

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3004

April 26

members of the Senate Finance Committee,

Dear Senator Stevens,

Tonight's Kodiak Daily Mirror headlined with an article about SB 113 passing out of the Resource Committee and your reaction to that fact. It also indicated that the full senate may look at SB 113 as early as Thursday which prompts me to try to rapidly relay my thoughts and concerns regarding this issue as it appears that time is running out for any changes. Please pardon my haste in writing if my points are less than succinct.

First, an introduction. I am Peter Allan, owner - operator of the F/V Orion, a locally based small boat fisherman and Kodiak resident for 25 plus years. I have been jigging cod around Kodiak since 1997 when the state waters pot and jig cod fishery was originally established. That means I have many dollars and nine years of my life invested in this fishery.

I am generally opposed to SB 113 due to the carte blanche totally undefined allocative powers that it gives to the Board of Fish and CFEC, however I am particularly irate that I and the other members of the groundfish jig fleet have been designated not merely as second class citizens in the process but as total nonentities.

In the current CSSB 113 on page 6, line 3, section (2) the groundfish jig fishery has essentially been defined as nonexistent. This is a total contravention of the truth and of the common knowledge of all participants and also of yourself I would assume.

This language change to the original draft of SB 113 has occurred in the last two weeks or so. The jig fleet has been actively fishing until three days ago. It is my belief that very few jig fishermen know that they have been declared nonentities in the "rationalization" process.

I would like to identify for you several negative scenarios that I believe to be likely results of this legislation if the jig exemption is allowed to stand as is.

1) Many established fishermen from the pot, longline, and trawl sectors will be issued federal IFQ and/or state DAP which will define their harvest allocations but will free them from " season" restrictions. They will be able to harvest their allocations at their own discretion enabling them to first participate in the very small jig quota. Of course jig fishermen will be locked out of participation in the other gear fisheries.

2)The jig cod fishery has increasingly turned into a wintertime fishery. Additional effort will increase the pressure to produce being placed on participants who are primarily smaller vessels including a number of skiffs.

3) The local jig cod fishery for the past several years has had approximately 80 – 100 vessels per year participating. It is already an economically marginal fishery for many participants and this will certainly be exacerbated if it becomes the dumping ground for any and all new effort.

While I believe that true entry level fishing opportunities are very important to the long term health of coastal communities ,the additional entry level impacts should be shared by all the gear groups either by entry level opportunities into each or pooled quota from each that is designated as entry level quota. Entry level opportunity impacts should not just be shuffled off onto the gear group that is least able to afford it.

I know this is a long letter and I hope you have been able to get through it. I sincerely hope that you will make a good faith effort to convince your fellow senators that jig fishermen are people too. There are lots of us and we are just trying to pay our mortgages and feed our families like everyone else. Don't exclude us from the process by legislative fiat. We should be entitled to the same Board of Fish – EC process as others if there is to be any pretense of fairness and uniform application under the law.

Thank you very much and I would appreciate hearing your thoughts on this problem.

Sincerely, Peter Allan

Peter Allan

POB 2160 Kodiak

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 113(RES)
(S) Publish Date: 4/26/05

Revision Date/Time (Note if correction): _____ Dept Affected: Fish and Game
Title: An Act Relating to Entry into and RDU: Administration and Support
Management of Gulf of Alaska Groundfish Component: Boards of Fisheries and Game
Sponsor: Senator Ber. Stevens by Request
Requester: Senate Resources Committee Component No.: 2048

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	*	*	*	*	*
Travel	28.8	*	*	*	*	*
Contractual	16.8	*	*	*	*	*
Supplies	0.0	*	*	*	*	*
Equipment	0.0	*	*	*	*	*
Land & Structures	0.0	*	*	*	*	*
Grants & Claims	0.0	*	*	*	*	*
Miscellaneous	0.0	*	*	*	*	*
TOTAL OPERATING	45.6	*	*	*	*	*

CAPITAL EXPENDITURES	0.0	*	*	*	*	*
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	*	*	*	*	*
1003 GF Match	0.0	*	*	*	*	*
1004 GF	45.6	*	*	*	*	*
1005 GF/Program Receipts	0.0	*	*	*	*	*
1037 GF/Mental Health	0.0	*	*	*	*	*
Other (Specify Type--Do not abbreviate)	0.0	*	*	*	*	*
TOTAL	45.6	*	*	*	*	*

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The authorities provided in S.B. 113 allow the Alaska Board of Fisheries (board) to explore innovative Gulf of Alaska (GOA) groundfish fisheries allocation and management strategies in ways that benefit the resource, the resource users, and the communities dependent upon them.

The GOA groundfish fisheries are comprised of a diverse group of users, vessels, gears, areas and species. In order to implement this legislation, the board will do the following:

(continued on page 2)

Prepared by: Sarah Gilbertson, Legislative Liaison Phone: (907) 465-6137
Division: ADF&G Commissioner's Office Date/Time: 3/8/05 11:37 AM
Approved by: Wayne Regelin, Acting Commissioner Date: 3/8/2005
Agency: Alaska Department of Fish and Game

FISCAL NOTE # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSB 113(RES)

ANALYSIS CONTINUATION

(continued from page 1)

(1) Continue the board's GOA Groundfish Rationalization Task Force; hold 3 to 4 additional meetings prior to community hearings. Costs for these task force meetings include 3 board members travel, 2 to 3 ADF&G staff travel, and meeting room costs.

(2) Hold hearings in affected communities around the Gulf of Alaska (e.g., Kodiak, Homer, Sand Point and others) in order to receive public and community input on options for structuring the groundfish fisheries to maximize fishery benefits. It is intended that program development for each GOA groundfish fishery will be developed in the transparent board public process, and not within this legislation.

(3) Add 2 to 3 meeting days to its schedule during FY 06 to specifically report to the full board on input from the community hearings, to receive further public input, and to work further on program development.

Passage of this legislation gives the board and the Commercial Fisheries Entry Commission (CFEC) a new tool in their toolbox, and in and of itself has no immediate fiscal impact. However, as the board and CFEC consider the development of a new program, the Alaska Department of Fish and Game anticipates some modest costs for travel and extended meetings as noted above.

At this point, it is unknown how program development might effect future data technology and personnel needs. Therefore, subsequent costs are indeterminate pending the shape and extent of any "designated access privilege" program established by the board and CFEC.

Provided by Senator B. Siveren 4/27/05

Table 10. South Alaska Peninsula Area state-waters Pacific cod fishery openings, 1997-2004

	Pot Gear		Jig Gear
	<i>Fishery Dates:</i>		
1997	April 4 -December 22	11 months plus	April 4 -December 22
	<i>Management Actions:</i>		
	October 31 allocation rollover- vessel size limit, gear limits, exclusive registration area lifted.		
	<i>Fishery Dates:</i>		
1998	March 10 - April 14	1 month	March 10 - October 9
	<i>Management Actions:</i>		
	October 31 allocation rollover- No action taken; federal WGOA reopened Oct. 9 - Dec 31.		
	<i>Fishery Dates:</i>		
1999	March 15 - April 11	less than 1 month	March 15 - December 31
	October 31- Decembe 31	2 months	
	<i>Management Actions:</i>		
	October 31 allocation rollover- Reopened to pot gear.		
	November 10- Number of pots and jig machine limits lifted.		
	<i>Fishery Dates:</i>		
2000	March 11 - April 8	less than 1 month	March 11 - September 19
	<i>Management Actions:</i>		
	Fishery closed when GHL allocations were attained.		
	<i>Fishery Dates:</i>		
2001	March 6 - April 13	1 month plus	March 6 - June 12
	<i>Management Actions:</i>		
	Fishery closed when GHL allocations were attained.		
	<i>Fishery Dates:</i>		
2002	March 5 - March 24	20 days	March 5 - April 26
	<i>Management Actions:</i>		
	Fishery closed when GHL allocations were attained.		
	<i>Fishery Dates:</i>		
2003	February 24 - March 11	16 days	February 24 - April 22
	<i>Management Actions:</i>		
	Fishery closed when GHL allocations were attained.		
	<i>Fishery Dates:</i>		
2004	March 2 - March 24	23 days	March 2 - April 14
	<i>Management Actions:</i>		
	Fishery closed when GHL allocations were attained.		
2005	March 3 - March 24	22 days	

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/23/05

FURTHER: Finance

Date of 5-Day Notice: 3/3/05
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/26/05

Resources Committee considered SENATE BILL NO. 113

SB 113 GULF OF ALASKA GROUND FISH FISHERY

"An Act relating to entry into and management of Gulf of Alaska groundfish fisheries."

and recommends:

- be replaced with _____ CS SB 113 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by Resources Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
F+G	3/8/05	✓			1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
Elton <i>[Signature]</i>	✓			
Dyson <i>[Signature]</i>			✓	
Seelins <i>[Signature]</i>	✓			
Stedman <i>[Signature]</i>	✓			
B. Skens <i>[Signature]</i>	✓			
Guess <i>[Signature]</i>			✓	
Wagner CHAIR: <i>[Signature]</i>	✓			

SB

121

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 15 2005

SENATE FINANCE
COMMITTEE

DATE: 4/29/05

FURTHER:

DATE TURNED
IN TO OFFICE: 15 May 2005

Finance Committee considered

SENATE BILL NO. 121

SB 121 STATE OF AK CAPITAL CORP.; BONDS

"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance of bonds by the State of Alaska Capital Corporation to finance capital improvements in the state; 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

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/
SCR # _____

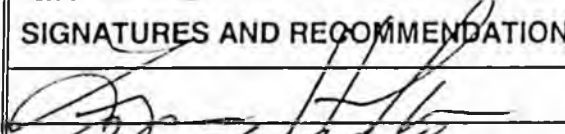
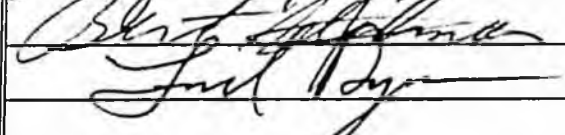
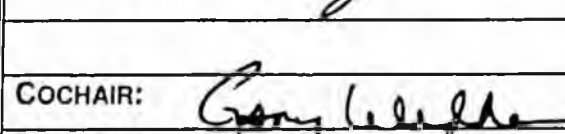
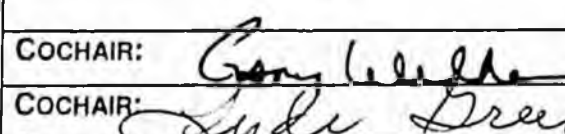
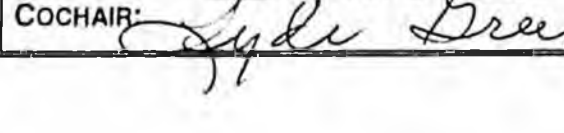
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Revenue	2/11/05	110,4929			#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
	✓			
	✓			
				
COCHAIR: 	✓			
COCHAIR: 	✓			

FISCAL NOTE

REPORTED OUT

MAY 15 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 121
(S) Publish Date: 2/28/05

Revision Date/Time (Not if correction): _____ Dept. Affected: Revenue
Title State of Alaska Capital Corporation RDU State of Alaska Capital Corporation
Component _____
Sponsor Rules Committee
Requester Request of the Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel	10.0					
Contractual	6,700.0	100.0	100.0	100.0	100.0	100.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Debt Service	9,782.9	39,764.0	36,490.4	36,354.4	36,400.6	36,460.5
TOTAL OPERATING	16,492.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Bond Proceeds	6,700.0					
Alaska Capital Income Account and Earnings on Fund Balance	9,792.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5
TOTAL	16,492.9	39,864.0	36,590.4	36,454.4	36,500.6	36,560.5

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: X

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill creates the State of Alaska Capital Corporation which will enter into operating agreements that will provide annual appropriations equal to the annual available fund balance in the Alaska Capital Income Account. This stream of payments will be leveraged into up to \$350 million in bond proceeds that will be placed into a construction fund to pay for capital improvements and costs of issuing bonds.

The Corporation will enter into flexible payment operating agreements that will provide the ability to appropriate fund balance in the Alaska Capital Income Account to the Corporation. As fund balance fluctuates with volatility, appropriated operating agreement payments will also fluctuate.

Prepared by: Deven Mitchell, Debt Manager Phone _____
Division: Treasury Date/Time: 2/11/05 8:39 AM
Approved by: Jerry Burnett, Special Assistant to the Commissioner Date: 2/11/2005
Agency: Department of Revenue

FISCAL NOTE # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 121

ANALYSIS CONTINUATION

The corporation will leverage the flexible payment operating agreements through the issuance of flexible amortization bonds. The flexible amortization bonds will provide the ability to manage possible volatility in available fund balance in the Alaska Capital Account. A minimum annual payment amount will be established through a 40 year interest only payment schedule with a 40 year balloon principal payment. The actual annual payment will be based on available appropriations to the corporation, and as excess funds are received principal will be retired.

Annual amount available for appropriation in this fiscal note are based on the projected realized return rate of 7.61% on funds from fiscal year 2005 through fiscal year 2016. At this level of realized earnings the annual appropriation to the corporation will be \$33,525,656. All available fund balance in the Alaska Capital Income Account will be requested for appropriation by the corporation on an annual basis. The actual account balance is expected to vary from year to year, but the assumption of an average annual realized return rate of 7.61% is below the last 20 year average of 8.94%.

Although only \$9.8 million in expenditures funded from the Alaska Capital Income Account in fiscal year 2005 and 2006 the corporation will receive an appropriation for the available fund balance in the account in both 2005 and 2006. The balance of the appropriation will be used to fund structural enhancements including a debt service reserve fund equal to ten percent of par on outstanding bonds, and revenue fund balance equal to the upcoming year's nominal interest payment.

The \$6.6 million in contractual costs in fiscal year 2006 will fund costs associated with creating the structure for and issuing the bonds of the corporation. These costs will include underwriters, financial advisor, bond counsel, rating agencies, publishing, advertising, and other associated expenses of the corporation. The annual \$100,000 increment will fund annual operation and accounting costs of the corporation.

BACKGROUND PAPER

**Use of the Amerada Hess
Settlement to Fund
Capital Projects**

Office of Management and Budget

March 8, 2005

Amerada Hess Royalty Oil Dispute and Settlement

Settlement's History

The fight with North Slope oil producers started in 1977, almost as soon as oil began to flow through the Trans-Alaska pipeline. That year the state filed a lawsuit accusing oil companies of undervaluing their oil and gas and thus denying the state the full value of its 12.5% royalty share. In 1989, the state filed claims against 15 companies for \$902 million. The dispute became known as the Amerada Hess case, named after the first company listed alphabetically in the lawsuit.¹

Royalty oil is the state's ownership share of the crude coming out of the ground. The state takes its royalty share in two ways: in-kind, which is sold to Railbelt refineries and a Fairbanks electrical utility; and in value, which is sold back to the producers and priced at the wellhead net of transportation costs. The problem came in figuring out how to value the royalty oil. The state claimed that the companies used "bookkeeping fictions and intracorporate transactions" to under value the oil at market and overstate transportation costs, which combined to artificially lower the wellhead value.² The production at issue occurred between 1977 and 1986 from the Kuparuk River and Prudhoe Bay oilfields.

The case became the longest running legal battle between the state and North Slope producers, lasting 18 years. One issue that came up early in the course of the litigation was that since 25% of royalty payments are dedicated to the Permanent Fund, earnings from settlement payments would eventually trickle into annual dividends paid out to Alaska residents. This issue was first raised in 1987 when three oil company defendants filed a lawsuit in federal district court to enjoin the Amerada Hess case from proceeding to trial in any court in Alaska. They claimed they could not receive a fair trial in Alaska because every judge and juror had a financial interest in the outcome of the case by reason of their respective annual Permanent Fund Dividends, which would be increased by any earnings derived from damages awarded to the state in Amerada Hess.³

¹ The Amerada Hess company was actually a very minor player in the case and settled out of court with the state in 1989 for \$319,000.

² "State Settles Oil Fight - \$100 Million Ends 18-Year Battle," Ralph Thomas, *Anchorage Daily News*, April 7, 1995.

³ Transmittal from Governor Hickel for SB 213, March 18, 1991.

Amerada Hess Royalty Oil Dispute and Settlement

In June 1988, the federal district court dismissed the action, ruling that the due process issue must be addressed in the state court before being asserted in the federal court. The companies appealed. In 1989, the Ninth Circuit Court of Appeals encouraged the parties to seek a legislative solution. Governor Cowper immediately introduced corrective legislation. This was ultimately passed into law (Ch 38, SLA 1989) in May 1989. Codified as AS 43.23.045 (b) Dividend Fund, it provided that:

income earned on money awarded after trial in State v. Amerada Hess, et al, 1JU-77-847 Civ. (Superior Court, First Judicial District) shall be treated in the same manner as the Alaska permanent fund except that it is not available for distribution to the (dividend) fund, and shall be annually deposited into the principal of the Alaska permanent fund.

Independently, in April of the same year the Ninth Circuit affirmed the district court's disposition, requiring the oil companies to raise the issue of disqualification in state Superior Court. The companies sought review by the U.S. Supreme Court but their petition was denied.

In October 1990, the companies filed a motion to disqualify the Alaska courts. In March 1991, Judge Carpeneti ruled that AS 43.23.045(b) removes most, but not all, of the sources of revenue flowing to the Permanent Fund dividend that created the bias. He also found that the statute failed to prevent additional monies from going to the dividend fund as a result of the so-called Amerada Hess price adjustment clauses in royalty-in-kind (RIK) contracts. He agreed with claims by the oil companies that if the state prevailed, it would result in a \$300 million judgement against refineries and the Fairbanks utility for in-kind purchases. Part of any judgement then would flow to the Permanent Fund and increase Permanent Fund Dividends (by \$10 in the first year, increasing to about \$40 in FY2015).

According to Judge Carpeneti, this failure to deal with RIK recoveries would require the Alaska court to disqualify itself. The result was another piece of legislation introduced by Governor Hickel in March of 1991 that became part of a more comprehensive rewrite of Permanent Fund statutes (19 Ch 134 SLA 1992) that included repealing AS 43.23.045(b) above. A new section was added to AS 37.13.145 Disposition of Income statute:

(d) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of State v. Amerada Hess et al, 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgement, or adjustment to a royalty-in-kind

contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available to the dividend fund, and shall be annually deposited to the principal of the Alaska permanent fund.

One final note on the legal history: 19 Ch. 134 SLA 1992 contained a conditional repealer stating that if the Alaska Supreme Court made a final determination that "no judge or juror is disqualified from serving as a judge or juror solely because the judge or juror may qualify to receive a permanent fund dividend," subsection (d) would be repealed, i.e., earnings on the Amerada Hess principal would be added into the annual dividend calculation.

Eventually, almost all of the state's claims were settled out of court. The final piece fell into place in 1995, when the state settled an assortment of gas royalty claims against three companies—BP, Exxon, and Mobil—for the last \$100 million of about \$1 billion in total settlements. Altogether the state spent nearly \$100 million in building its legal case. Over the course of the litigation, the share of settlements deposited into the Permanent Fund totaled \$194.1 million. Realized earnings on the Amerada Hess settlement money since the first deposit in FY 92 have added another \$230.3 million to the settlement principal, which totaled \$424.4 million at the end of FY 04.

Amerada Hess Settlement

	Principal			Realized Earnings (over inflation)			Inflation-proofing			Total Settlement Principal
	Beginning	Contributions	Ending	Beginning	Additions	Ending	Beginning	Additions	Ending	
FY 1992	Inception	82,099,000	82,099,000	0	0	0	0	2,005,000	2,005,000	84,104,000
FY 1993		16,411,000	98,510,000	0	4,641,000	4,641,000	2,005,000	4,541,000	6,546,000	109,697,000
FY 1994		13,213,000	111,723,000	4,641,000	5,620,000	10,261,000	6,546,000	3,615,000	10,161,000	132,145,000
FY 1995		61,717,000	173,440,000	10,261,000	6,145,000	16,406,000	10,161,000	5,060,000	15,221,000	205,067,000
FY 1996		2,860,000	176,300,000	16,406,000	18,441,000	34,847,000	15,221,000	5,864,000	21,085,000	232,232,000
FY 1997		7,847,000	184,147,000	34,847,000	21,377,000	56,224,000	21,085,000	7,058,000	28,143,000	268,514,000
FY 1998		24,622,000	208,769,000	56,224,000	31,254,000	87,478,000	28,143,000	6,853,000	34,996,000	331,243,000
FY 1999		0	208,769,000	87,478,000	36,086,000	123,564,000	34,996,000	5,102,000	40,098,000	372,431,000
FY 2000		6,886,000	215,655,000	123,564,000	30,331,000	153,895,000	40,098,000	8,307,000	48,405,000	417,955,000
FY 2001		13,587,000	229,242,000	153,895,000	7,687,000	161,582,000	48,405,000	14,543,000	62,948,000	453,772,000
FY 2002		(35,159,000)	194,083,000	161,582,000	(23,384,000)	138,198,000	62,948,000	(5,154,000)	62,112,000	394,393,000
FY 2002		0	194,083,000	138,198,000	0	138,198,000	62,112,000	4,318,000	62,112,000	394,393,000
FY 2003		0	194,083,000	138,198,000	0	138,198,000	62,112,000	6,160,000	68,272,000	400,553,000
FY 2004		0	194,083,000	138,198,000	14,713,000	152,911,000	68,272,000	9,133,000	77,405,000	424,399,000
	Total	194,083,000		Total	152,911,000		Total	77,405,000		

Note: FY2002 reductions are the result of an audit correction of an over deposit of settlement principal and related earnings.

Legislation to Leverage Amerada Hess Settlement Earnings To Finance Capital Projects

Summary

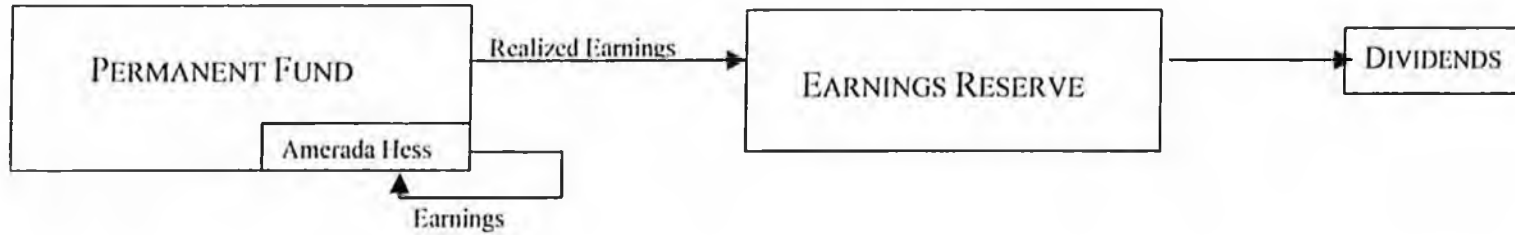
1. **Create the Alaska Capital Fund (HB 187, SB 122)**
 - Legislation establishes the Alaska Capital Fund
 - The realized earnings off of the Amerada Hess principal (expected to be in the \$30+ million/yr. range) would be deposited into the Alaska Capital Fund.
 - The Alaska Capital Fund is established within the Earnings Reserve Account of the Permanent Fund
 - ✓ The purpose of putting it in the ERA instead of the general fund is so the balance can be carried forward without being subject to the annual CBR sweep.
 - ✓ The ability to carry fund balance forward is critical to providing security of payment to Wall Street despite expected volatility of earnings.
 - ✓ The Alaska Capital Fund would be invested the same as the ERA and retain its own earnings.
 - ✓ The Alaska Capital Fund would accumulate realized earnings for 2 years, beginning in FY 05, before being drawn down to pay debt service.
 - ✓ The accumulated balance would fund reserve accounts to secure debt.
 - AS 37.13.145(c) would be changed so there would be no inflation proofing of the Amerada Hess principal from the Alaska Capital Fund.
 - ◆ Changes are made to the Alaska Permanent Fund section of the FY 05 and 06 budget bills so that Amerada Hess realized earnings are deposited into the Alaska Capital Fund and Amerada Hess principal is exempt from inflation proofing.
 - ◆ The Amerada Hess portion of Permanent Fund principal would remain at \$424 million thereafter.

2. State of Alaska Capital Corporation Created (HB 188, SB 121)

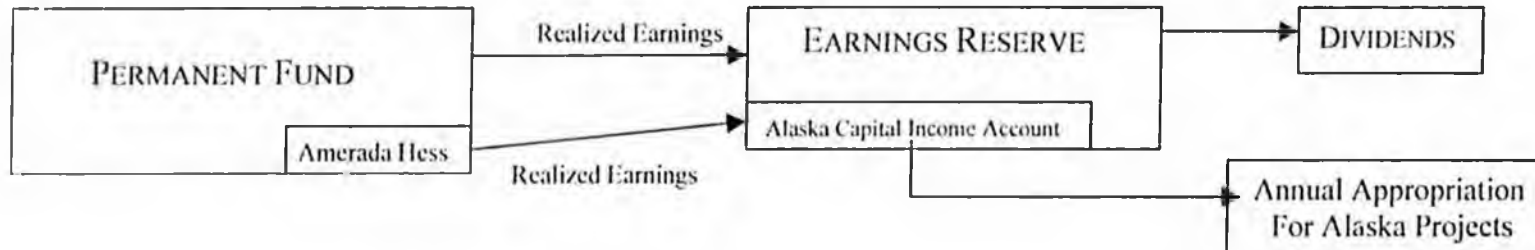
- Legislation establishes the State of Alaska Capital Corporation. The Corporation is closely linked to the Department of Revenue and State Bond Committee that would issue stand-alone moral obligation debt of the state totaling \$343 million.
 - ◆ The Alaska Capital Fund would be the source of revenue to pay debt service on bonds issued by the corporation.
 - ◆ Historically the Permanent Fund average annual earnings have been 9.64% and the ten year forecasted rate of realized return is 7.04%.
 - ◆ Modeling shows debt service may be paid with a realized rate of return as low as 5.5%, but given market volatility it is extremely important to be able to withstand short term bear markets.
 - ◆ A debt service reserve fund and an advance funded debt payment account along with the fund balance of the Alaska Capital Fund provide a high probability of an available funding source.
- Debt service on the bonds will be paid through annual legislative appropriations from the Alaska Capital Fund to the Corporation.
 - ◆ The moral obligation of the state is necessary to provide further assurance to bondholders that annual debt service payments will continue even during improbable unanticipated prolonged down market periods, when there may be low or negative Amerada Hess realized earnings paid into the Alaska Capital Fund.
 - ◆ Consultations with credit rating agencies and financial advisors have provided assurance that there will be no negative effect on the state's credit rating by issuing these bonds.
 - ◆ Investment grade ratings in the "A" range are expected on the bonds.
 - ◆ Bonds will be issued with a requirement to pay interest only with a final, theoretical principal maturity date of 20 years. Purchasers, however, understand that the actual repayment of principal will be based on Amerada Hess earnings deposited into the Alaska Capital Fund. Expectations are that the bonds will be paid off much sooner than 20 years.

ALASKA CAPITAL INCOME ACCOUNT

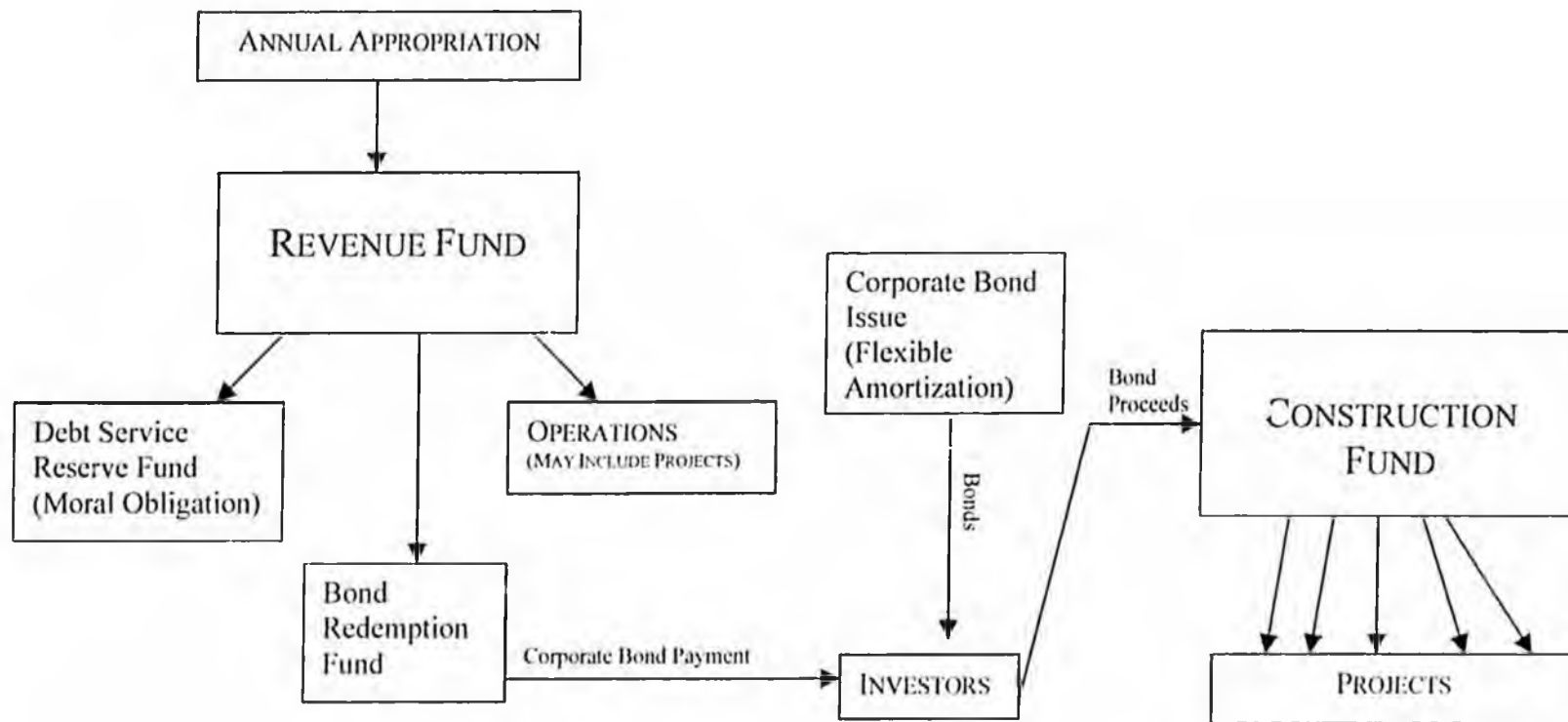
CURRENT



PROPOSED (HB 187, SB 122)



STATE OF ALASKA CAPITAL CORPORATION (HB 188, SB 121)



Alaska Capital Income Account (HB 187, SB 122)									
Am Hess Principal			424,399,000						
Am Hess Transfer Rate									
Blended Rate									
	Realized Earnings Rate	Beginning Balance	Amerada Hess Earnings	Transfer to SOA CC	Ending Balance				
2005	7.04%	-	29,877,690	29,877,690	-				
2006	7.04%	-	29,877,690	29,877,690	-				
2007	7.04%	-	29,877,690	29,877,690	-				
2008	7.04%	-	29,877,690	29,877,690	-				
2009	7.04%	-	29,877,690	29,877,690	-				
2010	7.04%	-	29,877,690	29,877,690	-				
2011	7.04%	-	29,877,690	29,877,690	-				
2012	7.04%	-	29,877,690	29,877,690	-				
2013	7.04%	-	29,877,690	29,877,690	-				
2014	7.04%	-	29,877,690	29,877,690	-				
2015	7.04%	-	29,877,690	29,877,690	-				
2016	7.04%	-	29,877,690	29,877,690	-				
2017	7.04%	-	29,877,690	29,877,690	-				
2018	7.04%	-	29,877,690	29,877,690	-				
2019	7.04%	-	29,877,690	29,877,690	-				
2020	7.04%	-	29,877,690	29,877,690	-				
2021	7.04%	-	29,877,690	29,877,690	-				
2022	7.04%	-	29,877,690	29,877,690	-			Average annualized realized earnings rate	
2023	7.04%	-	29,877,690	29,877,690	-			7.04%	
2024	7.04%	-	29,877,690	29,877,690	-			* Total return is forecast at 7.61% which will result	
2025	7.04%	-	29,877,690	29,877,690	-			in AM Hess principal growth of .57% annually that is	
2026	7.04%	-	29,877,690	29,877,690	-			not reflected in this model	
2027	7.04%	-	29,877,690	29,877,690	-				
2028	7.04%	-	29,877,690	29,877,690	-				
2029	7.04%	-	29,877,690	29,877,690	-				
2030	7.04%	-	29,877,690	29,877,690	-				
2031	7.04%	-	29,877,690	29,877,690	-				
2032	7.04%	-	29,877,690	29,877,690	-				
2033	7.04%	-	29,877,690	29,877,690	-				
2034	7.04%	-	29,877,690	29,877,690	-				
2035	7.04%	-	29,877,690	29,877,690	-				
2036	7.04%	-	29,877,690	29,877,690	-				
2037	7.04%	-	29,877,690	29,877,690	-				
2038	7.04%	-	29,877,690	29,877,690	-				

State of Alaska Capital Corporation (HB 188, SB 121)

Revenue Fund

	Borrowing Rate	Earnings Rate	Beginning Balance	Lease Appropriation Received	Outstanding Bonds	Nominal Interest Payments	Flexible Principal Payments	Earnings on Fund Balance	Transfers In	DSRF or CF Transfers out / Operations Expense	Ending Balance
2005	6.00%	2.00%	-	29,877,690	-	-	-	-	-	-	29,877,690
2006	6.00%	2.00%	29,877,690	29,877,690	326,096,837	9,782,905	-	1,134,948	-	32,709,684	18,397,738
2007	6.00%	2.00%	18,397,738	29,877,690	326,096,837	19,565,810	-	1,792,385	-	100,000	30,402,002
2008	6.00%	2.00%	30,402,002	29,877,690	326,096,837	19,565,810	21,148,072	1,821,278	-	100,000	21,287,088
2009	6.00%	2.00%	21,287,088	29,877,690	304,948,765	18,296,926	14,570,926	1,716,391	-	100,000	19,913,317
2010	6.00%	2.00%	19,913,317	29,877,690	290,377,839	17,422,670	14,945,666	1,693,684	-	100,000	19,016,354
2011	6.00%	2.00%	19,016,354	29,877,690	275,432,173	16,525,930	15,842,183	1,675,566	-	100,000	18,101,496
2012	6.00%	2.00%	18,101,496	29,877,690	259,589,990	15,575,399	16,828,387	1,656,724	-	100,000	17,132,123
2013	6.00%	2.00%	17,132,123	29,877,690	242,761,603	14,565,696	17,878,420	1,636,733	-	100,000	16,102,429
2014	6.00%	2.00%	16,102,429	29,877,690	224,883,183	13,492,991	18,994,137	1,615,497	-	100,000	15,008,487
2015	6.00%	2.00%	15,008,487	29,877,690	205,889,046	12,353,343	20,179,492	1,592,935	-	100,000	13,846,278
2016	6.00%	2.00%	13,846,278	29,877,690	185,709,554	11,142,573	21,438,821	1,568,966	-	100,000	12,611,539
2017	6.00%	2.00%	12,611,539	29,877,690	164,270,733	9,856,244	22,776,740	1,543,500	-	100,000	11,299,744
2018	6.00%	2.00%	11,299,744	29,877,690	141,493,993	8,489,640	24,198,155	1,516,446	-	100,000	9,906,085
2019	6.00%	2.00%	9,906,085	29,877,690	117,295,838	7,037,750	25,708,274	1,487,703	-	100,000	8,425,453
2020	6.00%	2.00%	8,425,453	29,877,690	91,587,564	5,495,254	27,312,635	1,457,166	-	100,000	6,852,420
2021	6.00%	2.00%	6,852,420	29,877,690	64,274,929	3,856,496	29,017,118	1,424,724	-	100,000	5,181,219
2022	6.00%	2.00%	5,181,219	29,877,690	35,257,811	2,115,469	30,827,972	1,719,648	32,609,684	100,000	36,344,800
2023	6.00%	2.00%	36,344,800	29,877,690	4,429,839	265,790	4,429,839	1,646,374	-	100,000	63,073,234
2024	6.00%	2.00%	63,073,234	29,877,690	-	-	-	1,574,991	-	100,000	94,425,915
2025	6.00%	2.00%	94,425,915	29,877,690	-	-	-	2,208,379	-	100,000	126,411,983
2026	6.00%	2.00%	126,411,983	29,877,690	-	-	-	2,854,562	-	100,000	159,044,235
2027	6.00%	2.00%	159,044,235	29,877,690	-	-	-	3,513,800	-	100,000	192,335,724
2028	6.00%	2.00%	192,335,724	29,877,690	-	-	-	4,186,355	-	100,000	226,299,769
2029	6.00%	2.00%	226,299,769	29,877,690	-	-	-	4,872,497	-	100,000	260,949,956
2030	6.00%	2.00%	260,949,956	29,877,690	-	-	-	5,572,501	-	100,000	296,300,146
2031	6.00%	2.00%	296,300,146	29,877,690	-	-	-	6,286,646	-	100,000	332,364,482
2032	6.00%	2.00%	332,364,482	29,877,690	-	-	-	7,015,219	-	100,000	369,157,391
2033	6.00%	2.00%	369,157,391	29,877,690	-	-	-	7,758,510	-	100,000	406,693,590
2034	6.00%	2.00%	406,693,590	29,877,690	-	-	-	8,516,817	-	100,000	444,988,096
2035	6.00%	2.00%	444,988,096	29,877,690	-	-	-	9,290,443	-	100,000	484,056,229
2036	6.00%	2.00%	484,056,229	29,877,690	-	-	-	10,079,698	-	100,000	523,913,617
2037	6.00%	2.00%	523,913,617	29,877,690	-	-	-	10,884,898	-	100,000	564,576,205
2038	6.00%	2.00%	564,576,205	29,877,690	-	-	-	11,706,365	-	100,000	606,060,259

State of Alaska Capital Corporation (HB 188, SB 121)

Reserve Fund

	Earnings Rate	Beginning Balance	Additional Contributions	Earnings on Fund Balance	Earnings Transfer Out	Termination of Reserve	Ending Balance
2005	4.00%	-				-	-
2006	4.00%	-	32,609,684	652,194	652,194	-	32,609,684
2007	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2008	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2009	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2010	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2011	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2012	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2013	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2014	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2015	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2016	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2017	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2018	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2019	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2020	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2021	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2022	4.00%	32,609,684		1,304,387	1,304,387	-	32,609,684
2023	4.00%	32,609,684		652,194	652,194	32,609,684	-
2024	4.00%	-		-	-	-	-
2025	4.00%	-		-	-	-	-
2026	4.00%	-		-	-	-	-
2027	4.00%	-		-	-	-	-
2028	4.00%	-		-	-	-	-
2029	4.00%	-		-	-	-	-
2030	4.00%	-		-	-	-	-
2031	4.00%	-		-	-	-	-
2032	4.00%	-		-	-	-	-
2033	4.00%	-		-	-	-	-
2034	4.00%	-		-	-	-	-
2035	4.00%	-		-	-	-	-
2036	4.00%	-		-	-	-	-
2037	4.00%	-		-	-	-	-
2038	4.00%	-		-	-	-	-

State of Alaska Capital Corporation (HB 188, SB 121)											
Construction Fund							Run Solver to force cell g38 to equal zero by changing cell d6.				
	Earnings Rate	Beginning Balance	Bond Proceeds /Transfers	Earnings on Fund Balance	Project Cash Flow	Ending Balance					
2005	3.00%	-		-		-					
2006	3.00%	-	326,096,837	9,625,031	20,150,000	315,571,868					
2007	3.00%	315,571,868		3,458,439	88,467,690	230,562,617					
2008	3.00%	230,562,617		2,221,338	84,694,733	148,089,222					
2009	3.00%	148,089,222		822,628	94,070,000	54,841,850					
2010	3.00%	54,841,850		445,650	25,577,500	29,710,000					
2011	3.00%	29,710,000		375,000	5,085,000	25,000,000					
2012	3.00%	25,000,000		0	25,000,000	0					
2013	3.00%	0		0		0					
2014	3.00%	0		0		0					
2015	3.00%	0		0		0					
2016	3.00%	0		0		0					
2017	3.00%	0		0		0					
2018	3.00%	0		0		0					
2019	3.00%	0		0		0					
2020	3.00%	0		0		0					
2021	3.00%	0		0		0					
2022	3.00%	0		0		0					
2023	3.00%	0		0		0					
2024	3.00%	0		0		0					
2025	3.00%	0		0		0					
2026	3.00%	0		0		0					
2027	3.00%	0		0		0					
2028	3.00%	0		0		0					
2029	3.00%	0		0		0					
2030	3.00%	0		0		0					
2031	3.00%	0		0		0					
2032	3.00%	0		0		0					
2033	3.00%	0		0		0					
2034	3.00%	0		0		0					
				total projects	343,044,923.00						

Cheryl Frasca
Re: Repeal of *Amerada Hess* earning sequestration
requirement in AS 37.13.145(d)

January 28, 2005

MEMORANDUM

State of Alaska
Department of Law

To: Cheryl Frasca
Office of the Governor

Date: January 28, 2005

From: Wilson L. Condon
Assistant Attorney General
Oil, Gas & Mining-Anchorage

Tel. No.: 269-5255

File No.: N/A

Re: Repeal of *Amerada Hess*
earning sequestration
requirement in AS 37.13.145(d)

I. INTRODUCTION

In 1991 the legislature enacted the current version of AS 37.13.145(d) as part of provisions governing management of the Alaska Permanent Fund Corporation ("APFC"). The statute imposes a financial sequestration requirement on earnings from settlement proceeds received by the State in ANS Royalty Litigation, commonly known as the *Amerada Hess* ("*AmHess*") litigation. In relevant part, AS 37.13.145(d) requires that:

[I]ncome earned on money awarded in or received as a result of State v. *Amerada Hess*, et al., IJU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money . . . is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the Alaska permanent fund.

The legislature adopted the statute in order to negate an argument advanced by producers during the *AmHess* litigation that no Alaska judge or juror could be impartial in the adjudication of the matter because they had a financial stake in the outcome. According to the producers, any judgment returned would ultimately be deposited into the Alaska Permanent Fund, affecting the size of the annual Permanent Fund Dividend ("PFD").

Cheryl Frasca
Re: Repeal of *Amerada Hess* earning sequestration
requirement in AS 37.13.145(d)

January 28, 2005

All issues in the *AmHess* litigation were concluded and the case dismissed in 1995. Since the statute was adopted, the APFC has always used a separate sub-account to isolate any *AmHess* proceeds and the income earned on those proceeds. This sub-account is part of the principal account of the permanent fund. The purpose of the sub-account is: (1) to ensure that *AmHess* earnings are not included in the amount from which the PFD is annually paid; and (2) to track the amount to be transferred annually from the Fund's realized earnings account to Fund principal, and thereafter be allocated to the *AmHess* sub-account. Presently, no additional *AmHess* litigation proceeds are due from the producers, but annual earnings allocations and adjustments continue to be handled in conformity with AS 37.13.145(d).

II. QUESTIONS PRESENTED

1. Can the legislature repeal AS 37.13.145 at this time?

III. SHORT ANSWER

1. Yes, the legislature has authority to repeal the provisions of AS 37.13.145. However, the bias challenge raised by the producers in *AmHess* is one that is capable of repetition in future litigation. Most likely, it would be raised again.¹ Therefore, repeal of AS 37.13.145 may undermine the State's position in future litigation that Alaska judges and jurors are not financially impacted by litigation proceeds. The producers will argue that an agreement by the State to segregate future litigation proceeds is illusory. They will contend that any segregation requirement will eventually be repealed, and the money thereafter commingled with PFD funds. Thus, under their argument, judges and jurors will retain an expectation of recovery from the proceeds in the matter before them, thereby requiring their disqualification.

IV. DISCUSSION

As long as there are no contractual promises enforceable under the federal Contract Clause,² a valid general act may effectively repeal or supersede the provisions of a prior

¹ This is so because the disqualification issue was never fully litigated on the merits through appeal in either the state or federal litigation arising out of *Hess*.

² U.S. Const. art. 1, § 10, cl. 2 ("[n]o State shall . . . pass any . . . Law impairing the Obligation of Contracts.").

Cheryl Frasca
Re: Repeal of *Amerada Hess* earning sequestration
requirement in AS 37.13.145(d)

January 28, 2005

act.³ Here, there is no contractual promise with the *AmHess* parties to maintain a sequestration requirement for any fixed period of time, or indefinitely. No judicial order mandates the treatment. The reasons prompting enactment of the provision became moot when all issues in the case were settled in 1995. Thus, as a legal matter, the legislature is presently free to repeal the sequestration requirements of AS 37.13.145(d).

In practical terms, repeal of AS 37.13.145(d) would mean that the annual realized income of the Fund would be increased by the amount earned from approximately \$400 million of assets. Under the current distribution formula, this means that the amount of the annual PFD would be increased as a result of inclusion of *AmHess* proceeds in "the amount available for distribution to the dividend fund."⁴ The *AmHess* judges and potential jurors will now belatedly realize larger PFDs from repeal of the provision.

Although no legal obstacle impedes repeal of AS 37.13.145(d), the legislature may care to balance the benefits of such repeal versus the potential negative consequences. In the benefit column, there will be fairly insubstantial savings of APFD accounting time and bookkeeping entries isolating the funds and the earnings on those funds. Also in the benefit column, there will be an increased annual PFD available for all Alaskans. In the negative column, the legislature may have furnished the producers an evidentiary basis to argue in future litigation that "we all know that proceeds of this lawsuit will eventually find their way into the PFD, and therefore, no Alaskan judge or juror can be impartial."

I cannot say that a future state or federal court would entertain such an argument based on a one-time incidence of repeal. It is even more tenuous to suggest, as the producers would, that Alaskan judges and jurors follow the requirements of PFD accounting so closely to know of the repeal of AS 37.13.145(d). However, it may unnecessarily complicate future litigation. Therefore, in the absence of a more compelling justification for repeal than I currently see, I would counsel leaving the statute on the books.

WLC:AMP:cb

³ *State v. Lewis*, 559 P.2d 630 (Alaska 1977), *cert. denied*, 432 U.S. 901.

⁴ AS 37.13.145(d).

The following Capital Projects are proposed for
FY 06 funding by the Alaska Capital Fund

Project Review Listing
FY06 Governor's Capital Budget

Multiple User Selected Fund Codes

Department of Administration

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Public Building Facilities Projects	2000 Bond Funds	\$6,902,000
AP Maintenance Projects for Facilities Outside the Public Building Fund	2000 Bond Funds	\$3,098,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$10,000,000
	Department Total:	\$10,000,000

Department of Commerce, Community, and Economic Development

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Energy Projects	2000 Bond Funds	\$250,000
AP City of Unalaska - Boat Harbor	2000 Bond Funds	\$2,000,000
AP Tongass Coast Aquarium, Inc.	2000 Bond Funds	\$100,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$2,350,000
	Department Total:	\$2,350,000

Department of Corrections

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Institution Closed Circuit TV System Recording	2000 Bond Funds	\$2,500,000
AP Deferred Maintenance, Repair, and Renovations	2000 Bond Funds	\$8,000,000
AP Statewide Equipment Replacement	2000 Bond Funds	\$450,000
AP Community Jails Life, Safety and Security Renovations and Miscellaneous Equipment	2000 Bond Funds	\$100,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$11,050,000
	Department Total:	\$11,050,000

* Indicates an appropriation with allocations (amounts not included in totals)

**Project Review Listing
FY06 Governor's Capital Budget**

Multiple User Selected Fund Codes

Department of Fish and Game

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Deferred Maintenance Facilities	2000 Bond Funds	\$400,000
AP Fairbanks Infrastructure Renewal and Replacement Upgrades	2000 Bond Funds	\$200,000
AP Vessel and Aircraft Repair and Maintenance	2000 Bond Funds	\$278,500
AP DIDSON Sonar Equipment Purchase	2000 Bond Funds	\$500,000
AP Westward Region Chignik Weir Improvements and Repairs	2000 Bond Funds	\$121,500
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$1,500,000
	Department Total:	\$1,500,000

Office of the Governor

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Governor's House Maintenance	2000 Bond Funds	\$100,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$100,000
	Department Total:	\$100,000

Department of Health and Social Services

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP MH Crisis Treatment Facility - Phase 2	2001 Bonds MH	\$2,500,000
AP Bethel Youth Facility Security Improvements	2000 Bond Funds	\$233,900
AP Anchorage Pioneer Home Emergency Generator Replacement	2000 Bond Funds	\$600,000
AP Juneau Pioneer Home Roof Replacement	2000 Bond Funds	\$1,000,000
AP Deferred Maintenance, Renovation, Repair and Equipment	2000 Bond Funds	\$1,500,000
AP Pioneers' Homes Deferred Maintenance, Renovation, Repair and Equipment	2000 Bond Funds	\$2,500,000
AP Emergency Medical Services Ambulances and Equipment Statewide - Match for Code Blue Project	2000 Bond Funds	\$425,000

* Indicates an appropriation with allocations (amounts not included in totals)

Project Review Listing
FY06 Governor's Capital Budget

Multiple User Selected Fund Codes

Department of Health and Social Services

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Juvenile Offender Management Information System Software Upgrade	2000 Bond Funds \$325,000
AP MH: Alaska Psychiatric Institute Automation Project	2001 Bonds MH \$674,200
AP Senior Centers Deferred Maintenance, Construction, Renovation, Expansion and Equipment	2000 Bond Funds \$1,000,000
AP MH: Deferred Maintenance and Accessibility Improvements	2001 Bonds MH \$150,000
	General Fund Total: 0
	Federal Total: 0
	Other Total: \$10,908,100
	Department Total: \$10,908,100

Department of Labor and Workforce Development

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Alaska Vocational Technical Center Deferred Maintenance	2000 Bond Funds \$2,500,000
	General Fund Total: 0
	Federal Total: 0
	Other Total: \$2,500,000
	Department Total: \$2,500,000

Department of Law

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Management Information System	2000 Bond Funds \$1,000,000
	General Fund Total: 0
	Federal Total: 0
	Other Total: \$1,000,000
	Department Total: \$1,000,000

Department of Military and Veterans Affairs

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Anchorage Armory Expansion	2000 Bond Funds \$500,000
AP Military Youth Academy Dining Facility Renovation and Repair	2000 Bond Funds \$276,900

* Indicates an appropriation with allocations (amounts not included in totals)

Project Review Listing
FY06 Governor's Capital Budget

Multiple User Selected Fund Codes

Department of Military and Veterans Affairs

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Army Guard Deferred Maintenance, Renewal, and Replacement	2000 Bond Funds	\$500,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$1,276,900
	Department Total:	\$1,276,900

Department of Natural Resources

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP State Park Emergency Repairs	2000 Bond Funds	\$400,000
AP Forestry Buildings Repairs to Correct Fire and Life Safety Deficiencies Phase 2	2000 Bond Funds	\$276,400
AP Forestry Area Offices Hazmat Storage Facilities	2000 Bond Funds	\$90,000
AP State Park Deferred Maintenance	2000 Bond Funds	\$300,000
AP Fire Suppression Engine and Truck Replacements	2000 Bond Funds	\$400,000
AP Replace Forestry Trailers at Copper River and Delta	2000 Bond Funds	\$233,600
AP Rehabilitation of Anchor Point Campgrounds for Private Operations	2000 Bond Funds	\$150,000
AP Byers Lake Campground Rehabilitation	2000 Bond Funds	\$100,000
AP Nancy Lake Campground Rehabilitation	2000 Bond Funds	\$300,000
AP Harding Lake Campground Rehabilitation	2000 Bond Funds	\$200,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$2,450,000
	Department Total:	\$2,450,000

Department of Public Safety

<u>AP/AL Project Title</u>		<u>Fund Source Total</u>
AP Firefighting Engines and Equipment	2000 Bond Funds	\$500,000
AP Statewide Facilities Maintenance	2000 Bond Funds	\$718,800

* Indicates an appropriation with allocations (amounts not included in totals)

**Project Review Listing
FY06 Governor's Capital Budget**

Multiple User Selected Fund Codes

Department of Public Safety

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>	
AP Electronic Fingerprint Services-Live Scan	2000 Bond Funds	\$465,000
AP Aircraft and Vessel Repair and Maintenance	2000 Bond Funds	\$2,314,300
AP Law Enforcement Equipment Replacement	2000 Bond Funds	\$1,177,100
AP Live Burn Building at Fairbanks Fire Training Center	2000 Bond Funds	\$150,000
AP Burn Panel Installation at Juneau Fire Training Center	2000 Bond Funds	\$150,000
General Fund Total:		0
Federal Total:		0
Other Total:		\$5,475,200
Department Total:		\$5,475,200

Department of Transportation and Public Facilities

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>	
* AP Governor's Transportation Initiative	2000 Bond Funds	\$108,000,000
AL Anchorage Mid-Town Congestion and Truck Route Improvements	2000 Bond Funds	\$26,000,000
AL Glenn Highway Corridor	2000 Bond Funds	\$30,500,000
AL Kenai Peninsula Kalifornsky Beach Road Rehabilitation	2000 Bond Funds	\$11,000,000
AL Mat-Su Congestion Improvements	2000 Bond Funds	\$21,000,000
AL Richardson Highway Passing Lanes Segments	2000 Bond Funds	\$5,000,000
AL Fairbanks University Avenue-Geist-Johansen Intersection Improvements	2000 Bond Funds	\$3,500,000
AL Cordova Copper River Highway Rehabilitation	2000 Bond Funds	\$4,000,000
AL McCarthy Road Major Maintenance	2000 Bond Funds	\$2,000,000
AL Stampede Road Improvements MP 0 to 8	2000 Bond Funds	\$5,000,000
* AP Governor's Transportation Access to Resources Initiative	2000 Bond Funds	\$37,000,000
AL Richardson Highway Shaw Creek Bridge	2000 Bond Funds	\$2,500,000
AL Elliott Highway Wastington Creek Bridge Replacement for Gas Pipeline	2000 Bond Funds	\$3,500,000

* Indicates an appropriation with allocations (amounts not included in totals)

Project Review Listing
FY06 Governor's Capital Budget

Multiple User Selected Fund Codes

Department of Transportation and Public Facilities

<u>AP/AL Project Title</u>			<u>Fund Source Total</u>
AL Fairbanks: Richardson Highway - Northbound Chena Overflow Bridge for Gas Pipeline	2000	Bond Funds	\$11,000,000
AL DeLong Mountain: Port Expansion EIS Completion	2000	Bond Funds	\$2,000,000
AL North Slope: Foothills West Road EIS	2000	Bond Funds	\$4,000,000
AL North Slope: Bulien Point EIS	2000	Bond Funds	\$5,000,000
AL Dalton Highway: Surfacing Upgrades	2000	Bond Funds	\$9,000,000
AP Industrial Road Program	2000	Bond Funds	\$10,000,000
AP Airport Deferred Maintenance	2000	Bond Funds	\$1,500,000
AP Highway Deferred Maintenance	2000	Bond Funds	\$3,000,000
AP Facilities Deferred Maintenance and Critical Repairs	2000	Bond Funds	\$8,000,000
AP Emergency and Non-Routine Repairs	2000	Bond Funds	\$500,000
AP Alaska Marine Highway System - Vessel and Terminal Overhaul and Rehabilitation	2000	Bond Funds	\$6,500,000
AP Material Stockpiles - Dalton Highway, Glenn Highway, Richardson Highway and Tok Cutoff	2000	Bond Funds	\$600,000
AP Harbor Deferred Maintenance	2000	Bond Funds	\$3,000,000
AP Hoonah Harbor Deferred Maintenance and Transfer	2000	Bond Funds	\$3,500,000
AP Petersburg: North Harbor Deferred Maintenance and Transfer	2000	Bond Funds	\$2,500,000
AP Statewide: Airport Lease Lots Development	2000	Bond Funds	\$4,000,000
AP Willow Maintenance Station Replacement	2000	Bond Funds	\$350,000
AP WAN Infrastructure Upgrade	2000	Bond Funds	\$185,000
* AP Statewide Federal Programs	2000	Bond Funds	\$56,500,000
AL Federal-Aid Aviation State Match	2000	Bond Funds	\$14,500,000
AL Federal-Aid Highway State Match	2000	Bond Funds	\$42,000,000

* Indicates an appropriation with allocations (amounts not included in totals)

**Project Review Listing
FY06 Governor's Capital Budget**

Multiple User Selected Fund Codes

Department of Transportation and Public Facilities

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Congressional Earmarks	
	2000 Bond Funds \$15,000,000
	General Fund Total: 0
	Federal Total: 0
	Other Total: \$260,135,000
	Department Total: \$260,135,000

University of Alaska

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Strategic Land and Property Acquisitions	
	2000 Bond Funds \$2,150,000
AP Systemwide Minor Renewal and Renovation	
	2000 Bond Funds \$6,886,500
AP Integrated Science Complex	
	2000 Bond Funds \$21,600,000
	General Fund Total: 0
	Federal Total: 0
	Other Total: \$30,636,500
	Department Total: \$30,636,500

Alaska Court System

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>
AP Bethel Courthouse	
	2000 Bond Funds \$825,000

* Indicates an appropriation with allocations (amounts not included in totals)

**Project Review Listing
FY06 Governor's Capital Budget**

Multiple User Selected Fund Codes

Alaska Court System

<u>AP/AL Project Title</u>	<u>Fund Source Total</u>	
AP Deferred Maintenance Projects	2000 Bond Funds	\$300,000
	General Fund Total:	0
	Federal Total:	0
	Other Total:	\$1,125,000
	Department Total:	\$1,125,000

General Fund Grand Total:	0
Federal Grand Total:	0
Other Grand Total:	\$340,506,700
Grand Total:	\$340,506,700

* Indicates an appropriation with allocations (amounts not included in totals)



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

85/22
SB 121
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

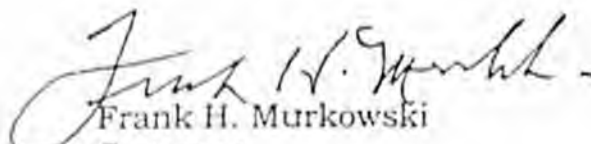
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill establishing the State of Alaska Capital Corporation (corporation). The corporation would be a public corporation with the authority to issue bonds to finance up to \$350 million in state capital improvements, including the cost of issuing the bonds.

My intent is that the debt service on bonds issued by the corporation would be annually covered by appropriations from the earnings on the settlement proceeds derived from the *Amerada Hess* royalty settlement. I also am transmitting a companion bill that would separately identify the *Amerada Hess* earnings so that they are available to the legislature if there is a desire to use the money for this purpose.

The financing technique proposed in this bill would permit the state to leverage a funding source to obtain money for needed capital improvements from the sale of bonds on the major financial markets.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

MITTE COPY

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/28/05

FURTHER: Finance

Date of 5-Day Notice: 3/24/2005
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/29/05

State Affairs Committee considered SENATE BILL NO. 121

SB 121 STATE OF AK CAPITAL CORP.; BONDS

"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance of bonds by the State of Alaska Capital Corporation to finance capital improvements in the state; 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 Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#
REV	2/10/05	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

*Elton
Wagner
+ Higgins
DWS*

Thorslund

SB

122

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 15 2005
SENATE FINANCE
COMMITTEE

DATE: 4/29/05

FURTHER:

DATE TURNED
IN TO OFFICE: 15 May 2005

Finance Committee considered

SENATE BILL NO. 122

SB 122 AMERADA HESS INCOME; CAPITAL INCOME ACCT.

"An Act establishing the Alaska capital income account within the Alaska permanent fund; relating to deposits into the account; relating to certain transfers regarding the Amerada Hess settlement to offset the effects of inflation on the Alaska permanent fund; 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

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Revenue	4/24/05			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

MAY 15 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 122
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction):
 Title Alaska Capital Income Account

Dept. Affected: Revenue
 RDU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation

Sponsor Governor
 Requester _____

Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would create a new account, the Alaska Capital Income Account, in the Permanent Fund's earnings reserve account. In addition, the bill would change existing statutes to place the realized earnings from the settlement of State v. Amerada Hess into this new account where they would be available for Legislative appropriation.

The additional staff time required to administer this account will fall under the APFC Finance Department's normal scope of duties. Therefore we do not expect additional costs as a result of this bill.

Prepared by: Michael Burns, Executive Director/CEO
 Division Alaska Permanent Fund Corporation
 Approved by: _____
 Agency _____

Phone 465-2047
 Date/Time 2/24/2005
 Date 2/24/2005

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/23/05

FURTHER: Finance

Date of 5-Day Notice: 3/24/2005
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/29/05

State Affairs Committee considered SENATE BILL NO. 122

SB 122 AMERADA HESS INCOME; CAPITAL INCOME ACCT.

"An Act establishing the Alaska capital income account within the Alaska permanent fund; relating to deposits into the account; relating to certain transfers regarding the Amerada Hess settlement to offset the effects of inflation on the Alaska permanent fund; 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 Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	2/24			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

Elton
 Winters
 Higgins
 Davis
 Morrison

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB 122
~~SECRET~~
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

February 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would establish the Alaska capital income account as a separate account of the Alaska permanent fund, and would authorize the deposit into that account of the earnings on money received from State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

In 1992, the state's oil and gas royalty litigation (State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District)) was headed to trial. Both state and federal judges had expressed concerns about the capacity of Alaskan judges and jurors to participate in the case on an impartial basis in light of the fact that the earnings on the portion of any recovery in the case would be deposited into the permanent fund and be used to pay the permanent fund dividends that all judges and jurors receive. AS 37.13.145(d) was enacted, which deposited into the principal of the permanent fund the earnings of all amounts received from settlement of this case. Thus, the concern about impartiality was resolved by disallowing the earnings from the settlement from being used in calculating the annual dividend amount.

The Amerada Hess litigation is now completed, though the possibility of a re-opener subject to an arbitration remains. Approximately \$425 million from this case, including earnings on settlement receipts and inflation-proofing, was deposited into the permanent fund.

This bill proposes to end inflation proofing of the part of the permanent fund principal attributable to the Amerada Hess settlement and to authorize the deposit of the earnings from the settlement proceeds into a separate

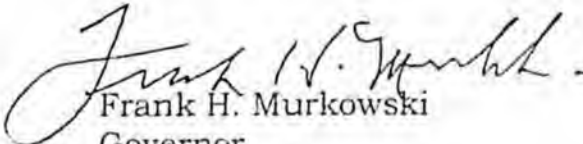
COMMITTEE COPY

The Honorable Ben Stevens
February 25, 2005
Page 2

account of the Alaska permanent fund called the Alaska capital income account. The money in this separate account could then be appropriated by the legislature for any valid public purpose, including covering debt service on bonds to finance capital improvements in the state issued by the State of Alaska Capital Corporation under a companion bill I also am transmitting.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SB

124

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 6, 2005

FURTHER REFERRALS:

Date of Committee Action: 5/7/05

The FINANCE Committee considered:

CSSB 124(L&C)

CS FOR SENATE BILL NO. 124(L&C)

FISHERIES BUSINESS LICENSE; BOND

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

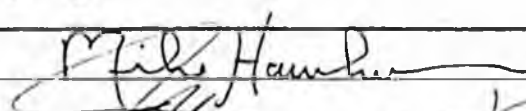


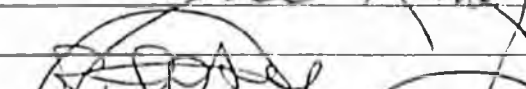

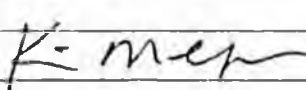
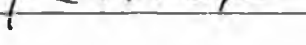
Recommends it be replaced with HCS or CS for SB 124 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
UCED	#2			✓
DFG	#3			✓
DLWD	#4			✓
DLWD	#5			✓
DOR	#6			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Hamber			*	
	Holly			X	
	STOTTA			X	
	Kelly	X			
	Foster	X			
Chair: 	Meyer			X	
Chair: 					

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Fisheries Business License and RDU Investments (122)
Fish Processor/Primary Buyer Bonds Component Investments
Sponsor Rules
Requester By Request of the Governor Component No. 383

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes requirements to obtain and maintain a fisheries business license, and to the bonding requirements for fish processors and primary fish buyers. It does not impact the operations of the division.

Prepared by: Greg Winegar, Director Phone 907 465 2510
Division: Investments Date/Ti: 2/4/05 6:25 PM
Approved by: Edgar Blatchford, Commissioner Date 2/4/2005
Agency: Department of Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Relating to requirements to obtain and RDU _____
maintain a fisheries business license Component _____
Sponsor: Rules Committee
Requester: Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
Division: Legislative Liaison Date/Time 12/16/04 3:01 PM
Approved by: Commissioner Kevin Duffy Date 12/16/2004
Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: "An Act relating to requirements to obtain RDU: Employment Security
and maintain a fisheries business license..." Component: Unemployment Insurance
Sponsor: Rules ment Number: 2276
Requester: Governor

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Tom W. Nelson, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 2/24/05 10:47 AM
Approved by: Greg O'Claray, Commissioner Date: 2/24/2005
Agency: Department of Labor and Workforcu Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: "An Act relating to requirements to obtain RDU: Labor Standards and Safety
and maintain a fisheries business license..." Component: Wage and Hour
Sponsor: Rules
Requester: Governor Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone: 465-4855
Division: Labor Standards and Safety Date/Time: 2/24/05 10:47 AM
Approved by: Greg O'Claray, Commissioner Date: 2/24/2005
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSSB 124(L&C)
(S) Publish Date: 4/27/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Bonds & Accountability: Processors/UI RDU Revenue Programs & Services
/UI/OSHA Component Tax Division
Sponsor Governor
Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill represents several modifications to existing fisheries business tax licensing and surety bond requirements: 1) it adds the Seafood Marketing Assessment, UI tax, OSHA fines, and local fish taxes to the list of liabilities that must be paid in full to obtain and hold a fisheries business license; 2) lowers the requirements for payment of UI tax from a processors surety bond while retaining priority for employees and fishermen; and 3) increases protections in place for employees and fishermen by modifying the rules under which bonding requirements are raised for processors that fail to pay employees, fishermen, or UI tax.

We do not expect to incur additional costs as a result of the legislation. We expect to collect additional Seafood Marketing Assessments under this legislation.

Prepared by: Chuck Harlamert Phone 465-2320
Division Tax Division Date/Time 4/1/05 8:11 AM
Approved by: Tom Boutin, Deputy Commissioner Date 4/1/2005
Agency Rever.uc

THE
FOLLOWING
DOCUMENT(S)
ARE
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5/7/05
adopted
AMENDMENT 1

OFFERED IN THE HOUSE
TO: CSSB 124(L&C)

1 Page 2, lines 22 - 24:

2 Delete all material and insert:

3 "(3) department has not received a copy of

4 (A) a final judgment obtained against the applicant for
5 unpaid fishery sales, use, or severance taxes imposed by a municipality in
6 the state; or

7 (B) a final administrative determination against the
8 applicant from a municipality in the state for unpaid fishery sales, use, or
9 severance taxes imposed by the municipality; the administrative
10 determination must be accompanied by a certification by the municipality
11 that the municipal administrative process is consistent with constitutional
12 requirements of due process and that the applicant has exhausted all
13 administrative remedies under applicable municipal administrative
14 process."

24-GS1013L
Utermohle
5/6/05

adopted M/O 5/7/05

HOUSE CS FOR CS FOR SENATE BILL NO. 124()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to requirements to obtain and maintain a fisheries business license;
2 relating to security required of fish processors and primary fish buyers; and providing
3 for an effective date."

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

5 * Section 1. AS 43.75.020 is amended to read:

6 Sec. 43.75.020. Application for license. (a) Application for a license shall
7 be filed with the department and accompanied by an annual fee of \$25. A separate
8 annual fee is required for each plant specified in the application covered by the
9 license. The application must contain the name of the applicant, the line of business to
10 be licensed, place of business, and other facts that the department prescribes. The
11 applicant shall state that the applicant, as a condition of obtaining and maintaining
12 the license, agrees to pay

13 (1) the taxes levied under this title [TAX IMPOSED BY
14 AS 43.75.015 OR 43.75.100], and that the applicant will make a return and pay

1 the taxes [TAX] at the time provided by law;

2 (2) any seafood marketing assessment levied under AS 16.51;

3 (3) contributions imposed under AS 23.20 (Alaska Employment
4 Security Act);

5 (4) any administrative penalties assessed under AS 18.60.093 for a
6 violation of a provision of AS 18.60.010 - 18.60.105; and

7 (5) any applicable fishery sales, use, or severance taxes imposed by
8 a municipality in the state.

9 (b) Upon receipt of an [THE] application in proper form under (a) or (c) of
10 this section, accompanied by the annual fee, the department shall issue the license if
11 the

12 (1) applicant has paid in full, including interest and penalties, the
13 following:

14 (A) taxes levied under this title; and

15 (B) any assessments under AS 16.51;

16 (2) department has not received notification from the Department
17 of Labor and Workforce Development that the applicant has failed to pay in full

18 (A) an assessment of delinquent contributions that is final
19 under AS 23.20.205(c) or 23.20.220(c); or

20 (B) an administrative penalty that is final under
21 AS 18.60.093 or 18.60.097; and

22 (3) department has not received a copy of a final judgment
23 obtained against the applicant for unpaid fishery sales, use, or severance taxes
24 imposed by a municipality in the state.

25 (c) Instead of a license issued under (a) of this section, the department may
26 issue a direct marketing fisheries business license to a licensed commercial fisherman
27 who processes fishery resources caught using a vessel that does not exceed 65 feet in
28 overall length and is owned or leased by the commercial fisherman. The licensee may
29 place into commerce in the state and outside of the state processed or unprocessed
30 fishery resources caught using the vessel described in the license. Fishery resources
31 that are caught using the vessel and owned by the licensee from the time of harvest

1 through sale, as defined by the department by regulation, may be processed by the
2 licensee on the vessel, at a shore-based facility, or by means of custom processing
3 services obtained by the licensee. An application for a direct marketing fisheries
4 business license shall be filed with the department and accompanied by an annual fee
5 of \$25. A separate direct marketing fisheries business license and annual license fee
6 are required for each vessel on which processing is performed. The application must
7 state the name and address of the applicant, the fishery resources for which the
8 applicant holds a commercial fishing entry permit or interim-use permit or quota
9 share, a description of the vessel and each shore-based facility where the applicant will
10 process fishery resources, and other information that the department prescribes by
11 regulation. The application must state that the applicant, as a condition of obtaining
12 and maintaining the license, agrees to pay the taxes, assessment, employment
13 security contributions, and penalties as set out in (a)(1) - (5) of this section [TAX
14 IMPOSED BY AS 43.75.015(d) OR 43.75.100, AND THAT THE APPLICANT
15 WILL MAKE A RETURN AND PAY THE TAX AT THE TIME PROVIDED BY
16 LAW]. A person who holds a direct marketing fisheries business license may not
17 under that license (1) purchase fishery resources for resale or processing for sale; or
18 (2) process fishery resources for another licensed commercial fisherman or for a
19 fisheries business licensed under this chapter. In this subsection, "licensed
20 commercial fisherman" means a natural person who holds a commercial fishing entry
21 permit or interim-use permit issued under AS 16.43 or a quota share issued under
22 federal law.

23 * Sec. 2. AS 43.75.055 is amended by adding a new subsection to read:

24 (g) Real property, a surety bond, or other security being used to secure
25 payment of the tax for the year preceding the application year may also be used to
26 secure payment of the estimated tax for the application year if the security is
27 acceptable to the department and the applicant has not failed to pay a tax under this
28 chapter in a timely manner during any of the three years preceding the application
29 year.

30 * Sec. 3. AS 44.25.040 is repealed and reenacted to read:

31 **Sec. 44.25.040. Security for certain obligations.** (a) A person applying for a

1 license as a fish processor or primary fish buyer shall file with the commissioner of
2 revenue a performance bond, conditioned upon the promise to pay the following:

3 (1) wages owing to all persons employed by the fish processor or
4 primary fish buyer, including contractual employee benefits;

5 (2) independent registered commercial fishermen for the price of the
6 raw fishery resource purchased from them;

7 (3) fees owing for the service of transporting raw fish;

8 (4) contributions imposed under AS 23.20 (Alaska Employment
9 Security Act).

10 (b) A fish processor or primary fish buyer that processes more than 30,000
11 pounds of fish a year or purchases more than \$30,000 of fish a year shall file a
12 performance bond with the commissioner in the amount specified in this subsection.
13 The amount of the bond is \$10,000 unless, during the five years preceding the
14 application, one of the following has occurred:

15 (1) a final judgment in excess of \$10,000 was awarded against the
16 bond required under this section; if the final judgment against the bond was in excess
17 of \$10,000 but less than \$50,000, the amount of the bond is increased to a total of
18 \$50,000; if the final judgment against the bond was \$50,000 or more, the amount of
19 the bond is increased to a total of \$100,000;

20 (2) the commissioner has determined that the fish processor has
21 engaged in the business of fish processor in the state or the primary fish buyer has
22 engaged in the business of primary fish buyer in the state while not in compliance with
23 this section and has not yet satisfied a final judgment entered against the fish processor
24 or primary fish buyer for payment for labor furnished to, raw fishery resources
25 purchased by, or raw fish transportation services provided to the fish processor or
26 primary fish buyer; if the fish processor has engaged in the business of a fish processor
27 or the primary fish buyer has engaged in the business of primary fish buyer while not
28 in compliance with this section and has not yet satisfied a final judgment for payment
29 for labor furnished to, raw fishery resources purchased by, or raw fish transportation
30 services provided to the fish processor or primary fish buyer, the amount of the bond
31 is increased to a total of \$100,000; or

1 (3) the commissioner has determined under (j) of this section that a
2 claim against the bond filed by the Department of Labor and Workforce Development
3 under (i) of this section met the requirements in (i) of this section; if the amount of the
4 claim was in excess of \$10,000 but was less than \$50,000, the amount of the bond is
5 increased to a total of \$50,000; if the amount of the claim was \$50,000 or more, the
6 amount of the bond is increased to a total of \$100,000; an increase in bond amount
7 under this paragraph may not be imposed until 45 days after the commissioner
8 determines under (j) of this section that the claim of the Department of Labor and
9 Workforce Development met the requirements in (i) of this section.

10 (c) A fish processor or primary fish buyer that processes 30,000 pounds or less
11 of fish a year and purchases \$30,000 or less of fish a year shall file a performance
12 bond with the commissioner in the amount specified in this subsection. The amount of
13 the bond is \$2,000 unless, during the preceding five years, one of the following has
14 occurred:

15 (1) a final judgment in excess of \$2,000 was awarded against the bond
16 required under this section; if the final judgment against the bond was in excess of
17 \$2,000 but less than \$10,000, the amount of the bond is increased to a total of
18 \$10,000; if the final judgment against the bond was \$10,000 or more, the amount of
19 the bond is increased to a total of \$20,000;

20 (2) the commissioner has determined that the fish processor has
21 engaged in the business of fish processor in the state or that the primary fish buyer has
22 engaged in the business of primary fish buyer in the state while not in compliance with
23 this section and has not yet satisfied a final judgment entered against the fish processor
24 or primary fish buyer for payment for labor furnished to, raw fishery resources
25 purchased by, or raw fish transportation services provided to the fish processor or
26 primary fish buyer; if the fish processor has engaged in the business of fish processor
27 or primary fish buyer has engaged in the business of primary fish buyer while not in
28 compliance with this section and has not yet satisfied a final judgment for payment for
29 labor furnished to, raw fishery resources purchased by, or raw fish transportation
30 services provided to the fish processor or primary fish buyer, the amount of the bond
31 is increased to a total of \$20,000; or

1 (3) the commissioner has determined under (j) of this section that a
2 claim against the bond filed by the Department of Labor and Workforce Development
3 under (i) of this section met the requirements in (i) of this section; if the amount of the
4 claim was in excess of \$2,000 but was less than \$10,000, the amount of the bond is
5 increased to a total of \$10,000; if the amount of the claim was \$10,000 or more, the
6 amount of the bond is increased to a total of \$20,000; an increase in bond amount
7 under this paragraph may not be imposed until 45 days after the commissioner
8 determines under (j) of this section that the claim of the Department of Labor and
9 Workforce Development met the requirements in (i) of this section.

10 (d) If a fish processor who has filed a performance bond under (c) of this
11 section processes more than 30,000 pounds of fish in a year or purchases more than
12 \$30,000 of fish in a year, the fish processor shall, within seven days after the day on
13 which the 30,000 pound threshold or the \$30,000 threshold is exceeded, notify the
14 commissioner and comply with (b) of this section. If a fish processor who has filed a
15 performance bond under (c) of this section processes more than 30,000 pounds of fish
16 in a year or purchases more than \$30,000 of fish in a year, and does not comply with
17 (b) of this section within seven days after the date on which the 30,000 pound
18 threshold or the \$30,000 threshold is exceeded, the fish processor shall suspend
19 processing fish until a bond has been filed under (b) of this section.

20 (e) If a primary fish buyer who has filed a performance bond under (c) of this
21 section purchases more than \$30,000 of fish in a year, the primary fish buyer shall,
22 within seven days after the day on which the \$30,000 threshold is exceeded, notify the
23 commissioner and comply with (b) of this section. If a primary fish buyer who has
24 filed a performance bond under (c) of this section purchases more than \$30,000 of fish
25 in a year, and does not comply with (b) of this section within seven days after the date
26 on which the \$30,000 threshold is exceeded, the primary fish buyer shall suspend
27 purchases of fish until a bond has been filed under (b) of this section.

28 (f) A fish processor or primary fish buyer may use only a surety bond, cash
29 deposit, or other negotiable security as a performance bond under this section. The
30 surety must be satisfactory in the determination of the commissioner. The use of other
31 negotiable security as a performance bond must be in a form acceptable to the

1 commissioner. The commissioner shall waive the filing of a performance bond under
2 this section if

3 (1) the fish processor or primary fish buyer has more than \$10,000 in
4 lienable real property located in the state and provides proof of the property in a form
5 satisfactory to the commissioner;

6 (2) the fish processor or primary fish buyer is not required under (b) or
7 (c) of this section to post a bond in excess of \$10,000; and

8 (3) within the five years preceding the application under AS 43.75.020,
9 an employec, fisherman, or contracted raw fish transporter has not obtained a final
10 judgment against the fish processor's or primary fish buyer's bond under this section.

11 (g) If an applicant for a license as a fish processor or primary fish buyer has
12 complied with this section, the Department of Revenue may issue that applicant a
13 license to engage in the business of fish processor or primary fish buyer.

14 (h) A claim against a fish processor or primary fish buyer for failing to pay an
15 employee for wages or contractual benefits owed, for failing to pay an independent
16 registered fisherman for the price of raw fishery resource purchased from the
17 fisherman, or for failing to pay an independent contractor for the transportation of raw
18 fish may be brought upon the bond filed under this section in the superior court of the
19 judicial district in which the work was done or in any judicial district in the state in
20 which jurisdiction may be obtained. If an action is brought upon the bond, a copy of
21 the complaint shall be served by registered or certified mail upon the commissioner at
22 the time the suit is filed. The commissioner shall transmit a copy of the complaint and
23 any judgment to the surety or holder of the negotiable security. If a judgment is
24 entered against cash deposited with the commissioner, the commissioner, upon receipt
25 of a certified copy of a final judgment, shall pay the judgment from the amount of the
26 deposit. The commissioner shall maintain a record, available for public inspection, of
27 all suits commenced under this subsection.

28 (i) A claim against a fish processor or primary fish buyer for failing to pay
29 contributions imposed under AS 23.20 may be brought by the Department of Labor
30 and Workforce Development against the bond filed under this section by filing a claim
31 against the bond with the commissioner, along with proof, satisfactory to the

1 commissioner, that the fish processor or primary fish buyer

2 (1) received a notice of assessment under AS 23.20.205;

3 (2) did not pay the amount specified in the notice of assessment within
4 30 days after receiving the notice of assessment or, if the assessment was contested
5 under AS 23.20.220, within 30 days after receiving the department's final decision
6 under AS 23.20.220(c); and

7 (3) did not file an appeal of the assessment under AS 23.20.220 or
8 filed an appeal but did not initiate a proceeding for judicial review under
9 AS 23.20.445 within 30 days after the department's final decision under
10 AS 23.20.220(c).

11 (j) If the commissioner determines that the Department of Labor and
12 Workforce Development has met the claim requirements in (i) of this section, the
13 commissioner shall forward the claim and supporting documents to the surety or
14 holder of the negotiable security. If the fish processor or primary fish buyer has
15 deposited cash with the commissioner, the commissioner shall pay the claim of the
16 Department of Labor and Workforce Development from the amount of the deposit. If
17 the commissioner determines that the Department of Labor and Workforce
18 Development has not met the claim requirements in (i) of this section, the
19 commissioner shall provide the Department of Labor and Workforce Development
20 with written notice of the deficiency of its claim.

21 (k) If a performance bond is insufficient to satisfy all claims filed against it
22 under this section, claims brought against the bond under (h) of this section have
23 priority over a claim filed against the bond under (i) of this section. The Department
24 of Labor and Workforce Development shall return to the commissioner money
25 received from a claim filed against a fish processor's or primary fish buyer's
26 performance bond under (i) of this section if an employee, fisherman, or contracted
27 raw fish transporter obtains a final judgment under (h) of this section against that fish
28 processor's or primary fish buyer's bond and the

29 (1) fish processor or primary fish buyer has not replenished the bond
30 after it was used to cover the claim filed under (i) of this section; or

31 (2) final judgment obtained by the employee, fisherman, or contracted

1 raw fish transporter is more than the amount of the bond available under (b) or (c) of
2 this section.

3 (l) The term of a performance bond expires two years after the fish processor
4 or primary fish buyer is no longer licensed in this state, except that if, during that two-
5 year period, a claim has been asserted against the bond, the term of the bond is five
6 years. If the surety on the bond wishes to cancel the bond, the surety may do so by
7 giving the commissioner written notice of intention to cancel. The cancellation is
8 effective 30 days after the notice is delivered to the commissioner.

9 * Sec. 4. AS 44.25.042 is amended by adding a new subsection to read:

10 (h) If the commissioner determines under AS 44.25.040(j) that a claim filed
11 under AS 44.25.040(i) is sufficient to allow collection against the performance bond
12 filed under AS 44.25.040, the fish processor's or primary fish buyer's license shall be
13 suspended until the amount of the claim under AS 44.25.040(i) is paid in full and the
14 performance bond is replenished.

15 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

HSCSSB124

CSSB 124	HSCSSB 124
<p>Obligations that processors must pay to operate expanded to include taxes under Title 43, and:</p> <p style="text-align: center;">Seafood Marketing Assessments Employment Security Contributions OSHA Fines Local Fish Taxes</p>	<p>Same as SB 124</p>
<p>Tax security requirements eased during bridge period between January 1 and March 31</p>	<p>Same as SB 124</p>
<p>Beneficiaries of Labor Bond unchanged</p> <p style="text-align: center;">Fishermen Employees Dept. of Labor - ESC</p>	<p>Beneficiaries of Labor Bond Expanded</p> <p style="text-align: center;">Fishermen Employees Dept. of Labor - ESC</p> <p style="text-align: center;"><i>Adds</i> FishTenders</p>
<p>Basic Bond Requirements Unchanged</p> <p style="text-align: center;">Processors < 30,000 lbs - \$2,000 Processors > 30,000 lbs - \$10,000</p> <p style="text-align: center;">All Fish Buyers - \$10,000</p>	<p>Basic Bond Requirement Eased for Small Operators</p> <p style="text-align: center;">Processors < 30,000 lbs - \$2,000 Processors > 30,000 lbs - \$10,000</p> <p style="text-align: center;">Fish Buyers < \$30,000 - \$2,000 Fish Buyers > \$30,000 - \$10,000</p>
<p>Triggers that increase bonding requirements made more responsive to processor behavior</p>	<p>Same as SB 124</p>
<p>Restrictions placed on use of real property in lieu of a labor bond</p>	<p>Same as SB 124</p>

SB 124 / HB 192

Overview

The bill adds Employment Security Contributions, OSHA fines, and the Seafood Marketing Assessment to the list of obligations that a processor must be current with to hold a fisheries business license. Current law requires processors to be current with their taxes under Title 43, principally fish taxes and the corporate net income tax. The change will significantly improve collections of the added obligations and reduce the degree to which employers and employees subsidize non-paying employers. The provisions are contained in Section 1 of the bill.

The bill streamlines the process under which the Department of Labor and Workforce Development collects unpaid Employment Security Contributions from a processor's labor bond. Existing law requires a court ordered judgment - an expensive and sometimes ineffective process. Priority for claims is given to employees and fishermen. The provisions are contained in Section 2 of the bill.

The bill modifies bond requirements to increase bond levels and restrict the form of the bond in response to processor behavior. These provisions are contained in Section 2 of the bill.

- Bond level made more responsive to processor behavior. Existing law increases the bond requirement if the bond is insufficient to satisfy a claim actually paid from the bond. Processors who have failed to pay ESC, employees or fishermen can avoid higher bond requirements by simply paying the judgment directly. The bill specifies that bond levels are adjusted upward in response to a judgment without regard for the source of payment under this bill.
- Restriction on use of real property in lieu of bond. Under current law, processors with real property in Alaska are not required to post bond if their equity is at least equal to their bond requirement. It is normally not economically feasible to pursue claims against the processors real property, particularly for small claims. The bill prohibits the use of real property in lieu of bond by processors' who incur a judgment for unpaid wages or fish. The use of real property is also denied any processor that fails to pay ESC of \$10,000 or more.

CS SENATE BILL No. 124

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Amends 43.75.020(a) to require a fisheries business license applicant to agree to pay, as a condition of their license, all title 43 taxes, seafood marketing assessments under AS 16.51, employment security contributions imposed under AS 23.20, administrative penalties assessed for a State occupational safety and health standards violation, and local fishery sales taxes. Current law requires payment of taxes under title 43 only.

Amends 43.75.020(b) to require the Department of Revenue (department) to deny an applicant a license if the applicant has failed to pay any of the obligations they agreed to pay in 43.75.020(a).

Section 2: Amends 43.75.055 to allow an applicant for a fisheries business license to secure payment of estimated tax for the year of application using security already provided to the department to secure payment of unpaid tax for the prior year as long as the department approves of the security previously posted and the applicant has timely paid their title 43 taxes in the preceding three years.

Section 3: This section repeals and reenacts AS 44.25.040 as follows:

44.25.040(a) requires a fish processor or primary fish buyer to file a performance bond with the department, promising to pay: 1) wages and contractual benefits to their employees, 2) fisherman for fish purchased from them, and 3)

employment security contributions required by AS 23.230. This subsection restates existing law.

44.25.040(b) sets the presumptive amount of the bond at \$10,000 for all primary fish buyers and processors who process at least 30,000 pounds of fish per year. This restates existing law. This subsection also describes three events which trigger an increase in the bond amount, if this event took place within five years of the current licensing year.

(1) Final Judgment: a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$10,000 but less than \$50,000, the bond requirement is increased to \$50,000. If the final judgment is \$50,000 or more, the bond requirement is increased to \$100,000. This makes a change to existing law. Existing law requires the bond to actually be used to satisfy the judgment before the bond amount can be increased. The \$10,000, \$50,000, and \$100,000 bond levels are unchanged.

(2) Department finding of non-compliance: if the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$100,000. This restates existing law.

(3) Delinquent Employment Security Contributions: the bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$10,000, but less than \$50,000, the bond requirement is increased to \$50,000. If the amount of the delinquency is \$50,000 or more, the bond requirement is increased to \$100,000. There is a 45 day wait period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency.

Current law required a final judgment to collect against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(c) sets the presumptive amount of the bond at \$2,000 for processors who process 30,000 pounds of fish per year or less. This subsection also describes the same three events which trigger an increase in the bond amount in (b), if this event took place within five years of the current licensing year. The amounts of the bond, and bond increases are unchanged.

(1) Final Judgment: a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the final judgment is \$10,000 or more, the bond requirement is increased to \$20,000. This restates existing law with the minor modification noted in (b)(1).

(2) Department finding of non-compliance: If the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$20,000. This restates existing law.

(3) Delinquent Employment Security Contributions: The bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the amount of the delinquency is \$10,000 or more, the bond requirement is increased to \$20,000. There is a 45 day wait period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency. Current law required a final judgment to collect

against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(d) requires a processor who posted a \$2,000 bond under subsection (c) to notify and post with the department a \$10,000 bond within a week of exceeding the 30,000 pounds a fish per year threshold, or cease operations. This subsection restates existing law.

44.25.040(e) describes the different forms of performance bonds that are acceptable: surety bond, cash deposit, or other negotiable security. This subsection also requires the department to waive the posting of a bond if the licensee demonstrates to the department they have sufficient equity in the real property to cover their required bond amount and they are not required to post an increased bond amount due to one of the three events set out in (b) or (c). Current law allows the use of real property in lieu of bond for amounts in excess of \$10,000 irrespective of the processor or primary fish buyer's record of paying fishermen, wages, or employment security contributions.

44.25.040(f) provides that the department may issue a license upon a showing the licensee has posted the bond required by this section. This subsection restates existing law.

44.25.040(g) describes the process for an employee, fisherman, or fish tender to file a civil action to collect against the bond posted under this section. This subsection also describes the department's obligation to inform the surety of the existence of a civil action and keep a record of these actions. This section restates current law except that the existing authority for the commissioner to accept assignment of a claim against the bond, and to bring suit on behalf of the assignor is repealed.

44.25.040(h) describes the requirements the Department of Labor must follow to file an administrative claim against the bond for delinquent employment security contributions. These requirements are designed to assure the licensee has been afforded due process at the administrative level before the licensee's bond can be used to satisfy Department of Labor's administrative claim. This subsection is new law.

44.25.040(i) describes the process the department is to follow after deciding to accept or deny the Department of Labor's request to collect their administrative claim from the bond under (h). This subsection is new law.

44.25.040(j) preserves the priority for using the bond to satisfy the claims of fisherman and employees over the Department of Labor's administrative claims under (h). This is achieved by requiring the Department of Labor to 'kick back' to the department money they received from the bond if a fisherman or employee subsequently gets a judgment against the bond under (g) and the: 1) licensee has not replenished the bond after it was used to satisfy Department of Labor's claim, or 2) amount of the fisherman or employee's judgment exceeds the amount of the bond currently posted. This section is new law.

44.25.040(k) provides for the bond's expiration two years after the processor or buyer is no longer licensed. However, if during this two year waiting period, a claim is filed against the bond, the bond will not expire until five years after the processor or buyer is no longer licensed. This subsection also provides for a 30 day notice by the surety to cancel a bond posted under this section. This section restates existing law.

Section 4: Amends 44.25.042 to require the department to suspend the processor or buyer's license if the

Department of Labor has been allowed to collect against the bond using their administrative claim under AS 44.25.040(i) and the licensee does not immediately replenish the bond. This is new law.

Section 5: The section provides an immediate effective date.



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Egegik processor also owes students

BOUNCED CHECKS: Turks among those who have filed for wages.

The Associated Press

(Published: August 13, 2004)

KODIAK -- Exchange students from Turkey are among workers who have filed claims for unpaid wages against a fish processor operating in Egegik.

The Turkish exchange students traveled to Alaska to work at Woodbine Alaska Fish Co. and were paid with checks that bounced.

Woodbine, which is now closed, has left both fishermen and cannery workers unpaid and owes taxes from last year. The company has numerous wage claims filed against it by the state, said Sandy Cannon, supervising investigator for the Alaska Department of Labor.

"We heard there would be 18, but so far 15 students have filed wage claims. We still have outstanding wage claims -- there are quite a few," Cannon said.

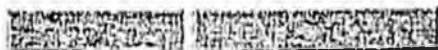
Egegik is on the west side of the Alaska Peninsula, 326 miles southwest of Anchorage.

The students were sponsored by the Council of International Education Exchange, one of the United States' largest university student exchange programs.

The students are on an inbound student exchange summer work and travel program to the United States, exchange program vice president Elizabeth O'Neill said.

"We are working on the students' behalf to try to get to the bottom of the set of circumstances there and make sure they get the wages they are due for the work they completed," she said.

As soon as the issue came to its attention, the organization sent a staff member to the Woodbine cannery to investigate. Several of the students already had left for Kodiak or other communities, she said.



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STORY

Slipshod management leaves workers unpaid

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Article published on Wednesday, August 11th, 2004
By DEANNA COOPER
Mirror Writer

A group of Turkish exchange students traveled to Alaska to work at Woodbine Alaska Fish Company in Egegik for the summer season, but discovered they got the raw end of the deal when their checks bounced.

Woodbine, which is now closed, has left both fishermen and cannery workers unpaid and owes taxes from last year. They have numerous wage claims filed against them by the state, said supervising investigator for the Alaska Department of Labor, Sandy Cannon.

"We heard there would be 18, but so far 15 students have filed wage claims. We still have outstanding wage claims (against Woodbine) — there are quite a few," Cannon said.

The students were sponsored by the Council of International Education Exchange (CIEE), one of the United States' largest university student exchange programs. It is a nonprofit organization that has been in existence since 1947 and is involved in student exchange programs globally.

The students are on an inbound student exchange summer work/travel program to the United States.

CIEE vice president Elizabeth O'Neill said, "They are part of a program that enables them to come to the U.S. and work during their summer university holiday period and see a bit of the U.S. They return back to their studies in the fall.

"There have been some problems involving one particular employer. We're currently investigating the circumstances with respect to the students and their paychecks. As we understand it, some of the checks are coming back with insufficient funds," O'Neill said.

"We are working on the students' behalf to try and get to the bottom of the set of circumstances there and make sure they get the wages they are due for the work they completed," she said.

As soon as the issue came to their attention, CIEE sent a staff member to the Woodbine cannery to investigate the situation. When the staff member arrived, several of the students had already left the cannery and came to

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O'Neill said if there are students remaining in Kodiak with difficulties, they should get in touch with CIEE staff or their legal sponsor.

"We're still working to ensure that the students get paid, but we don't have a resolution yet," she said.

CIEE sponsors the students to travel to and work in the United States, and they offer around-the-clock support to the students.

"We not only want to make sure they get the money they are due, but we have moved some students to other jobs outside of Alaska. We assist students throughout their stay in the summer, that is one of our main roles," O'Neill said.

Unpaid workers are a small part of the larger story. A source currently involved in the ongoing investigation of the Woodbine Company who spoke on the condition of anonymity said around 30 Turkish students worked at the Woodbine cannery in Egegik during the course of the summer. Most of them left and went to three different places, Valdez, Nikiski and Kodiak.

"As I understand it, the paychecks the students received when they left Woodbine all bounced. Last week four students from Kodiak flew to Egegik to demand paychecks for themselves and their other friends still in Kodiak.

As the students flew in, the owner of the company was flying out, the source said.

The students spent two days in Egegik and left empty-handed, but were soon sent some money, though it is unclear if they were paid in full. Other workers received nothing.

"The owner promised to wire transfer the money into the other people's accounts but she has been promising that all summer long. Nobody has held their breath," the source said.

"There are fishermen who have not been paid since last year. Last year they received checks that bounced. The owner wrote them replacement checks this year that have also bounced. We have an open case for issuing bad checks and there is a warrant out for her arrest for credit card fraud," he said.

Woodbine has been operating in a slipshod manner for years, but some years are worse than others. This is one of the bad years, he said.

He said U.S. marshals seized the company's two tenders in Egegik, the Naknek Spirit and the Egegik Spirit for nonpayment of a loan. They have had several other liens placed against their property and business.

"The owners have made a lot of empty promises. They still owe the city of Egegik about \$40,000, which does not include taxes from last year or this year.

"They were able to get their license to operate a business by paying the state, but the state doesn't need the money as badly as these small villages. They rely on that money to purchase their winter fuel supply," the source said.

"They are playing with the lives of the people who stay in the villages all winter long while they live in their multi-million dollar house in California," he said, adding that when the owner and her husband left they didn't let

anyone know they were leaving. "They just disappeared," he said.

"I believe they took off because the owner knew she was going to be arrested, and she got out of here a day before it happened."

The Alaska Department of Labor continues to investigate the situation.

The students remaining in Kodiak could not be located for comment.

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