few catcher-processors represent very little additional work for the division. In contrast, other fisheries and salmon fisheries with significant catcher-processor participation may require a significantly higher level of staff resources to administer the assessment program. The division needs to know both the number and identity of designated fisheries in order to project our administrative costs.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 288  
(H) Publish Date: 2/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Commercial fisheries entry permit buy-back BRU Comm Fish Entry Commission  
programs Component Comm Fish Entry Commission  
Sponsor Rep. Scalzi  
Requester House Fish Component No. 471

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
  
No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
Division Commercial Fisheries Entry Commission Date/Time 2/1/02 9 08 AM  
Approved by: Mary McDowell, Commissioner Date 02/01/2002  
Agency Commercial Fisheries Entry Commission

HB 288

#1

3-4-02

Conceptual  
AMENDMENT

OFFERED IN HOUSE FINANCE      REPRESENTATIVE DAVIES

TO: HB 288

Page 2, line 28,

Add

“Interest accrued by the buy back fund remains in the fund.”

Page 4, line 11,

New Line 11,

“amounts collected and interest accrued from these amounts for each permit buy-back assessment imposed under AS 43.76.220”

Line 4 Sec 12,

New line 12,

“The legislature may appropriate revenue generated by a permit buy-back assessment “and associated interest” to”

HOW DOES CSHB288(FIN) REFLECT THE  
EXPRESSED WILL OF THE HOUSE FINANCE  
COMMITTEE?

22-LS1108\S

1. HB 288 provides for the establishment of a buy-back **fund** when the optimum number of entry permits is less than the number of entry permits outstanding in a fishery. *Section 5*
2. HB 288 provides for the establishment of a buy-back **plan**. *Section 5*
3. HB 288 provides for the establishment of a buy-back **assessment** and **program** for fisheries that are proceeding with a buy-back plan. *Section 5*
  - The assessment may not exceed 7% of the ex-vessel (first wholesale) value of the fishery resource and is paid by the commercial fishermen.
  - Delineates the collection and appropriation process for the assessment; and, ensures the commission expends the monies for the plan's intended purpose.
4. Under HB 288, when a permit is "bought back," the permit no longer exists. *Section 6*
5. HB 288 provides the same revenue flow as the hatchery and ASMI tax that commercial fishermen currently pay. *Section 8*

22-LS1108S  
Utermohle  
3/1/02

CS FOR HOUSE BILL NO. 288( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES SCALZI, Stevens, Hudson, Fate, Dyson, Wilson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial fishing limited' entry permit buy-back programs, to a  
2 permit buy-back assessment, and to voluntary relinquishment of commercial fishing  
3 permits; and defining 'optimum number.'"

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

5 \* Section 1. AS 16.43.150(f) is amended to read:

6 (f) Except for permits that are not transferable under AS 16.43.170(e)  
7 [AS 16.43.170(c) OR (e)], an entry permit survives the death of the holder.

8 \* Sec. 2. AS 16.43.150 is amended by adding a new subsection to read:

9 (i) The holder of a transferable or nontransferable entry permit or of an  
10 interim-use permit may voluntarily relinquish the permit to the commission.

11 \* Sec. 3. AS 16.43.170(b) is amended to read:

12 (b) Except as provided in [(c) AND] (e) of this section, the holder of an entry  
13 permit may transfer the permit to another person or to the commission upon 60 days  
14 notice of intent to transfer under regulations adopted by the commission. No sooner

1 than 60 days nor later than 12 months from the date of notice to the commission, the  
2 holder of an entry permit may transfer the permit. If the proposed transferee, other  
3 than the commission, can demonstrate the present ability to participate actively in the  
4 fishery and the transfer does not violate any provision of this chapter or regulations  
5 adopted under this chapter [IT], and if a certificate for the permit under  
6 AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the  
7 commission shall approve the transfer and reissue the entry permit to the transferee  
8 provided that neither party is prohibited by law from participating in the transfer.

9 \* Sec. 4. AS 16.43.170(e) is amended to read:

10 (e) The [BEFORE THE DETERMINATION, UNDER AS 16.43.290 AND  
11 16.43.300, OF THE OPTIMUM NUMBER OF ENTRY PERMITS FOR A  
12 FISHERY, THE] holder of an entry permit who qualified for that entry permit in a  
13 priority classification designated under AS 16.43.250(c) may not transfer that permit  
14 [UNLESS THE COMMISSION ESTIMATES THAT THE OPTIMUM NUMBER  
15 FOR THAT FISHERY WILL BE EQUAL TO OR GREATER THAN THE  
16 NUMBER OF OUTSTANDING ENTRY PERMITS AND INTERIM-USE  
17 PERMITS].

18 \* Sec. 5. AS 16.43.310 is repealed and reenacted to read:

19 **Sec. 16.43.310. Establishment of buy-back funds and permit buy-back**  
20 **assessments.** (a) When the optimum number of entry permits is less than the number  
21 of entry permits outstanding in a fishery, the commission may establish a buy-back  
22 program, a buy-back plan, and a buy-back fund for that fishery.

23 (b) The commission may establish by regulation a permit buy-back assessment  
24 for each fishery for which the commission has established a buy-back fund under (a)  
25 of this section. The amount of the assessment may not exceed seven percent of the  
26 value, as defined in AS 43.75.290, of fish that a permit holder in the fishery subject to  
27 the assessment removes from the state or transfers to a buyer in the state. The  
28 Department of Revenue shall collect an assessment established under this subsection.

29 (c) The commission shall expend money appropriated to a buy-back fund for  
30 the purpose of reducing the number of entry permits in the fish ry to the optimum  
31 number, at a rate to be established by the commission. Except as provided in

1 AS 16.43.320, money appropriated to a buy-back fund does not lapse.

2 \* **Sec. 6.** AS 16.43.320 is repealed and reenacted to read:

3 **Sec. 16.43.320. Administration of the buy-back program.** The commission  
4 shall adopt regulations providing for the purchase of transferable entry permits with  
5 money in the buy-back fund for each fishery. The buy-back program for a fishery  
6 shall terminate when the number of entry permits for the fishery is reduced to the  
7 optimum. The unexpended balance of appropriations made to a buy-back fund for a  
8 fishery shall lapse back into the fund from which the money was appropriated at the  
9 end of the fiscal year in which the buy-back program is terminated.

10 \* **Sec. 7.** AS 16.43.990 is amended by adding a new paragraph to read:

11 (10) "optimum number" includes an optimum range of numbers.

12 \* **Sec. 8.** AS 43.76 is amended by adding new sections to read:

13 **Article 4. Permit Buy-Back Assessment.**

14 **Sec. 43.76.220. Permit buy-back assessment.** A person holding a limited  
15 entry permit or interim-use permit under AS 16.43 for a fishery subject to a permit  
16 buy-back assessment established by the Alaska Commercial Fisheries Entry  
17 Commission under AS 16.43.310 shall pay the permit buy-back assessment at the rate  
18 established by the commission on the value, as defined in AS 43.75.290, of fish that  
19 the person removes from the state or transfers to a buyer in the state under the  
20 authority conferred by the limited entry permit or interim-use permit. The buyer shall  
21 collect the permit buy-back assessment at the time the fish is acquired by the buyer.

22 **Sec. 43.76.230. Collection of assessment.** (a) A buyer who acquires fish that  
23 are subject to a permit buy-back assessment imposed by AS 43.76.220 shall collect the  
24 permit buy-back assessment at the time of purchase and shall remit the total permit  
25 buy-back assessment collected during each month to the department by the last day of  
26 the next month.

27 (b) A buyer who collects a permit buy-back assessment shall

28 (1) maintain records of the value of fish purchased in the state that  
29 were subject to a permit buy-back assessment;

30 (2) report the total value, as defined in AS 43.75.290, of the fish  
31 acquired during the preceding year that were subject to a permit buy-back assessment

1 to the department by March 1 of each year.

2 (c) The owner of fish removed from the state is liable for payment of a permit  
3 buy-back assessment imposed by AS 43.76.220 if, at the time the fish is removed from  
4 the state, the assessment payable on the fish has not been collected by a buyer. If the  
5 owner of the fish is liable for payment of the permit buy-back assessment under this  
6 subsection, the owner shall comply with the requirements under (a) and (b) of this  
7 section to remit the assessment to the department, to maintain records, and to report to  
8 the department.

9 (d) A permit buy-back assessment collected under this section shall be  
10 deposited in the state treasury. The department shall separately account for the  
11 amounts collected for each permit buy-back assessment imposed under AS 43.76.220.  
12 The legislature may appropriate revenue generated by a permit buy-back assessment to  
13 the buy-back fund established for the fishery in which the assessment was collected  
14 for the purpose of supporting the buy-back program for that fishery under  
15 AS 16.43.310 and 16.43.320.

16 Sec. 43.76.240. Definition. In AS 43.76.220 - 43.76.240, "buyer" means a  
17 person who acquires possession of fish from the person who caught the fish regardless  
18 of whether there is an actual sale of the fish, but does not include a person engaged  
19 solely in interstate transportation of goods for hire.

20 \* Sec. 9. AS 16.43.170(c) is repealed.

PN  
new Fishery  
Revenue

## SECTIONAL ANALYSIS – CSHB288(FIN) 22-LS1108\5

**Section 1.** This is current law. It maintains the status quo that allows a permit to be inherited upon the death of a holder. The change here simply makes the section consistent with the other elements of the measure.

**Section 2.** This is a new section that would allow transferable, nontransferable or interim-use permit holders to voluntarily relinquish the permit to the commission. Once the permit is relinquished to the commission, it no longer exists. It is an important aspect for fleet reduction.

**Section 3.** This is current law. The changes in this section make it consistent with the rest of the measure.

**Section 4.** This section makes the language consistent with the rest of the measure.

**Section 5.** Allows for the establishment of buy-back funds and permit buy-back assessments.

Sets forth the procedures for a buy-back program.

Ensures monies appropriated to the buy-back fund do not lapse.

**Section 6.** Allows the purchase of transferable entry permits in a buy-back program. It terminates the program when the “optimum” number is obtained.

**Section 7.** Changes the “optimum number” definition to include a range of numbers rather than one fixed number as “the” optimum number. This change makes the buy-back process more rational.

**Section 8.** Creates the revenue flow for the collection of a buy-back assessment.

The process mirrors the hatchery and ASMI tax, is collected monthly from buyers by the Department of Revenue, and is accounted for separately.

The legislature may appropriate revenue generated under a buy-back assessment to accomplish the purposes of a particular fishery’s buy-back plan.

**Section 9.** This portion of the statute became unnecessary because of changes in the rest of the measure.

## Changes CS HB 288 (RES) would make to current limited entry permit buyback law:

- Bill removes requirement that a state buyback program must be implemented after determination that optimum number is lower than number of permits currently in fishery.  
Makes optimum number determination feasible without triggering a state buyback, thus allowing pursuit of some other remedy, such as an industry-funded and run fleet consolidation program, use of a federal buyback program, etc.

If any form of permit reduction is sought, fishermen will want to go in with some confidence that lower number of permits is likely to be defensible if later faced with legal challenge on question of whether fishery has become "too exclusive."

- Eliminates requirement that a buyback program buy out vessels and gear as well as permits.
- Eliminates "dedicated fund" constitutional problem that exists in the funding mechanism in current law whereby funds generated by an assessment on fishermen would go directly into a buyback fund (as opposed to assessments going to general fund where legislature would have discretion as to appropriating it for buyback or not).

In fact, HB288 eliminates assessment provision entirely and is silent about actual source of funding for buyback. Says only that CFEC shall go to the legislature to request funding.

Request could be for direct appropriation, or proposed legislation to create assessment of fishermen to fund buyback, or legislation proposing some other funding mechanism.

Premise is that a fleet consolidation program, to be effective, must be "customized" to best meet the character, circumstances, and needs of each individual fishery that may be the subject of such an effort.

- Makes only transferable permits eligible for buyback. (Current law has provision for buying out nontransferable permits if sufficient funds are available in the buyback fund.)
  - Addition of sections 1, 3, 4, and 7 are just to make other sections of limited entry law consistent with this change to 16.43.320.
- Current law sets deadline of 10 years for getting number of permits in the fishery down to optimum level. HB 288 removes that provision and sets no specific timeline for completion of buyback.
- Section 2 of the CS adds specific language making it clear that the holder of a permit may voluntarily relinquish their permit (whether under a fleet consolidation or for any other reason).
- CS adds a definition of "optimum number" to the definitions section of the Limited Entry Act., Ability to set an optimum number range, rather than one number, will make the optimum number process more meaningful and less subject to challenge.

## **Southeast Alaska Fishermen's Alliance**

9369 North Douglas Highway  
Juneau, AK 99801

Phone 907-586-6652

Fax 907-586-5648

E-mail: [seara@gci.net](mailto:seara@gci.net)



February 28, 2002

Representative Bill Williams, Co-Chair  
Representative Eldon Mulder, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol Room 519  
Juneau, AK 99801

RE: HB 288 - Support

The Southeast Alaska Fishermen's Alliance supports HB 288. This is simple legislation that cleans up the statutes so that a fleet interested in buyback could at least consider and move forward on a program. Currently a fleet that is interested in a buy back program comes against the flaws in the present statute and feels too overwhelmed to proceed forward. It makes good sense for the State of Alaska to clean up and simplify statutes when there are inherent flaws such as the use of designated funds.

This legislation also makes two simple changes that our association favors: the ability to purchase permits only but does not prevent a fleet from designing a program with CFEC to purchase permits, boats and gear and more importantly we support the change that allows a optimum number study to be conducted by CFEC but does not require the fleet to move forward into a buy back program even if the number of permits in the fleet is more than the optimum number.

This legislation in itself does not require the legislature to fund a buyback, any fleet that is interested in buyback will have to work out the details of their plan and funding sources. A fleet that looks for funding from the State would have to come in front of the Legislature and justify their plan and likely assess themselves to pay back the State.

The Southeast Alaska Fishermen's Alliance was speaking to many members of the Legislature last year about this issue and the need to make corrections to the limited entry buy back program. We are pleased that the legislature is moving forward on this issue.

Sincerely,

Kathy Hansen



Official Business

# Alaska State Legislature

REPRESENTATIVE DREW SCALZI

State Capitol

Juneau, Alaska 99801-1182

(907) 465-2689; (800) 665-2689

FAX: (907) 465-3472

*Representative\_Drew\_Scalzi@legis.state.ak.us*

## Sponsor Statement

**HB288: "An Act relating to commercial fisheries limited entry permit buy-back programs and to relinquishment of commercial fishing permits; and defining 'optimum number'."**

Efficiencies in commercial fishery harvest practices have increased since the inception of the limited entry program. Arguably more permits were originally issued than necessary to effectively harvest the resource for sustained yield in some areas. Alaska presently has approximately 12,000 commercial fishing permits, with about three-fourths of those owned by Alaskans. The limited entry program instituted in the early 1970s worked well for those times; however, with low prices and an excess of harvesters, it is apparent that what worked thirty years ago is splitting the pie into minute portions today.

With the advent of foreign-farmed fish, members from the Alaska commercial fishing industry are now looking at ways to consolidate efforts, maximize efficiencies, and promote better quality. One such method of consolidation is a buy-back or buy-down program.

The provision currently in statute allowing for a buy-back requires purchase of the fishing vessel, skiff, nets, and related equipment involved in an individual's fishing operation as well as the permit. This last requirement can be cumbersome, costly, and an inherent disincentive to effectively promote a desired buy-back plan. This bill would allow for a buy-back plan that would incorporate the purchase of *permits only*, thus making it easier to clarify the costs associated with implementing such a plan. While the legislature would need to appropriate the funding to capitalize the buy-backs, the source of the funds could originate from several sources such as federal grants and permit holder self-assessment. The bill also provides for relinquishment of a permit to the Commercial Fisheries Entry Commission. In this bill, "optimum number" is redefined to mean an optimum range of numbers, a definition that more closely meets the needs for the conditions of Alaska's present-day fisheries.

In no way does this legislation imply or change in existing statute the status of voluntary participation in any such buy-back.

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-586-5648

E-mail: [seafa@gci.net](mailto:seafa@gci.net)

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February 13, 2002

Representative Drew Scalzi, Chair  
House Resources  
Alaska State Legislature  
State Capitol Room 124  
Juneau, AK 99801

RE: HB 288

The Southeast Alaska Fishermen's Alliance supports HB 288. This is simple legislation that cleans up the statutes so that a fleet interested in buyback could at least consider and move forward on a program. Currently a fleet that is interested in a buy back program comes against the flaws in the present statute and feels too overwhelmed to proceed forward. It makes good sense for the State of Alaska to clean up and simplify statutes when there are inherent flaws such as the use of designated funds.

This legislation also makes two simple changes that our association favors: the ability to purchase permits only but does not prevent a fleet from designing a program with CFEC to purchase permits, boats and gear and more importantly we support the change that allows a optimum number study to be conducted by CFEC but does not require the fleet to move forward into a buy back program even if the number of permits in the fleet is more than the optimum number.

The Southeast Alaska Fishermen's Alliance was speaking to many members of the Legislature last year about this issue and the need to make corrections to the limited entry buy back program. We are pleased that the legislature is moving forward on this issue and would like to thank Rep. Scalzi for introducing this legislation.

Sincerely,

Kathy Hansen



United Southeast Alaska Gillnetters  
 PO Box 22427  
 Juneau, Alaska 99802  
 (907) 586-5860 Fax (907) 586-0167  
 E-mail: usag@gci.net

February 6, 2002

Representative Peggy Wilson  
 Representative Gary Stevens  
 Co-Chairs  
 House Special Committee on Fisheries  
 Alaska State Legislature  
 State Capitol (MS 3100)  
 Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

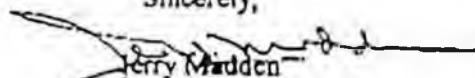
United Southeast Alaska Gillnetters (USAG) supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary.

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

The 100 plus members of USAG urge your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

  
 Jerry Madden  
 Executive Director



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

February 4, 2002

Representative Peggy Wilson  
Representative Gary Stevens  
Co-Chairs  
House Special Committee on Fisheries  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

United Fishermen of Alaska supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern, is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

The twenty-nine members groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell  
Executive Director

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Alaska Processors Association • Bristol Bay Reserve  
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Copper River Salmon Producers Association • Cordova District Fishermen United • Douglas Island Pink and Chum  
Kona Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Sainers Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative  
Southeast Alaska Sainers Association • Southern Southeast Regional Aquaculture Association

# Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska  
P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /  
e-mail [cdfu@ptialaska.net](mailto:cdfu@ptialaska.net)

February 9, 2002

House Resources Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3472

RE: CS for HB 288 - CFEC Buyback

Dear Members,

Cordova District Fishermen United, representing the fishing fleets of Area E-- Prince William Sound and the Copper River--strongly supports HB 288. The existing buyback statute is inefficient, inflexible and needs to be cleaned up for consistency with other State law. HB 288 accomplishes that.

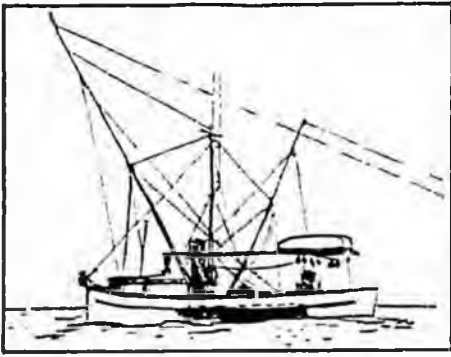
Given the volatility of the salmon industry at present, harvesters need maximum flexibility in order to successfully respond to our changing needs. HB 288 makes several important changes to existing law: 1) It makes buyback optional, rather than mandatory following an optimum number study that finds a number lower than that in the existing fishery; 2) It doesn't require purchase of all associated fishing boats, gear, etc.; and 3) removes the mandatory 7% assessment which is illegal under other existing law.

We support this legislation and urge your positive consideration.

Sincerely,



Sue Aspelund  
Executive Director



# Alaska Trollers Association

130 Seward St., No. 505  
Juneau, Alaska 99801  
(907) 586-9400  
(907) 586-4473 Fax

February 7, 2002

Representative Beverly Masek, Co-Chair  
Representative Drew Scalzi, Co-Chair  
House Resources Committee  
Alaska State Legislature  
Juneau, AK 99811

Dear Resources Committee Members:

The Alaska Trollers Association supports HB 288, relating to commercial fisheries limited entry permit buy-back programs. ATA thinks this legislation is necessary to provide an appropriate tool for those fleets that believe buyback is a viable option.

We ask for your support of HB 288.

Respectfully,

A handwritten signature in cursive script that reads "Dale Kelley".

Dale Kelley  
Executive Director

**HB**

**288**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
 APR 30 2002  
 SENATE FINANCE

DATE: 4/9/02

FURTHER:

DATE TURNED IN TO OFFICE: 30 April 2002

Finance Committee considered CS FOR HOUSE BILL NO. 288(FIN) am  
 HB 288 LIMITED ENTRY BUY-BACK PROGRAM/ASSESSMENT

"An Act relating to commercial fishing limited entry permit buy-back programs, to a permit buy-back assessment, and to voluntary relinquishment of commercial fishing permits; and defining 'optimum number.'"

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
F & G	2/1/02		✓	#1
Rev: Treasury	3/5/02		✓	#2
Rev: Tax Div.	3/5/02	*		#3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lyle Green</i>			✓	
<i>Alan Custer</i>	✓			
<i>Tom Hill</i>	✓			
<i>Del P. Boy</i>	✓			
<i>Krew S. Finner</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

APR 30 2002

STATE FINANCE

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 288  
(H) Publish Date: 2/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Commercial fisheries entry permit buy-back BRU Comm Fish Entry Commission  
programs Component Comm Fish Entry Commission  
Sponsor Rep. Scalzi  
Requester House Fish Component No. 471

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
Division Commercial Fisheries Entry Commission Date/Time 2/1/02 9:08 AM  
Approved by: Mary McDowell, Commissioner Date 02/01/2002  
Agency Commercial Fisheries Entry Commission

REPORTED OUT  
 APR 30 2002  
 SENATE FINANCE  
 COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
 2002 LEGISLATIVE SESSION

Fiscal Note Number: 2  
 Bill Version: CSHB 288(FIN)  
 (H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Limited Entry Buy-Back Program BRU Revenue Operations  
 Component Treasury  
 Sponsor Representative Scalzi  
 Requester House Finance Component No. 121

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipme						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPEATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1066 Public School Trust						
1098 Children's Trust						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 As long as the fund set up to hold the permit buy-back assessments is invested in the General Fund and Other Non-Segregated Investments (GeFONSI) Fund, there will be no charges from Treasury. If the fund is to be managed separately, there would be actual and allocated costs from Treasury. The amounts depend in part on the balance in the fund. Currently, we are assuming that it will NOT have to be invested separately, so we would have no additional costs.  
  
 If the fund is to keep the investment income earned on the balance, the bill should clearly state that

Prepared by: Betty Martin, Comptroller Phone 907-465-2352  
 Division Treasury Division Date/Time 3/5/02 9:44 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
 Agency Department of Revenue

APR 30 2002

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 288(FIN)  
(H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title: Limited Entry Buy-Back Program BRU: Revenue Operations  
Component: Tax Division  
Sponsor: Rep. Scalzi  
Requester: House Finance Component No.: 2476

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time	*	*	*	*	*	*
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

\* See second page for explanation of possible costs to administer the assessment program in this legislation.

Prepared by: Chuck Harlamert, Revenue Audit Supervisor Phone 465-4773  
Division: Tax Division Date/Time 3/5/02 9:22 AM  
Approved by: Larry Persily, Deputy Commissioner Date 03/05/2002  
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 288(FIN) - FN#3

ANALYSIS CONTINUATION

Bill Analysis

The bill provides for the establishment of permit buy-back assessments at the discretion of the Alaska Commercial Fisheries Entry Commission. The assessment applies to permit holders of the specified fishery and may not exceed 7% of the value determined for fisheries business tax purposes. The buyer or exporter must withhold and remit the assessment on a monthly return and file a summary report by March 1 of the following calendar year.

It is possible that the enforcement and collection provisions of AS 43.05 and AS 43.10, which apply to taxes under AS 43, may not apply to the assessments. We recommend that the bill be modified to add a new subsection AS 43.76.230(e):

(e) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and collection of a permit buy-back assessment under AS 43.76.220 – 43.76.240.

The bill does not contain provisions governing the effective date of permit buy-back assessments. We recommend that the assessments be declared on a calendar year basis and initiated on January 1. We also suggest that a minimum notice period be established in order to allow affected buyers, fishers and the division to prepare for an assessment.

Administrative Costs

We are unable to provide precise estimates of administrative resources necessary to administer the assessments under this legislation. These costs are dependent on the number and complexity of permit buy-back assessments that may be established under CSHB 288. Salmon fisheries with few catcher-processors represent very little additional work for the division. In contrast, other fisheries and salmon fisheries with significant catcher-processor participation may require a significantly higher level of staff resources to administer the assessment program. The division needs to know both the number and identity of designated fisheries in order to project our administrative costs.



Official Business

# Alaska State Legislature

REPRESENTATIVE DREW SCALZI  
State Capitol  
Juneau, Alaska 99801-1182

(907) 465-2689; (800) 665-2689  
FAX: (907) 465-3472

*Representative\_Drew\_Scalzi@legis.state.ak.us*

## Sponsor Statement

### **HB288: "An Act relating to commercial fisheries limited entry permit buy-back programs."**

Efficiencies in commercial fishery harvest practices have increased since the inception of the limited entry program. Arguably more permits were originally issued than necessary to effectively harvest the resource for sustained yield in some areas. Alaska presently has approximately 12,000 commercial fishing permits, with about three-fourths of those owned by Alaskans. The limited entry program instituted in the early 1970s worked well for those times; however, with low prices and an excess of harvesters, it is apparent that what worked thirty years ago is splitting the pie into minute portions today.

With the advent of foreign-farmed fish, members from the Alaska commercial fishing industry are now looking at ways to consolidate efforts, maximize efficiencies, and promote better quality. One such method of consolidation is a buy-back or buy-down program that allows establishment of permit buy-back funds and assessments.

The bill sets forth the procedures for a buy-back program, ensures monies appropriated from assessments do not lapse and allows purchase of transferable entry permits in a buy-back program, terminating the program when the optimum number is obtained. The buy-back process mirrors the hatchery and ASMI tax collection procedures by the Dept. of Revenue.

The provision currently in statute allowing for a buy-back, requires purchase of the fishing vessel, skiff, nets, and related equipment involved in an individual's fishing operation as well as the permit. This last requirement can be cumbersome, costly, and an inherent disincentive to effectively promote a desired buy-back plan. This bill would allow for a buy-back plan that would incorporate the purchase of *permits only*, thus making it easier to clarify the costs associated with implementing such a plan.

In no way does this legislation imply or change in existing statute the status of voluntary participation in any such buy-back.

SECTIONAL ANALYSIS – CSHB288(FIN)  
22-LS1108\S

**Section 1.** This is current law. It maintains the status quo that allows a permit to be inherited upon the death of a holder. The change here simply makes the section consistent with the other elements of the measure.

**Section 2.** This is a new section that would allow transferable, nontransferable or interim-use permit holders to voluntarily relinquish the permit to the commission. Once the permit is relinquished to the commission, it no longer exists. It is an important aspect for fleet reduction.

**Section 3.** This is current law. The changes in this section make it consistent with the rest of the measure.

**Section 4.** This section makes the language consistent with the rest of the measure.

**Section 5.** Allows for the establishment of buy-back funds and permit buy-back assessments.

Sets forth the procedures for a buy-back program.

Ensures monies appropriated to the buy-back fund do not lapse.

**Section 6.** Allows the purchase of transferable entry permits in a buy-back program. It terminates the program when the "optimum" number is obtained.

**Section 7.** Changes the "optimum number" definition to include a range of numbers rather than one fixed number as "the" optimum number. This change makes the buy-back process more rational.

**Section 8.** Creates the revenue flow for the collection of a buy-back assessment.

The process mirrors the hatchery and ASMI tax, is collected monthly from buyers by the Department of Revenue, and is accounted for separately.

The legislature may appropriate revenue generated under a buy-back assessment to accomplish the purposes of a particular fishery's buy-back plan.

**Section 9.** This portion of the statute became unnecessary because of changes in the rest of the measure.

## Changes CS HB 288 (FIN) would make to current law:

- Bill removes requirement that a state entry permit buyback program must be implemented after determination that optimum number is lower than number of permits currently in fishery.

Makes optimum number determination feasible without automatically triggering a state-run buyback, thus allowing pursuit of some other remedy, such as an industry-funded and run fleet consolidation program, use of a federal buyback program, etc.

If any form of permit reduction is sought, fishermen will want to go in with some confidence that lower number of permits is likely to be defensible if later faced with legal challenge on question of whether fishery has become "too exclusive."

- Eliminates requirement that a buyback program buy out vessels and gear as well as permits.
- Eliminates "dedicated fund" constitutional problem that exists in the funding mechanism in current law whereby funds generated by an assessment on fishermen would go directly into a buyback fund (as opposed to assessments going to general fund where legislature would have discretion as to appropriating it for buyback or not).
- Resolves "taxing authority" question that exists in current statute (where CFEC is tasked with assessing fishermen). HB288(FIN) maintains the option of funding a buyback through assessments on the fishing earnings of fishermen, but tasks the Revenue Department with the collection of assessment funds (modeled after funding mechanisms used for the ASMI marketing assessment and the salmon enhancement assessment).

Establishes these steps:

If CFEC determines that optimum number for fishery is less than number of permits currently in the fishery ---

- CFEC may establish a buyback program, plan, and fund for that fishery.
- CFEC may adopt regs establishing an assessment on earnings in that fishery to fund the buyback.

- Dept. of Revenue shall then collect the assessment from fish sales by fishermen and deposit in state treasury.
- Legislature may appropriate money collected from the assessment, and any interest it has accrued while in the treasury, to the buyback fund for which it was collected.
- CFEC expends the money in the fund to buy permits until the optimum number is reached.

(Note: Bill does not preclude using alternative methods of capitalizing a buyback fund, such as direct appropriation of funds from some other source, pass-through of federal funds, etc. Allows flexibility to determine best funding mechanism for a particular fishery. Recognizes that a fleet consolidation program, to be effective, must be "customized" to best meet the character, circumstances, and needs of the specific fishery.

- Section 5 makes only transferable permits eligible for buyback. Current law has provision for buying out nontransferable permits if sufficient funds are available in the buyback fund. (Sections 1, 3, 4, and 9 are just to make other sections of limited entry law consistent with this change to 16.43.320.)
- Current law sets deadline of 10 years for getting number of permits in the fishery down to optimum level. HB 288 removes that provision and sets no specific timeline for completion of buyback.
- Section 2 adds specific language making it clear that the holder of a permit may voluntarily relinquish their permit (whether under a fleet consolidation or for any other reason).
- Section 7 adds definition of "optimum number" to the definitions section of the Limited Entry Act. Ability to set an optimum number range, rather than one number, will make the optimum number process more meaningful and less subject to challenge.

**If optimum number for a fishery is determined to be less than the number of permits in the fishery:**

CFEC may establish a buyback program, plan and fund.

CFEC adopts regs establishing a buyback assessment for that fishery.

Dept. of Revenue collects the assessment and deposits in state treasury.

Legislature may appropriate money to the buyback fund for which it was collected.

CFEC expends the money in the fund to buy permits until the optimum number is reached.

HOW DOES CSHB288(FIN) REFLECT THE  
EXPRESSED WILL OF THE HOUSE FINANCE  
COMMITTEE?  
22-LS1108\5

1. HB 288 provides for the establishment of a buy-back **fund** when the optimum number of entry permits is less than the number of entry permits outstanding in a fishery. *Section 5*
2. HB 288 provides for the establishment of a buy-back **plan**. *Section 5*
3. HB 288 provides for the establishment of a buy-back **assessment and program** for fisheries that are proceeding with a buy-back plan. *Section 5*
  - The assessment may not exceed 7% of the ex-vessel (first wholesale) value of the fishery resource and is paid by the commercial fishermen.
  - Delineates the collection and appropriation process for the assessment; and, ensures the commission expends the monies for the plan's intended purpose.
4. Under HB 288, when a permit is "bought back," the permit no longer exists. *Section 6*
5. HB 288 provides the same revenue flow as the hatchery and ASMI tax that commercial fishermen currently pay. *Section 8*

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2.50  
FAX (907) 465-2029  
Mail Stop 3101

HB288  
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 11, 2002

**SUBJECT:** Fund source for limited entry buy-back programs  
(Work Order No. 22-LS1108)

**TO:** Representative Drew Scalzi  
Attn: Pat Hartley

**FROM:** George Utermohle *GU*  
Legislative Counsel

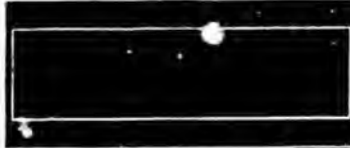
You have asked whether the Alaska Commercial Fisheries Entry Commission may use federal, state, or other funds as a fund source for buy-back programs. The answer is yes, provided that the money is first appropriated by the legislature to the commission for that purpose.

The latest version of HB 288 (CSHB 288(FIN) am) provides that the commission may establish a buy-back fund for a fishery when the optimum number of entry permits for the fishery is less than the number of entry permits issued for the fishery. Money appropriated to a buy-back fund by the legislature shall be used by the commission to reduce the number of entry permits in the fishery. See, sec. 5, page 2, lines 29 - 31. The bill mentions that the legislature may, if it so decides, appropriate revenue generated by a buy-back assessment and any interest generated by the revenue to a buy-back fund. See, sec. 9, page 4, lines 16 - 20. The bill also mentions that the legislature may appropriate interest generated by money in a buy-back fund back to the fund. See, sec. 5, page 2, line 31, through page 3, line 1.

Notwithstanding, the potential fund sources mentioned in HB 288 to provide funding for a buy-back fund, the legislature has the power to appropriate money from virtually any source to a buy-back fund. The legislature may appropriate money to a buy-back fund from a federal grant or private gift, grant, or bequest, as well as from state funds. The power of the legislature to appropriate money from any source to a buy-back fund is virtually unlimited except for state money that is dedicated to another purpose and for federal or private money that is available to the state only for specific purposes that do not include entry permit buy-backs.

If I may be of further assistance, please advise.

GU:lmb  
02-057.lmb



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**MONEY & BUSINESS**

**Bill to expedite fishing permit buybacks clears House**

**AID: Lawmakers pass measure to lend efficiency in salmon industry.**

By Cathy Brown  
The Associated Press  
(Published: March 21, 2002)

Juneau -- A bill aimed at making it easier to buy back commercial fishing permits cleared the House on Wednesday.

Rep. Drew Scalzi, R-Homer, proposed the measure as a tool to improve efficiency in Alaska's troubled salmon fishing industry.

"Mainly what it does is it allows the commercial fishermen to create a buyback program and pay for it themselves," Scalzi said.

Alaska's commercial salmon fishermen have found it increasingly difficult to stay afloat financially, partly because of competition from farmed salmon.

House Bill 288 is intended as a potential tool to reduce the number of fishermen chasing salmon in Alaska, so those who remain stand a better chance of making money and delivering a quality product to the market.

The bill doesn't set up a buyback program, but it fixes problems in the state's buyback law so it could be used if needed, said Mary McDowell of the Commercial Fisheries Entry Commission.

"It's a statute that's been broken since it was enacted, but it just hasn't been a front-burner issue because nobody's been interested in using that statute before," McDowell said. "We need to have a mechanism in place in case we really do need to do this."

House Bill 288 changes the law to allow a buyback program to purchase only a fisherman's limited entry permit. Current law requires purchase of not only the permit, but also a fisherman's boat and gear.

That change would make a program less cumbersome and expensive, Scalzi said.

The measure allows a buyback to be paid for through a tax on fishermen who remain in the fishery after others were bought out. That's the same as existing law.

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But the bill removes language on the handling of those tax revenues that conflicts with the state constitution's prohibition against dedicating funds for a particular purpose.

The measure leaves open the option that other sources besides a tax could pay for a buyback, such as federal funding, McDowell said.

The bill also lets the entry commission do a study of the optimum number of permits for a fishery without being locked into buying back permits if the study shows too many permits are out in the fishery.

Current law mandates a state-run buyback program if a study shows too many fishermen are chasing the fish, McDowell said.

The change would provide flexibility if fishermen wanted to look at alternatives to a state-run buyback, McDowell said.

The state recently started a study of the optimum number of limited entry permits for the Bristol Bay drift gillnet fishery, McDowell said. If it passes, House Bill 288 could guide what happens when that study is finished.

Rep. Eldon Mulder, R-Anchorage, said he supported the bill because a buyback would be a "self-funded effort," and fishermen would not be looking to state coffers to pay for the program.

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McGraw-Hill Construction Information Group

# Petersburg Vessel Owners Association

P.O. Box 232  
Petersburg, Alaska 99833  
Phone (907) 772-9323 Fax (907) 772-4495

March 5, 2002

Representative Bill Williams  
Representative Eldon Mulder  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Re: Support for HB 288 Limited Entry Buy-Back Program

Dear Co-Chairs,

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in a variety of fisheries statewide. Market conditions, competition from farmed fish, and overcapitalization have all contributed to the current problems in our fisheries. Many fishermen statewide are weighing options for the future of their industry. It is clear that one important option is the ability to buy back a number of permits to return the remaining permit holders to profitability. However, the existing statutory language makes a buyback very cumbersome. Specifically, it requires that anyone selling out be compensated for permits, vessels, and gear. This makes financing a buyback very difficult. In addition, the language requires that if an optimum number study is done, it can automatically trigger a buyback. This may result in interested fleets being unwilling to request such a study.

Therefore, we support the passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program. We feel that the new language will make the state-run buyback program a viable tool for the commercial fishing industry and will assist commercial fishermen in improving their fisheries for the future.

We appreciate your consideration of these comments and hope you will support this bill. If you have any questions about our position or if you need additional information, please feel free to contact us.

Respectfully,



Cora Crome  
Director

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-586-5648

E-mail: [seafa@gci.net](mailto:seafa@gci.net)

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February 13, 2002

Representative Drew Scalzi, Chair  
House Resources  
Alaska State Legislature  
State Capitol Room 124  
Juneau, AK 99801

RE: HB 288

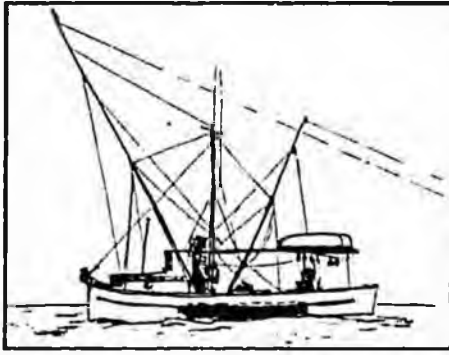
The Southeast Alaska Fishermen's Alliance supports HB 288. This is simple legislation that cleans up the statutes so that a fleet interested in buyback could at least consider and move forward on a program. Currently a fleet that is interested in a buy back program comes against the flaws in the present statute and feels too overwhelmed to proceed forward. It makes good sense for the State of Alaska to clean up and simplify statutes when there are inherent flaws such as the use of designated funds.

This legislation also makes two simple changes that our association favors: the ability to purchase permits only but does not prevent a fleet from designing a program with CFEC to purchase permits, boats and gear and more importantly we support the change that allows a optimum number study to be conducted by CFEC but does not require the fleet to move forward into a buy back program even if the number of permits in the fleet is more than the optimum number.

The Southeast Alaska Fishermen's Alliance was speaking to many members of the Legislature last year about this issue and the need to make corrections to the limited entry buy back program. We are pleased that the legislature is moving forward on this issue and would like to thank Rep. Scalzi for introducing this legislation.

Sincerely,

Kathy Hansen



# Alaska Trollers Association

130 Seward St., No. 505  
Juneau, Alaska 99801  
(907) 586-9400  
(907) 586-4473 Fax

February 13, 2002

Representative Beverly Masek, Co-Chair  
Representative Drew Scalzi, Co-Chair  
House Resources Committee  
Alaska State Legislature  
Juneau, AK 99811

Dear Representatives:

The Alaska Trollers Association supports HB 288 relating to commercial fisheries limited entry permit buy-back programs. ATA believes this legislation is necessary to provide the appropriate tool for those fleets who believe buyback is a viable option.

We ask for your support of HB 288.

Respectfully,

A handwritten signature in cursive script that reads "Dale Kelley".

Dale Kelley  
Executive Director



United Southeast Alaska Gillnetters  
 PO Box 22427  
 Juneau, Alaska 99802  
 (907) 586-5860 Fax (907) 586-0167  
 E-mail: usag@gci.net

February 6, 2002

Representative Peggy Wilson  
 Representative Gary Stevens  
 Co-Chairs  
 House Special Committee on Fisheries  
 Alaska State Legislature  
 State Capitol (MS 3100)  
 Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

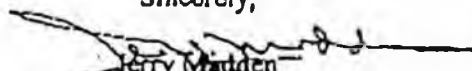
United Southeast Alaska Gillnetters (USAG) supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

The 100 plus members of USAG urge your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

  
 Jerry Madden  
 Executive Director



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

February 4, 2002

Representative Peggy Wilson  
Representative Gary Stevens  
Co-Chairs  
House Special Committee on Fisheries  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

United Fishermen of Alaska supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern, is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

The twenty-nine members groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell  
Executive Director

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollinrs Association • At-sea Processors Association • Bristol Bay Reserve  
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Copper River Salmon Producers Association • Cordova District Fishermen United • Douglas Island Pink and Chum  
Kona Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative  
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Fish Association • United Seiners Association • United Cook Inlet Fishermen's Association

# Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska  
P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /  
e-mail [cdfu@ptialaska.net](mailto:cdfu@ptialaska.net)

February 9, 2002

House Resources Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3472

RE: CS for HB 288 - CFEC Buyback

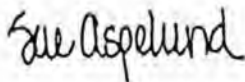
Dear Members,

Cordova District Fishermen United, representing the fishing fleets of Area E—Prince William Sound and the Copper River—strongly supports HB 288. The existing buyback statute is inefficient, inflexible and needs to be cleaned up for consistency with other State law. HB 288 accomplishes that.

Given the volatility of the salmon industry at present, harvesters need maximum flexibility in order to successfully respond to our changing needs. HB 288 makes several important changes to existing law: 1) It makes buyback optional, rather than mandatory following an optimum number study that finds a number lower than that in the existing fishery; 2) It doesn't require purchase of all associated fishing boats, gear, etc.; and 3) removes the mandatory 7% assessment which is illegal under other existing law.

We support this legislation and urge your positive consideration.

Sincerely,



Sue Aspelund  
Executive Director

# SENATE COMMITTEE REPORT

DATE: 3/22/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4-8-02

Resources Committee considered **CS FOR HOUSE BILL NO. 288(FIN) am**  
*HB 283 LIMITED ENTRY BUY-BACK PROGRAM*

"An Act relating to commercial fishing limited entry permit buy-back programs, to a permit buy-back assessment, and to voluntary relinquishment of commercial fishing permits; and defining 'optimum number.'"

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
ADF+G	2/1/02		✓	1
Revenue	3/5/02		✓	2
Revenue	3/5/02	***	-	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ben Stearns</i>	✓			
<i>Greg Wilbur</i>	✓			
<i>← S. S. S.</i>	✓			
CHAIR: <i>J. Brown</i>	✓			



SITE: CORDOVA LIO

SUBJECT OF MEETING:

COMMITTEE:

HB 288

DATE:

UPDATE #:



PRINT YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

DO YOU WANT TO TESTIFY?  
Y or N

✓ Sue Aspelund

P.O. Box 1715 Cordova, AK 99574

Cordova District  
Fishermen United

Y - HB 288

Email address: cdfu@ptialaska.net

Email address:

Email address:

Email address:

Email address:

Email address:

Email address:

**HB**

**296**

SFIN

FILE



MAY 09 2002

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 296(CRA)  
(H) Publish Date: 3/1/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title An Act Relating to Mergers & Consolidations BRU Community Assist & Econ Dev. (405)  
of Municipalities \_\_\_\_\_ Component Community & Business Development  
Sponsor Representative Whitaker  
Requester House Community & Regional Affairs Component No. 2486

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill has no fiscal impact on this department.

Prepared by: Pat Poland, Director  
Division: Community & Business Development  
Approved by: Deborah B. Sedwick, Commissioner  
Agency: Department of Community & Economic Development

Phone 907-269-4578  
Date/Time 2/28/02 9:53 AM  
Date 2/28/2002

SENATE FINANCE COMMITTEE  
~~5/17~~ 2002 COMMITTEE ACTION

Bill Number	HB 296		
Amendment	move		
Motion	from Committee		
<b>Motion by</b>	ff		
<b>Objection by</b>	D		
<b>Removed</b>			
<b>Second Objection by</b>			
<b><u>Committee Member</u></b>	<b>Y</b>	<b><u>Vote</u></b>	<b>N</b>
Senator Leman	✓		
Senator Olson	✓		
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green	✓		
Senator Hoffman		-	
Co-Chair Donley			✓
Co-Chair Kelly	✓		
<b><u>Tally</u></b>			
Yea	7		
Nay	1		
Absent	1		
<b><u>MOTION</u></b>	PASS		

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



Session  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

Interim  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## Sponsor Statement

### HB 296 – Municipal Consolidation

Within Alaska statutes, Title 29 allows municipalities to merge by consolidation or unification. Through the years, many communities have attempted to merge through this process, some successfully, some not so successfully. It is through those efforts that deficiencies in fair voting practices surrounding municipal mergers has come to light.

HB 296 seeks to establish a more fair and timely process in the petition and election of municipal mergers by limiting the time allowed for gathering signatures as well as setting clear requirements for how the outcome of the election is to be determined.

**HB 296**  
**Municipal Mergers & Consolidations**

**Section 1** – Amends AS 29.06.100 (a) to limit the time period in which a petitioner may gather signatures for a petition to consolidate. The new time period will be 365 days prior to filing the petition with the LBC.

**Section 2** – Amends AS 29.06.140(a) to require a majority of the votes in each of the municipalities proposed to be merged or consolidated in order for the question to pass.

**Section 3** – Amends AS 29.06.140(b) to disallow the formation of a service area to be part of a merger or consolidation petition or question on the ballot.

**CS HB 296 (CRA)**

**Section 1** – Unchanged

**Section 2** – Unchanged

**Section 3** - Eliminated

**Senate CS HB 296 (CRA)**

**Section 1** – Unchanged

**Section 2** – Eliminated the amendment to AS 29.06.140(a), and replaced it by adding a (c) subsection to AS 29.06.100. Subsection (c) establishes that a merger or consolidation in a borough with more than one city is subject to the following:

- The area outside the cities must approve the consolidation, and,
- If the merger or consolidation is not approved by a majority vote of each of the cities, then,
  - The proposal is defeated; or
  - The borough will merge or consolidate with the city or cities that approved the merger or consolidation.

**Section 3** – Amends AS 29.06.140(a) to establish the following:

- Regardless of the number of cities in the borough, if the area outside the city or cities does not approve by a majority vote the merger or consolidation, then the proposal fails.

- A majority vote in each of the municipalities involved will result in the proposal being approved.
- A borough with more than one city will require a majority vote in the area outside the cities, and each of the cities individually.
  - If the merger or consolidation is not approved by a majority vote of each of the cities, then
    - The proposal is defeated; or
    - The borough will merge or consolidate with the city or cities that approved the merger or consolidation.

**Section 4-** Sections 1 and 2 of this act do not apply to a merger or consolidation petition filed before the effective date of this act. Section 3 does not apply to an election held as a result of a petition filed before the effective date of this act.

## **Senate CS for CS HB 296 (JUD)**

**Section 1 – Unchanged**

**Section 2 – Unchanged**

**Section 3 –** Adds the language “this subsection is intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1)”. This language defines the intent of the legislature with regard to the majority vote provisions of annexation.

**Section 4 - Unchanged**

By: Bonnie Williams  
Introduced: 02/14/02  
Adopted: 02/14/02

RESOLUTION NO. 2002 - 13

A RESOLUTION SUPPORTING HB 296 AN ACT MAKING CONSOLIDATION  
STATUTES FAIR TO ALL PARTIES BY UPHOLDING GOVERNMENT BY THE  
CONSENT OF THE GOVERNED

WHEREAS, in the year 2001 the citizens of the Fairbanks North Star Borough and especially the City of Fairbanks went through a long, bitter and difficult struggle over the issue of consolidation; and

WHEREAS, the outcome of that struggle could have resulted in the elimination of the City of Fairbanks against the majority view of the residents of that city under current state law; and

WHEREAS, such an outcome would be an outrageous abuse of governing with the consent of the governed; and

WHEREAS, the city of North Pole could then subsequently have been similarly deprived of its right of self-rule.

NOW, THEREFORE, BE IT RESOLVED, that the Fairbanks North Star Borough Assembly supports Representative Jim Whitaker's HB 296, which corrects this gross inequity.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to all members of the Alaska State House and State Senate, and to the Governor of the State of Alaska.

PASSED AND APPROVED THIS 14 DAY OF FEBRUARY, 2002.

*Hank Bartos*

Hank Bartos  
Presiding Officer

ATTEST:

*Mona Lisa Drexler, cmc*

Mona Lisa Drexler, CMC  
Municipal Borough Clerk

Ayes: Williams, Solie, Cummings, Foote, Holm, Henry, Webb, Hutchison, Sattley, Bartos

Noes: Beck

Introduced by: Mayor Thompson  
Date: February 25, 2002

**RESOLUTION NO. 3978**

**A RESOLUTION OF THE CITY OF FAIRBANKS IN SUPPORT OF HOUSE BILL 296, RELATING TO STATE LAWS REGARDING MUNICIPAL MERGER AND CONSOLIDATION, AND SETTING AN EFFECTIVE DATE**

**WHEREAS**, the voters of the City Of Fairbank: and the Fairbanks North Star Borough overwhelmingly rejected the most recent proposal to consolidate the two governments with nearly 80% of votes cast against the proposal; and

**WHEREAS**, House Bill 296, introduced by Representative Whittaker, will be heard by the House Community & Regional Affairs Committee this Thursday. HB 296 would correct three significant deficiencies which came to light during the recent Fairbanks consolidation process; and

**WHEREAS**, under current state law, persons proposing a merger or consolidation of local governments have an unlimited time to obtain needed signatures; HB 296 would limit the "infinite" period to 365 days; and

**WHEREAS**, under current state law, voting on a merger or consolidation proposal is conducted as a single pool of the voters of the two (or more municipalities); HB 296 would require the approval by the voters of each of the affected municipalities; and

**WHEREAS**, HB 296 would also clarify state law to provide that a question involving a borough service area required to be submitted to the voters may not be part of the merger or consolidation petition.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council supports House Bill 296, and urges its adoption by the legislature of the State of Alaska.

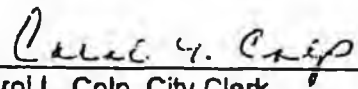
Passed and Approved this 25<sup>th</sup> day of Feb, 2002.

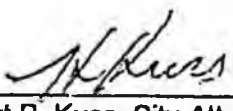
  
STEVE M. THOMPSON, MAYOR

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:  
ADOPTED: February 25, 2002

ATTEST:

APPROVED AS TO FORM

  
Carol L. Colp, City Clerk

  
Herbert P. Kuss, City Attorney

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



Session  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

Interim  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## Sponsor Statement

### HB 296 – Municipal Consolidation

Within Alaska statutes, Title 29 allows municipalities to merge by consolidation or unification. Through the years, many communities have attempted to merge through this process, some successfully, some not so successfully. It is through those efforts that deficiencies in fair voting practices surrounding municipal mergers has come to light.

HB 296 seeks to establish a more fair and timely process in the petition and election of municipal mergers by limiting the time allowed for gathering signatures as well as setting clear requirements for how the outcome of the election is to be determined.

**HB 296**  
**Municipal Mergers & Consolidations**

**Section 1** – Amends AS 29.06.100 (a) to limit the time period in which a petitioner may gather signatures for a petition to consolidate. The new time period will be 365 days prior to filing the petition with the LSC.

**Section 2** – Amends AS 29.06.140(a) to require a majority of the votes in each of the municipalities proposed to be merged or consolidated in order for the question to pass.

**Section 3** – Amends AS 29.06.140(b) to disallow the formation of a service area to be part of a merger or consolidation petition or question on the ballot.

**CS HB 296 (CRA)**

**Section 1** – Unchanged

**Section 2** – Unchanged

**Section 3** - Eliminated

**Senate CS HB 296 (CRA)**

**Section 1** – Unchanged

**Section 2** – Eliminated the amendment to AS 29.06.140(a), and replaced it by adding a (c) subsection to AS 29.06.100. Subsection (c) establishes that a merger or consolidation in a borough with more than one city is subject to the following:

- The area outside the cities must approve the consolidation, and,
- If the merger or consolidation is not approved by a majority vote of each of the cities, then,
  - The proposal is defeated; or
  - The borough will merge or consolidate with the city or cities that approved the merger or consolidation.

**Section 3** – Amends AS 29.06.140(a) to establish the following:

- Regardless of the number of cities in the borough, if the area outside the city or cities does not approve by a majority vote the merger or consolidation, then the proposal fails.

- A majority vote in each of the municipalities involved will result in the proposal being approved.
- A borough with more than one city will require a majority vote in the area outside the cities, and each of the cities individually.
  - If the merger or consolidation is not approved by a majority vote of each of the cities, then
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    - The borough will merge or consolidate with the city or cities that approved the merger or consolidation.

**Section 4-** Sections 1 and 2 of this act do not apply to a merger or consolidation petition filed before the effective date of this act. Section 3 does not apply to an election held as a result of a petition filed before the effective date of this act.

## **Senate CS for CS HB 296 (JUD)**

**Section 1 – Unchanged**

**Section 2 – Unchanged**

**Section 3 –** Adds the language “this subsection is intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1)”. This language defines the intent of the legislature with regard to the majority vote provisions of annexation.

**Section 4 - Unchanged**

Tony Knowles, Governor



## State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501  
Telephone: 907-269-4560 • Fax: 907-269-4539

April 30, 2002

The Honorable Robin Taylor  
Chairman  
Senate Judiciary Committee  
State Capitol, Room 30  
Juneau, AK 99801-1182

RE: *SENATE CS FOR CS FOR HOUSE BILL NO. 296(CRA)* "An Act relating to mergers and consolidations of municipalities"

Dear Senator Taylor:

The Local Boundary Commission supports Section 1 of *SENATE CS FOR CS FOR HOUSE BILL NO. 296(CRA)*. This proposed amendment of AS 29.06.100(a) would ensure timely collection of signatures on petitions for municipal consolidations or mergers. We would urge similar amendments to AS 29.04.040 (city reclassification), AS 29.05.060 (city and borough incorporation), and AS 29.06.460(a) (municipal dissolution).

The Local Boundary Commission strongly opposes those sections of *SENATE CS FOR CS FOR HOUSE BILL NO. 296(CRA)* which would change the vote count process by which consolidations or mergers of boroughs and cities are decided. The Commission's concerns are summarized below and elaborated in the attached statement.

Current law provides that consolidation or merger proposals may be approved by a simple majority of voters who live in the area proposed for consolidation or merger. The proposed change would require separate approvals by a majority of voters in each city to be consolidated or merged, and by a majority of voters in the borough area outside affected cities.

This change in how votes are counted repudiates the principles of representative government – "one person - one vote", a single vote count, and majority rule – in favor of the principles of unrepresentative government – weighted votes, multiple vote counts, and minority veto.

---

Members: Kevin Waring, Chairperson; \_\_\_\_\_, First Judicial District;  
\_\_\_\_\_, Second Judicial District; Allan Tesche, Third Judicial District; Ardith Lynch, Fourth Judicial District