

SCOMM

131:11

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 90
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Tax Credit for Salmon Development BRU Revenue Operations
 Component Tax Division
 Sponsor Representatives Stevens and Wolf
 Requester House Fisheries Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 ()	(350.0)	(700.0)	(1,400.0)	(1,400.0)	(1,050.0)	0.0
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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 (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would allow taxpayers to take a Salmon Product Development Tax Credit against their tax liability for 50% of a qualified investment in new property.

The projected state tax revenue loss is based on the assumption that taxpayers will invest \$1.4 million in qualified equipment during 2003, doubling to \$2.8 million in 2004 and doubling again to \$5.6 million during 2005. The amount of credits generated are one half of this investment. We have assumed that tax liability limitations will hold taxpayers to using half of the credit generated in each year, with the remainder carried forward until fully absorbed in FY 2008. Use of the tax credit would expire on January 1, 2009.

The projections assume that certain technical corrections are incorporated into the bill.

Prepared by: Chuck Harlamert Phone 465-4773
 Division Tax Division Date/Time 2/25/03 9:34 AM
 Approved by: Larry Persily, Deputy Commissioner Date 2/25/2003
 Agency Department of Revenue

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HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 10, 2003

FURTHER REFERRALS: Resources

Date of Committee Action: 3/5/03

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 90

HOUSE BILL NO. 90

TAX CREDIT FOR SALMON DEVELOPMENT

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax and the Alaska fisheries resource landing tax; and providing for an effective date."

Recommends it be replaced with ☐ HCS or ☒ CS for HB 90 (FSH)
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

[illegible][illegible]

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Eda Bell</i>	KOTT	..			✓
<i>Logan Wilson</i>	Wilson				✓
<i>Samuels</i>	SAMUELS				✓
<i>Mr. J. M. B. B.</i>	GUTTENBERG				✓
Chair: <i>Paul Rheator</i>	SEATON				✓
Chair:					

Alaska State Legislature

Chair
Seaton

Vice Chair
Wilson

Members
Berkowitz
Guttenberg
Heinze
Kott
Samuels



State Capitol
Juneau, AK 99801
(907) 465-3306
(907) 465-3472

House Special Committee on Fisheries

AGENDA-February 26th, 2003

Rm#124; 8:30-10:00 a.m.

- 1) +*HB 90 Salmon product development tax credit.

Testimony on HB 90

- ~~2) +- HB 89 Mandatory chilling for commercial salmon industry.~~

~~Testimony on HB 89~~

Thank you. If you have any questions you can contact my committee staff person, Cameron Yourkowski, at 465-3306

Alaska State Legislature

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House Special Committee on Fisheries

LETTER OF INTENT CS HB 90 (FSH)

The following two points are recommendations from the House Special Committee on Fisheries for **CSHB 90 (FSH)**, "An Act relating to a salmon product development tax credit under the Alaska fisheries business tax; and providing for an effective date." The Fisheries Committee passed out CSHB 90 (FSH) with the understanding that these issues would be resolved.

1) The term "value-added salmon products" [AS 43 Sec. 75.035(g)(3)] should be better defined. This definition must be clarified to prevent abuse of the tax credit and decrease enforcement costs. As CSHB 90 (FSH) is written, many processes associated with standard processing are included in the definition. For example, the phrase "beyond gutting of the salmon" (line 22) would allow a heading machine to qualify for a tax credit if it is not explicitly prohibited. At least, this language should also prohibit traditional heading. The Department of Revenue (see attached fiscal note analysis) has suggested defining the terms "value-added" and "salmon product" separately. The Dep. Of Revenue has also suggested defining "salmon product" negatively (i.e. defining what should **not** be considered value added).

2) A "claw-back" provision for the tax credit should be considered. Such a provision would protect the State of Alaska from abuse of the credit. As the Department of Revenue has noted in their fiscal note analysis, "Investment credits are normally complimented by recapture provisions. Recapture, or "claw back" rules, reclaim all or part of the credit if the taxpayer does not follow through" (P.5).

A handwritten signature in cursive script, reading "Paul K. Seaton".

Representative Seaton
Chair, House Fisheries Committee

CC: House Resource Committee
House Finance Committee

Joint Legislative Salmon Industry Task Force

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate



Public Members

Sue Aspelund
Sam Cotten
Duncan Fields
Don Giles
John Lowrance
Robin Samuelson
Gary Slaven
Stephanie Madsen, Alternate
Chris Moss, Alternate

Sectional Analysis

Committee Substitute for House Bill 90

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax; and providing for an effective date."

Intent

To provide a salmon product development tax credit to encourage the development of value-added salmon products for the expansion of markets and product form for Alaska salmon.

Sectional Analysis

Section 1.

- Amends AS 43.75 (Fisheries Business Tax) to add a salmon product development tax credit of 50 percent of the taxpayer's tax liability for new property first placed into service in a shore-based plant or on a vessel in the state. (a)
- The tax credit cannot exceed 50 percent of the taxpayer's liability incurred under AS 43 for salmon or be applied for property placed into service after December 31, 2005. (b)
- Delineates how the tax credit is determined and calculated. (c)
- Specifies the eligible tax year by tying it to the tax year in which the property is first placed into service. (c)
- Allows an unused credit to be carried forward and applied toward eligible tax liability for the three years following the initial approved tax credit. (d)
- Qualified investment costs may not be considered for another tax credit under AS 43. (e)
- A tax credit under this section may not be claimed if the taxpayer is in arrears on any tax or assessment under AS 43; AS 16.51.120; or AS 23.20. (f)
- Provides definitions for this section. (g)

Section 2.

- Amends AS 43.75.130 by adding a new subsection (g) to provide that tax credits approved under this measure are not to be deducted when calculating tax revenue collected under AS 43.75.015.
- A qualified tax credit *is not* deducted from the municipal portion of the fisheries business tax.
- A qualified tax credit *is* deducted from the state's portion of the fisheries business tax.

Section 3.

- Repeals AS 43.75.035 and 43.75.130(g).

Section 4.

- Makes Sections 1 - 2 retroactive to January 1, 2003.

Section 5.

- If the attorney general provides notification under sec. 7(2) of this Act, section 3 of this Act is retroactive to January 1, 2003.

Section 6.

- Sections 1, 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

Section 7.

- Section 3 of this Act takes effect on the earlier of January 1, 2009, or if the attorney general notifies the lieutenant governor and the revisor of statutes that a court has entered a final judgment that AS 43.75.035, added by section 1 of this Act, violates the commerce clause contained in article I, section 8, of the United States Constitution; and, the time for an appeal of that judgment has expired or if an appeal was taken, a final order has been entered that AS 43.75.035, added by section 1 of this Act, violates the commerce clause contained in the United States Constitution.

Section 8.

- Section 5 of this Act takes effect on the date of the attorney general's notification under section 7(2) of this Act.

Alaska State Legislature

Chair
Seaton

Vice Chair
Wilson

Members
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State Capitol
Juneau, AK 99801
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House Special Committee on Fisheries

MEMORANDUM

TO: All Fisheries Committee Members

FM: Representative Paul Seaton, Chair
House Fisheries Committee

DATE: March 3rd, 2003

RE: Add to HB 90 file

Please add to your HB 90 file.

Please feel free to contact me with questions anytime x2689, or you can contact my Committee Aide, Cameron Yourkowski, x3306. Thank you.

Joint Legislative Salmon Industry Task Force

(A)

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
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- Delineates how the tax credit is determined and calculated. (c)
- Specifies the eligible tax year by tying it to the tax year in which the property is first placed into service. (c)
- Allows an unused credit to be carried forward and applied toward eligible tax liability for the three years following the initial approved tax credit. (d)
- Qualified investment costs may not be considered for another tax credit under AS 43. (e)
- A tax credit under this section may not be claimed if the taxpayer is in arrears on any tax or assessment under AS 43; AS 16.51.120; or AS 23.20. (f)
- Provides definitions for this section. (g)

Section 2.

- Amends AS 43.75.130 by adding a new subsection (g) to provide that tax credits approved under this measure are not to be deducted when calculating tax revenue collected under AS 43.75.015.
- A qualified tax credit *is not* deducted from the municipal portion of the fisheries business tax.
- A qualified tax credit *is* deducted from the state's portion of the fisheries business tax.

Section 3.

- Repeals AS 43.75.035 and 43.75.130(g).

Section 4.

- Makes Sections 1 - 2 retroactive to January 1, 2003.

Section 5.

- If the attorney general provides notification under sec. 7(2) of this Act, section 3 of this Act is retroactive to January 1, 2003.

Section 6.

- Sections 1, 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

Section 7.

- Section 3 of this Act takes effect on the earlier of January 1, 2009, or if the attorney general notifies the lieutenant governor and the revisor of statutes that a court has entered a final judgment that AS 43.75.035, added by section 1 of this Act, violates the commerce clause contained in article I, section 8, of the United States Constitution; and, the time for an appeal of that judgment has expired or if an appeal was taken, a final order has been entered that AS 43.75.035, added by section 1 of this Act, violates the commerce clause contained in the United States Constitution.

Section 8.

- Section 5 of this Act takes effect on the date of the attorney general's notification under section 7(2) of this Act.

B



Sec. 43.75.015. Fisheries business tax.

(a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business - four and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business - three percent;

(3) fisheries resources processed by a floating fisheries business - five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations adopted by the department.

Sec. 43.75.017. Exclusion from fisheries business tax.

A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is frozen aboard a fishing vessel if

(1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;

(2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;

(3) the fishery resource was caught by the vessel; and

(4) the fishery resource is sold by the person claiming an exclusion from the tax to a fisheries business licensed under this chapter.

Sec. 43.75.018. Fisheries business education credit.



Sec. 43.75.137. Additional refund.

To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080 (e) that approval of the office of management and budget is required, an amount equal to 50 percent of the tax revenue that is collected under this chapter from fisheries businesses and is not subject to division with a municipality under AS 43.75.130 shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Economic Development for disbursement to eligible municipalities under AS 29.60.450.

Sec. 43.75.140. [Renumbered as AS 43.75.290].

Repealed or Renumbered

Article 04. GENERAL PROVISIONS

Sec. 43.75.290. Definitions.

In this chapter,

(1) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050 (a)(11);

(2) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(3) "fishery resource" means finfish, shellfish, and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(4) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (5)(B) of this section when it is removed from the state;

(5) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(6) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(7) "value" means

(A) the market value of the fisheries resource if the taking of the fisheries resource is done in company-owned or company-subsidized boats operated by employees of the company or in boats that are operated under lease to or from the company or other arrangement with the company and if the fisheries resource is delivered to the company; in this subparagraph, "company" means a fisheries business, a

23-LS0525\D
Utermohle
2/25/03

CS FOR HOUSE BILL NO. 90()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES STEVENS, Wolf

A BILL
FOR AN ACT ENTITLED

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax; and providing for an effective date."

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

* Section 1. AS 43.75 is amended by adding a new section to read:

Sec. 43.75.035. Salmon product development tax credit. (a) A taxpayer that is a fisheries business may claim a salmon product development tax credit of 50 percent of qualified investment in new property first placed into service in a shore-based plant or on a vessel in the state in the tax year.

(b) The tax credit claimed under this section may not

(1) exceed 50 percent of the taxpayer's tax liability incurred under this chapter for salmon; or

(2) be applied for property placed in service after December 31, 2005.

(c) If the property for which a tax credit is claimed is installed on a vessel, the amount of qualified investment under (a) of this section is determined by multiplying

1 the investment cost of qualified investment property by a fraction, the numerator of
2 which is the weight of raw salmon processed on the vessel by the taxpayer in Alaska
3 in the tax year in which the property is first placed in service, and the denominator of
4 which is the weight of raw salmon processed on the vessel by the taxpayer in and
5 outside of Alaska in the tax year in which the property is first placed in service.

6 (d) An unused credit under this section may be carried forward and applied
7 against the tax liability incurred on salmon in the following three tax years.

8 (e) Qualified investment costs upon which a tax credit is claimed under this
9 section may not be considered for another tax credit in this title.

10 (f) A taxpayer may not claim the tax credit allowed under this section if the
11 taxpayer is in arrears in the payment of assessments under AS 16.51.120, contributions
12 under AS 23.20, or taxes or assessments collected or owed under this title. For
13 purposes of this subsection, a taxpayer is not in arrears if the liability for the
14 assessment, contribution, or tax is under administrative or judicial appeal.

15 (g) In this section,

16 (1) "first placed into service" means the moment when property is first
17 used for its intended purpose;

18 (2) "new property" means property whose original use commences
19 with the taxpayer and does not include property first used by another person;

20 (3) "qualified investment" means an investment cost in the following
21 depreciable tangible personal property with a useful life of three years or more to be
22 used predominantly to produce value-added salmon products beyond gutting of the
23 salmon, including filleting, skinning, portioning, mincing, forming, extruding,
24 stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining,
25 packaging, blast freezing, or pin bone removal equipment;

26 (4) "tax liability" means the liability for all taxes under this chapter
27 before all credits allowed by this chapter;

28 (5) "useful life" means the useful life of the property that is or would
29 be applicable for purposes of depreciation.

30 * **Sec. 2.** AS 43.75.130 is amended by adding a new subsection to read:

31 (g) For purposes of this section, tax revenue collected under AS 43.75.015

1 from a person entitled to a credit under AS 43.75.035 shall be calculated as if the
2 person's tax were collected without applying the credit.

3 * Sec. 3. AS 43.75.035 and 43.75.130(g) are repealed.

4 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 RETROACTIVITY. Sections 1 and 2 of this Act are retroactive to January 1, 2003.

7 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 RETROACTIVITY. If the attorney general provides notification under sec. 7(2) of
10 this Act, sec. 3 of this Act is retroactive to January 1, 2003.

11 * Sec. 6. Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

12 * Sec. 7. Section 3 of this Act takes effect on the earlier of the following:

13 (1) January 1, 2009; or

14 (2) the date of the attorney general's notification to the lieutenant governor and
15 to the revisor of statutes that

16 (A) a court has entered final judgment that AS 43.75.035, added by
17 sec. 1 of this Act, violates the commerce clause contained in art. I, sec. 8, of the
18 United States Constitution; and

19 (B) the time for an appeal of that judgment has expired, or, if an appeal
20 was taken, a final order on the appeal has been entered that AS 43.75.035, added by
21 sec. 1 of this Act, violates the commerce clause contained in the United States
22 Constitution.

23 * Sec. 8. Section 5 of this Act takes effect on the date of the attorney general's notification
24 under sec. 7(2) of this Act.

Project 04 - 5.6 million
2.8 million

(A)

HB 90 - Bill Review
Department of Revenue
Tax Division
Chuck Harlamert

February 23, 2003

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Technical Analysis

Most of our technical comments apply equally to the credit against the Fisheries Business Tax (AS 43.75) and the credit against the Fisheries Resource Landing Tax (AS 43.77). The following comments are for both sections, unless specifically limited to one or the other.

Raw Fish Tax

facility
every plant
is taxpayer

The most significant technical comment is both a recommendation for change and a question regarding the intent. We believe this bill should distinguish between the taxpayer and its processing facility or facilities. Both the Fisheries Business Tax and the Fisheries Resource Landing Tax, as currently written, are focussed on the processing facility, whether it is a shore-based plant or a vessel. A taxpayer may own and operate several taxable facilities, each with its own licensing and tax filing requirements. The failure to recognize this distinction in this legislation could create significant problems.

(licensed
facility)

Comments and Recommendations

Section 1, AS 43.75.035(b) limits the credit to 50% of the taxpayer's tax on salmon and includes a sunset provision of December 31, 2005.

Recommendation: The 50% limitation (based on taxes for salmon) can be applied at the facility level or at the taxpayer level. A facility-level limitation will restrict the amount of credit to 50% of the tax paid on salmon processed at that facility during the year of investment and the following three years. A taxpayer-level limitation will allow the credit to offset taxes on salmon processed or exported by the taxpayer anywhere in the state. The language of the bill, taken as a whole, implies that a facility or vessel-based limitation is envisioned, but Subsection (b)(1) is written as a taxpayer-level limitation.

do facility

Comment: The bill would allow credit against taxes paid on salmon that is exported unprocessed from Alaska. This will maximize the potential use of the credit but appears contrary to the purpose of the credit.

change

Recommendation: The sunset clause in (b)(2) uses the term "costs incurred," which is not defined and inherently subject to manipulation. A cleaner cut-off would be "property placed in service." This approach would avoid any last-minute accrual of investment expenses not actually occurring until after the sunset date. It would also align the sunset provision to the incidence of the credit.

Allows credit on exported round fish

(first in first out)

HB 90 - Bill Review
Department of Revenue
Tax Division
Chuck Harlamert

February 23, 2003

Page 3 of 5

Section 1, AS 43.75.035(c) provides a mechanism to provide partial credit for qualified property used on a vessel both inside and outside of Alaska.

Recommendation: The proposed language would commingle all salmon processing activities by the taxpayer to determine the percentage of qualified investment on the vessel. We recommend a technical correction to clarify that the ratio for qualified investment would be based on the processing activities of only the vessel on which the qualified investment is made. ✓

Section 1, AS 43.75.035(d) allows credits in excess of the current year limitation to be applied against taxes on salmon in the three subsequent tax years.

Recommendation: The bill should specify the order in which credits are taken. If the intent is to maximize the amount of credit actually used, the statute should specify that credits are applied on a first-generated, first-applied basis.

Section 1, AS 43.75.035(f) prohibits the use of the credit if the taxpayer is delinquent on its unemployment insurance contribution or taxes under AS 43.

Recommendation: This provision merely requires the taxpayer to pay delinquent taxes before filing a return on which the credit is claimed. A taxpayer can pay the prior year's tax the day before the current year's tax return is due and therefore claim a credit without paying its current year's tax. To be completely effective, this provision should prohibit both the creation of credits and their use on a return if a delinquency occurred between the first day of the tax period and the later of the due date of the return or the date the return was actually filed and the tax paid. }

Recommendation: Even after the above changes, it will be possible for taxpayers to carry over excess tax credits from a prior year that were unused during the year of tax delinquency. The committee should also consider reducing the credit carryover by the amount that would have been claimed but for a tax delinquency.

Comment: This is an area in which it is necessary to retain a taxpayer-level view. The rule has little meaning if a taxpayer merely pays its taxes for those facilities that are generating credits but is delinquent on taxes for other fisheries facilities.

Comment: A complete list of paid-up taxes and assessments should include the Seafood Marketing Assessment under AS 16.51.120.

February 23, 2003

Page 4 of 5

Section 1, AS 43.75.035(g) defines key terms that effectively spell out the requirements for the credit.

Recommendation: Qualified investment in this legislation requires only the nominal use of the property for salmon such that the processing of a single salmon in the first year of service earns the entire credit. We recommend additional language to require that the asset be predominantly used for value-added salmon processing, or in the alternative, that other use of the equipment be insubstantial. Yes

Recommendation: Investment credits are normally complimented by recapture provisions. Recapture, or "claw back rules," reclaim all or part of the credit if the investment is later sold or diverted from the targeted activity. The existing bill merely requires instantaneous use of the property, after which it can be moved out of state or used for another species or process. We recommend adding a requirement that the property be used within the state, and for the targeted purpose, for a minimum portion of each year of its depreciable life and that the credit be recaptured proportionately (perhaps with interest) when the requirements are not met.

Comment: The definition of qualified investment requires that the value-added process be performed *after* heading and gutting. This effectively excludes value-added activities that are not preceded by heading and gutting. If the intent is to reward value-added processing *beyond* heading and gutting, we recommend removing "after the heading and gutting of the salmon" and separately defining value-added salmon products or qualified processes. Yes

Comment: The list of value-added processing equipment refers to specific value-added processes and functions such as skinning, mincing and smoking. The list also includes references to various processes and functions that are common to the production of both "value-added" salmon products and other salmon products. For example, the processes of portioning, preserving, packaging and blast-freezing are common to many, if not all, salmon products. The inclusion of functions and/or processes that are common to traditional and value-added salmon processing, or common to processing of non-salmon species, will invite abuse and increase enforcement expenditures. change

The committee should consider the potential implications of awarding credit for freezers under the preserving or blast-freezing categories. Freezers installed on vessels will qualify for the credit. Shore-based freezers however, may or may not qualify depending on whether the freezer is treated as real or personal property. ?

February 23, 2003

Page 5 of 5

Recommendation: The definition of "state" extends beyond the state's jurisdiction to impose the Fisheries Business Tax. This variance will create distortions between the tax liability and credit earned by floating processors that operate within and without the state. We are unable to identify a purpose for this definition in AS 43.75 and are concerned that the state may become trapped in a jurisdictional Catch 22 as a result of the variance. We strongly recommend that the definition of "state" under proposed AS 43.75.035(g)(4) and AS 43.77.037(g)(4) be changed to reference the legal jurisdiction of the respective taxes. A simpler alternative may be to eliminate the definitions entirely and restate the ratios used in AS 43.75.035(c) and AS 43.77.037(c) to a ratio of processed salmon subject to the tax divided by all salmon processed by the vessel during the year. The ratio numerator should disregard salmon that is exported unprocessed. ✓

Recommendation: Subsection (g)(3) defines qualified investment, in part, as investment in tangible property with a useful life of at least three years. The useful life of an asset is an extremely subjective determination that could produce unintended consequences. We recommend referring to federal Asset Class 20.4, Manufacture of Other Food and Kindred Products, or if more flexibility is desired using the definition "7-year property as that term is defined in 26 U.S.C 168(e)(1)". This definition will more effectively isolate equipment and avoid potential claims for computers, automobiles and filet knives. ✓

Chuck

Department of Revenue's Concerns on HB 90 Not Addressed by CSHB 90

In reference to "HB 90-Bill Review," Chuck Harlamert, Dept. of Revenue, Tax Division.
Feb. 23, 2003. (See Com. Packet HB 90)

- 1) "We believe this bill should distinguish between the taxpayer and its processing facility or facilities... The failure to recognize this distinction in this legislation could create significant problems." (P.1). **The CS for HB 90 does not address this issue.**
-  2) "Section 1, AS 43.75.035(d) allows credits in excess of the current year limitation to be applied against salmon in the three subsequent tax years... **Recommendation: The bill should specify the order in which credits are taken.** If the intent is to maximize the amount of credit actually used, the statute should specify that credits are applied on a first-generated, first-applied basis." (P. 2). **The CS for HB 90 does not address this issue.**
-  3) "Section 1, AS 43.75.035(f) prohibits the use of the credit if the taxpayer is delinquent on its unemployment insurance contribution or taxes under AS 43. Recommendation: This provision merely requires the taxpayer to pay delinquent taxes before filing a return on which the credit is claimed... **To be completely effective, this provision should prohibit both the creation of credits and their use of a return if a delinquency occurred between the first day of the tax period and the later of the due date of the return or the date the return was actually filed and the tax paid...** Even after the above changes, it will be possible for taxpayers to carry over excess tax credits from a prior year that were unused during the year of tax delinquency. **The committee should also consider reducing the credit carryover by the amount that would have been claimed but for a tax delinquency.**" (P.2). **The CS for HB 90 does not address this issue.**
- 4) "Section 1, AS 43.75.035(g) designs key terms that effectively spell out the requirements for the credit... Recommendation: Investment credits are normally complimented by recapture provisions... **We recommend adding a requirement that the property be used within the state, and for the targeted purpose, for a minimum portion of each year of its depreciable life and that the credit be recaptured proportionately (perhaps with interest) when the requirements are not met**" (P. 3) **The CS for HB 90 does not address this issue.** 

"The list of value-added processing equipment refers to specific value-added processes and functions... .The list also includes references to various processes and functions that are common to the production of both "value-added" salmon products and other salmon products... .**The inclusion of functions and/or processes that are common to traditional and value-added salmon processing, or common to processing of non-salmon species, will invite abuse and increases enforcement expenditures**" (P. 3). The CS for HB 90 does not address this issue.

5) "**Subsection (g)(3)** defines qualified investment, in part, as investment in tangible property with a useful life of at least three years. **The useful life of an asset is an extremely subjective determination that could produce unintended consequences. We recommend referring to federal Asset Class 20.4, Manufacture of Other Food and Kindred Products...**" (P.4). The CS for HB 90 does not address this issue.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 90 (FISH)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Tax credit for salmon development BRU Revenue Operations
 Component Tax Division
 Sponsor Representatives Stevens and Wolf
 Requester House Fisheries Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	22.0	22.0	22.0	22.0	22.0	22.0
Travel		4.0	4.0	4.0	4.0	4.0
Contractual	1.1	2.1	2.1	2.1	2.1	2.1
Supplies	1.0	1.5	1.5	1.5	1.5	1.5
Equipment	5.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	29.1	29.6	29.6	29.6	29.6	29.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(500.0)	(750.0)	(1,200.0)	(1,200.0)	(1,200.0)	(50.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	29.1	29.6	29.6	29.6	29.6	29.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	29.1	29.6	29.6	29.6	29.6	29.6

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time	0.5	0.5	0.5	0.5	0.5	0.5
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would allow taxpayers to take a Salmon Product Development Tax Credit against their tax liability for 50% of a qualified investment in new property.

The projected state tax revenue loss is based on the assumption that taxpayers will claim investment credits totaling \$2 million in Fiscal 2004, increasing to \$3 million in Fiscal 2005 and increasing to \$4.8 million during 2005. The amount of credits generated are one half of qualified investments, totaling \$4.9 million in credits during the life of this provision. We have assumed that tax liability limitations will hold taxpayers to using half of the credit generated in each year, with the remainder carried forward until fully absorbed. Use of the tax credit would expire on January 1, 2009.

The projections assume that certain technical corrections are incorporated into the bill.

Prepared by: Chuck Harlamert Phone 465-4773
 Division Tax Division Date/Time 3/4/03 4:54 PM
 Approved by: Larry Persily, Deputy Commissioner Date 3/4/2003
 Agency Department of Revenue

Operating Expenditures

The Department of Revenue is requesting operating funds to cover the costs of one-half of a Tax Technician II position. The department anticipates that the 50% rate of credit for qualified investments totaling several million dollars will attract aggressive positions by taxpayers that, without enforcement activities, will inappropriately reduce revenue and crowd out targeted investment. The department will require additional Tax Technician resources to coordinate credits and limitations between returns of taxpayers with multiple facilities.

Technical Analysis

The most significant technical comment is in fact a question regarding the intent of the bill. The Fisheries Business Tax is focussed on the processing facility, whether it is a shore-based plant or a vessel. A taxpayer may own and operate several taxable facilities, each with its own licensing and tax filing requirements. Each requirement, limitation and allowance should be deliberately drafted to apply to the individual facility, or to the taxpayer and all its facilities, because the options will produce significantly different results.

As a case in point, the fundamental limitation for the credit is 50% of the *taxpayer's* Fisheries Business Tax on salmon. We interpret taxpayer to refer to the legal entity. Thus, a taxpayer that operates more than one processing facility has the flexibility to offset excess credits generated from its investment in one facility against tax from other processing facilities. The taxpayer-level limitation therefore offers more opportunity to fully utilize the credit and may generate investment that would not be economical under a facility-based limitation. The result, however, may conflict with other policy goals because the taxpayer-based limitation will favor large, established taxpayers.

Comments and Recommendations

Section 1

AS 43.75.035(b) limits the credit to 50% of the taxpayer's tax on salmon and includes a sunset provision of December 31, 2005.

Recommendation: The 50% limitation (based on taxes for salmon) can be applied at the facility level or at the taxpayer level. A facility-level limitation will restrict the amount of credit to 50% of the tax paid on salmon processed at *that facility* during the year of investment and the following three years. A taxpayer-level limitation will allow the credit to offset taxes on salmon processed or exported by the taxpayer anywhere in the state. We interpret subsection (b)(1) to be a taxpayer-level limitation. If a facility-based limitation is desired we recommend that subsection (b)(1) be amended to read:

(1) exceed 50 percent of the fisheries business tax reported on the return of the licensed facility or vessel with respect to salmon; or

Comment: The bill would allow credit to be claimed against taxes paid on salmon that is exported for processing outside of Alaska. This will maximize the potential use of the credit but appears contrary to the purpose of the credit. Adding “processed by the facility or vessel” after “salmon” in either version of (b)(1) would remove the tax on unprocessed exports from the pool of tax available for credit.

AS 43.75.035(c) provides a mechanism to provide partial credit for qualified property used on a vessel both inside and outside of Alaska.

Comment: This provision establishes the qualified portion of an investment on a vessel based on the *weight* of raw salmon processed on the vessel during the year that the property is first placed in service. An alternative would be to determine the ratio using the *value* of salmon processed within Alaska and everywhere. The weight ratio will be favorable to vessels whose in-state processing is focussed on salmon of a lower value relative to salmon processed outside of Alaska. A value ratio will favor vessels whose Alaska processing is focussed on salmon with a high value relative to salmon processed outside of Alaska.

AS 43.75.035(d) allows credits in excess of the current year limitation to be applied against taxes on salmon in the three subsequent tax years.

Recommendation: The bill should specify for clarity the order in which credits are taken. If the intent is to maximize the amount of credit actually used, the statute should specify that credits are applied on a first-generated, first-applied basis and before other credits.

AS 43.75.035(f) prohibits the use of the credit if the taxpayer is delinquent on its unemployment insurance contribution or taxes under AS 43.

Recommendation: This provision merely requires the taxpayer to pay delinquent taxes before filing a return on which the credit is claimed. A delinquent taxpayer can pay its tax the day before the next year's tax return is due and still claim a credit against that delinquent tax liability. This taxpayer therefore would be paid up for just a single day each year. To be effective, this provision should prohibit both the creation of credits and their use on a return if a delinquency occurred between the first day of the tax period and the later of the due date of the return or the date the return was actually filed and the tax paid. The provision can be further strengthened by reducing any credit carryover by the amount that would have been applied against taxes in the absence of the delinquency.

Comment: This is an area in which it is necessary to retain a taxpayer-level view. The rules have little meaning if a taxpayer merely pays its taxes for those facilities that are generating credits but is delinquent on taxes for other fisheries facilities.

AS 43.75.035(g) defines key terms that effectively spell out the requirements for the credit.

Recommendation: The phrase *value-added salmon products* represents the core of the credit and must be defined clearly. The phrase is a combination of two qualifying terms: *value-added* and *salmon product*. The term *value-added* is subjective and requires a clarifying benchmark to be meaningful and provide context for other requirements. For example, the list of value-added processing equipment refers to specific value-added processes and functions such as skinning, mincing and smoking. These appear to be clear examples of value-adding activity compared to headed-and-gutted frozen product. However, the list goes on to reference various processes and functions that are common to the production of non-value-added salmon products and value-added products of other species as well as salmon. The processes of portioning, preserving, packaging and blast-freezing are common to many, if not all, fish products. As written, the processor who blast freezes individual headed-and-gutted salmon and throws them in a container has performed all of these functions. In the absence of a clarifying definition, the examples themselves define *value-added* such that the equipment used in this minimum value adding operation qualify for the credit.

We recommend that the definition of *value-added* be carefully drafted as a separate definition representing the type of investment being targeted. We suggest using a separate and coordinated definition of *salmon product* to generate an effective definition of *value-added salmon products*. For example, define salmon products negatively to exclude products that you believe should not qualify as a value-added salmon product. In this way, the definition of salmon product acts as a safety net for the more subjective definition of value-added. This definition method leaves room for unforeseen value-added salmon products without allowing non-targeted activity to sneak in through the cracks. In the alternative we recommend that the committee remove the phrase *value-added salmon product* altogether and instead credit only equipment performing specific processing activities.

Comment: The listing of functions and/or processes like freezing, that are common to traditional and value-added salmon processing or common to processing of non-salmon species, will invite abuse and increase enforcement expenditures.

Recommendation: Investment credits are normally complimented by recapture provisions. Recapture, or "claw back" rules, reclaim all or part of the credit if the taxpayer does not follow through. Recapture normally occurs when the investment is later sold or diverted from the targeted activity. The existing bill merely requires instantaneous use of the property, after which it can be moved out of state or used for another species or process. For example, a taxpayer offloads processing equipment at its Alaska plant and runs a single salmon through it. The equipment itself, or a subsequent process, represents value-added processing. The equipment is immediately reloaded and shipped to Asia for sale or permanent use. This equipment qualifies for the credit.

We recommend adding a requirement that the property be used within the state, and for the targeted purpose, for a minimum number of years and that the credit be recaptured (perhaps with interest) when the requirements are not met. A simplified approach would be to require the qualified investment to remain qualified and in the state for a designated number of years and proscribe the percentage of credit that must be repaid based on the year that the property fails to qualify. We recommend credit recapture when the investment is sold, even if it continues to be used in the state. The automatic recapture at sale is absolutely necessary if the credit is expanded to cover purchases of equipment already in use in Alaska. Failure to recapture at sale will result in repeated credits for the same property potentially exceeding the cost of the property.

The recapture rules for floating processors will need to be customized.

Comment: The committee should consider the potential implications of awarding credit for freezers under the preserving or blast-freezing categories. Freezers installed on vessels will qualify for the credit. Shore-based freezers, however, may or may not qualify depending on whether the freezer is treated as real or personal property.

Section 4 – Retroactivity

The credit is retroactive for investments and property placed in service after January 1, 2003.

Comment: The retroactive application will represent an after-the-fact subsidy for qualified investment that has already occurred. The state will have gained nothing from its 50% investment in the property. The state will achieve more for its investment if the credit is restricted to prospective investments.

Recommendation: We recommend changing the effective date to January 1, 2004 and extending the life of the credit from December 31, 2005 to the end of 2006. This will avoid credits for historical transactions and allow taxpayers more time to incorporate the credit into their financial and operational plans.

23-LS0525\D

Utermohle

2/25/03

CS FOR HOUSE BILL NO. 90()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES STEVENS, Wolf

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a salmon product development tax credit under the Alaska fisheries
2 business tax; and providing for an effective date."

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

4 * Section 1. AS 43.75 is amended by adding a new section to read:

5 Sec. 43.75.035. Salmon product development tax credit. (a) A taxpayer
6 that is a fisheries business may claim a salmon product development tax credit of 50
7 percent of qualified investment in new property first placed into service in a shore-
8 based plant or on a vessel in the state in the tax year.

9 (b) The tax credit claimed under this section may not

10 (1) exceed 50 percent of the taxpayer's tax liability incurred under this
11 chapter for salmon, or end

12 (2) be applied for property placed in service after December 31, 2005.

13 (c) If the property for which a tax credit is claimed is installed on a vessel, the
14 amount of qualified investment under (a) of this section is determined by multiplying

1 the investment cost of qualified investment property by a fraction, the numerator of
2 which is the weight of raw salmon processed on the vessel by the taxpayer in Alaska
3 in the tax year in which the property is first placed in service, and the denominator of
4 which is the weight of raw salmon processed on the vessel by the taxpayer in and
5 outside of Alaska in the tax year in which the property is first placed in service.

6 (d) An unused credit under this section may be carried forward and applied
7 against the tax liability incurred on salmon in the following three tax years.

8 (e) Qualified investment costs upon which a tax credit is claimed under this
9 section may not be considered for another tax credit in this title.

10 (f) A taxpayer may not claim the tax credit allowed under this section if the
11 taxpayer is in arrears in the payment of assessments under AS 16.51.120, contributions
12 under AS 23.20, or taxes or assessments collected or owed under this title. For
13 purposes of this subsection, a taxpayer is not in arrears if the liability for the
14 assessment, contribution, or tax is under administrative or judicial appeal.

15 (g) In this section,

16 (1) "first placed into service" means the moment when property is first
17 used for its intended purpose;

18 (2) "new property" means property whose original use commences
19 with the taxpayer and does not include property first used by another person; *under this tax credit*

20 (3) "qualified investment" means an investment cost in the following
21 *Reading eliminated* *Value or weight* *not included, reading + gutting*
22 depreciable tangible personal property with a useful life of three years or more to be
23 used predominantly to produce value-added salmon products (beyond gutting of the
24 salmon,) including filleting, skinning, portioning, mincing, forming, extruding,
25 stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining,
26 packaging, blast freezing, or pin bone removal equipment;

27 (4) "tax liability" means the liability for all taxes under this chapter
28 before all credits allowed by this chapter;

29 (5) "useful life" means the useful life of the property that is or would
30 be applicable for purposes of depreciation.

31 * **Sec. 2.** AS 43.75.130 is amended by adding a new subsection to read:

(g) For purposes of this section, tax revenue collected under AS 43.75.015

1 from a person entitled to a credit under AS 43.75.035 shall be calculated as if the
2 person's tax were collected without applying the credit.

3 * **Sec. 3.** AS 43.75.035 and 43.75.130(g) are repealed.

4 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section to
5 read:

6 RETROACTIVITY. Sections 1 and 2 of this Act are retroactive to January 1, 2003.

7 * **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 RETROACTIVITY. If the attorney general provides notification under sec. 7(2) of
10 this Act, sec. 3 of this Act is retroactive to January 1, 2003.

11 * **Sec. 6.** Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

12 * **Sec. 7.** Section 3 of this Act takes effect on the earlier of the following:

13 (1) January 1, 2009; or

14 (2) the date of the attorney general's notification to the lieutenant governor and
15 to the revisor of statutes that

16 (A) a court has entered final judgment that AS 43.75.035, added by
17 sec. 1 of this Act, violates the commerce clause contained in art. I, sec. 8, of the
18 United States Constitution; and

19 (B) the time for an appeal of that judgment has expired, or, if an appeal
20 was taken, a final order on the appeal has been entered that AS 43.75.035, added by
21 sec. 1 of this Act, violates the commerce clause contained in the United States
22 Constitution.

23 * **Sec. 8.** Section 5 of this Act takes effect on the date of the attorney general's notification
24 under sec. 7(2) of this Act.

Joint Legislative Salmon Industry Task Force

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate



Public Members

Sue Aspelund
Sam Cotten
Duncan Fields
Don Giles
John Lowrance
Robin Samuelson
Gary Slaven
Stephanie Madsen, Alternate
Chris Moss, Alternate

Sponsor Statement

House Bill 90

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax; and providing for an effective date."

House Bill 90 provides a tax credit for salmon product development. The purpose of the measure is to encourage industry to invest in the production of new value-added salmon products to improve the marketability of Alaska salmon through diversification of product forms. Additionally, the measure would provide an added impetus for new fishery businesses considering processing salmon to make investments in Alaska.

Alaska's salmon industry is a vital element in the economy of the state. Although Alaska salmon is one of the premiere food commodities in the world, an enormous increase in the world supply of salmon in recent years has caused significant decreases in the market value of Alaska salmon. This situation threatens investments and livelihoods in the salmon industry and related businesses and also negatively affects Alaska's state and local economies.

House Bill 90 will assist in improving Alaska's competitive position in salmon markets as it is utilized to develop value-added salmon products for placement into world markets.

House Bill 90 – Changes in the Committee Substitute

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax; and providing for an effective date."

Page 1, line 2	Deletes "and the Alaska fisheries resource landing tax" from the bill title.
Purpose	No salmon fisheries are authorized outside of state waters. The landing tax captures revenue on fish harvested outside of state waters and first landed in Alaska.
Page 1, line 12	Deletes "investment costs incurred" Adds "property placed in service"
Purpose	Ensures the tax credit claimed is for property placed into service and not for property just purchased.
Page 2, line 2	Adds "on the vessel"
Purpose	To ensure the credit is properly applied.
Page 2, line 3	Adds "in which the property is first placed in service"
Purpose	To determine the base tax year upon which the eligible property was placed into service.
Page 2, line 4	Adds "on the vessel"
Purpose	To ensure the credit is properly applied.
Page 2, line 5	Adds "in which the property is first placed in service"
Purpose	To determine the base tax year upon which the eligible property was placed into service.

Page 2, line 11	Adds "assessments under AS 16.51.120"
Purpose	To ensure a tax credit applicant is not in arrears for the salmon marketing tax.
Page 2, line 12	Adds "or taxes or assessments collected or owed"
Purpose	To ensure a tax credit applicant is not in arrears on any tax under the revenue title.
Page 2, line 22	Adds "predominantly"
Purpose	To ensure a tax credit applicant utilizes the property placed into service for the purpose stated in this bill – for the production of value-added salmon products.
Page 2, line 22	Deletes "after" Adds "beyond"
Purpose	It is the bill's intent to have tax credits for value-added salmon. This change clarifies that intent.
Page 2, line 22	Deletes "heading and"
Purpose	Some value-added salmon are head-on processed. It is not the intent of this bill to exclude this.
Page 2, line 22	Adds "including"
Purpose	Other forms of value-added salmon may be approved for a tax credit. It is the intent of this bill to be inclusive.
Page 2, lines 25-26 (original bill)	Deletes the definition for "state"
Purpose	No salmon fisheries are permitted outside of state waters and this bill is applicable to salmon fisheries only.

Page 3,
lines 4-31; page 4,
lines 1-15
(original bill)

Deletes Sections 3 and 4

Purpose

This bill applies to salmon. No salmon fisheries are authorized outside of state waters. This change is consistent with the title change.

Page 3, line 3

Deletes "and AS 43.77.037, and 43.77.060(f)"
Adds "and" and "Sec. 3."

Purpose

The landing tax is removed from the bill and this change deletes the references to it and numbers the sections consistent with the changes.

Page 3, line 4

Adds "Sec. 4."

Purpose

To have the section numbering consistent with the changes.

Page 3, line 6

Deletes "4"
Adds "and 2"

Purpose

To make this section consistent with the other changes in the bill.

Page 3, line 7

Adds "Sec. 5."

Purpose

To have the section numbering consistent with the changes.

Page 3, line 9

Adds "7(2)"

Purpose

To have the section numbering consistent with the changes.

Page 3, line 10

Adds "sec. 3"

Purpose

To have the section numbering consistent with the changes.

Page 3, line 11 Adds "Sec. 6" and "2" and "4"
Purpose To have the section numbering consistent with the
changes.

Page 3, line 12 Adds "Sec. 7." and "3"

Purpose To have the section numbering consistent with the
changes.

Page 3,
lines 16-17 Adds "added" and "sec. 1"

Purpose To have the section numbering consistent with the
changes.

Page 3,
lines 20-21 Adds "added" and "sec. 1."

Page 3,
lines 23-24 Adds "Sec. 8." and "5" and "7(2)"

Purpose To have the section numbering consistent with the
changes.

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Sponsor Statement

House Bill 90

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax and the Alaska fisheries resource landing tax; and providing for an effective date."

House Bill 90 provides a tax credit for salmon product development. The purpose of the measure is to encourage industry to invest in the production of new value-added salmon products to improve the marketability of Alaska salmon through diversification of product forms. Additionally, the measure would provide an added impetus for new fishery businesses considering processing salmon to make investments in Alaska.

Alaska's salmon industry is a vital element in the economy of the state. Although Alaska salmon is one of the premiere food commodities in the world, an enormous increase in the world supply of salmon in recent years has caused significant decreases in the market value of Alaska salmon. This situation threatens investments and livelihoods in the salmon industry and related businesses and also negatively affects Alaska's state and local economies.

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Chris Moss, Alternate

Sectional Analysis

House Bill 90

"An Act relating to a salmon product development tax credit under the Alaska fisheries business tax and the Alaska fisheries resource landing tax; and providing for an effective date."

Intent

To provide a salmon product development tax credit to encourage the development of new salmon products to expand the markets and product form for Alaska salmon.

Sectional Analysis

Section 1.

- Amends AS 43.75 (Fisheries Business Tax) to add a salmon product development tax credit of 50 percent of the taxpayer's tax liability for salmon and is applicable to new property first placed into service in a shore-based plant or on a vessel in the state.
- The tax credit cannot exceed 50 percent of the taxpayer's liability or be applied for investment costs incurred after December 31, 2005.
- Delineates how the tax credit is structured and describes how a taxpayer manages arrears.
- Provides definitions for this section.

Section 2.

- Amends AS 43.75.130 by adding a new subsection (g) to provide that tax credits approved under this measure are not to be deducted when calculating tax revenue collected under AS 43.75.015.

SECTIONAL ANALYSIS

Section 3.

- Amends AS 43.77 (Fishery Resource Landing Tax) to add a new section for a salmon product development tax credit of 50 percent for new property first placed into service on a vessel in the state.
- The tax credit cannot exceed 50 percent of the taxpayer's liability or be applied for investment costs incurred after December 31, 2005.
- Delineates how the tax credit is structured and describes how a taxpayer manages arrears.
- Provides definitions for this section.

Section 4.

- Amends AS 43.77.060 by adding a new subsection (f) to provide that tax credits approved under this measure are not to be deducted when calculating tax revenue collected under AS 43.75.015.

Section 5.

- Repeals AS 43.75.035, 43.75.130(g); and, AS 43.77.037, 43.77.060(f).

Section 6.

- Makes Sections 1 - 2 retroactive to January 1, 2003.

Section 7.

- If the attorney general provides notification under sec. 9(2) of this Act, section 5 of this Act is retroactive to January 1, 2003.

Section 8.

- Sections 1 - 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

Section 9.

- Section 5 of this Act takes effect on the earlier of January 1, 2009, or if the attorney general notifies the lieutenant governor and the revisor of statutes that a court has entered a final judgment that AS 43.75.035 or AS 43.77.037, enacted by sections 1 and 3 of this Act, violate the commerce clause contained in article I, section 8, of the United States Constitution; and, the time for an appeal of that judgment has expired or if an appeal was taken, a final order has been entered that AS 43.75.035 or AS 43.77.037, as enacted by sections 1 and 3 of this Act, violates the commerce clause contained in the United States Constitution.

Section 10.

- Section 7 of this Act takes effect on the date of the attorney general's notification under section 9(2) of this Act.

STATE OF ALASKA

STEVE COWPER, GOVER

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENTP.O. BOX 0
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OFFICE OF THE COMMISSIONER

FISHERIES BUSINESS TAX CREDIT STUDYEXECUTIVE SUMMARY

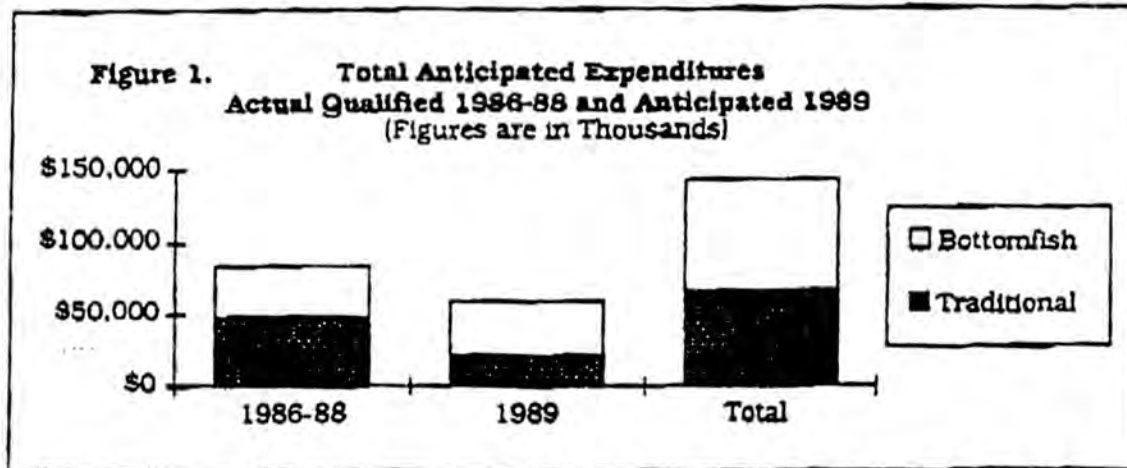
Purpose. This report addresses the effects of the Fisheries Business Tax Credit Program, and its stimulus to investments and employment. An attempt is also made to address several questions of interest: what types of investments are being made, where, and by what types of companies; what have the costs to the state been; and how much more will the existing program cost.

The tax credit program. The program offers a tax credit for capital expenditures that increase processing capacity, product quality, and value-added production. Credits are limited to 50% of a firm's tax liability and to 50% of qualified expenditures. It is scheduled to run for five years (1986-1991), with regulations defining 1986-1989 as the three year period during which qualifying expenditures must be made. Companies can elect to start their three year window of eligibility at any time during that period. Thus all projects must have been preapproved and substantially completed at this time. Credits can now be carried forward by companies who started their eligibility period in 1988 or 1989.

Expenditures. There is no uniform correlation between actual qualifying expenditures as reported on tax forms, expenditures preapproved by the Department of Revenue, total expenditures actually made and tax credits taken. Generally, actual qualifying expenditures are a minimum figure for total investment. For most firms, the limiting factor was 50% of their tax liability, not 50% of the qualifying expenditures. Overall, credits are expected to total about 35% of qualifying expenditures.

Actual qualifying expenditures reported on tax forms during the period 1986-1988 totaled \$83.4 million. The Department of Revenue has preapproved expenditures of about \$92.0 million for 1989, the last year that expenditures could be made and still qualify for credit. Since fisheries tax returns for 1989 are not due until March 31st, the actual dollar amounts will not be known for several months.

Using the experience of the previous two years, actual expenditures reported for credit will be approximately \$60 million, 65% of the amount preapproved. Total reported, qualifying expenditures are expected to total over \$140 million, but this is a minimum number for actual investment, as some



companies only report enough expenditure to match their tax liability, and some expenditures are disqualified for items such as bunkhouses, which are essential parts of the operations.

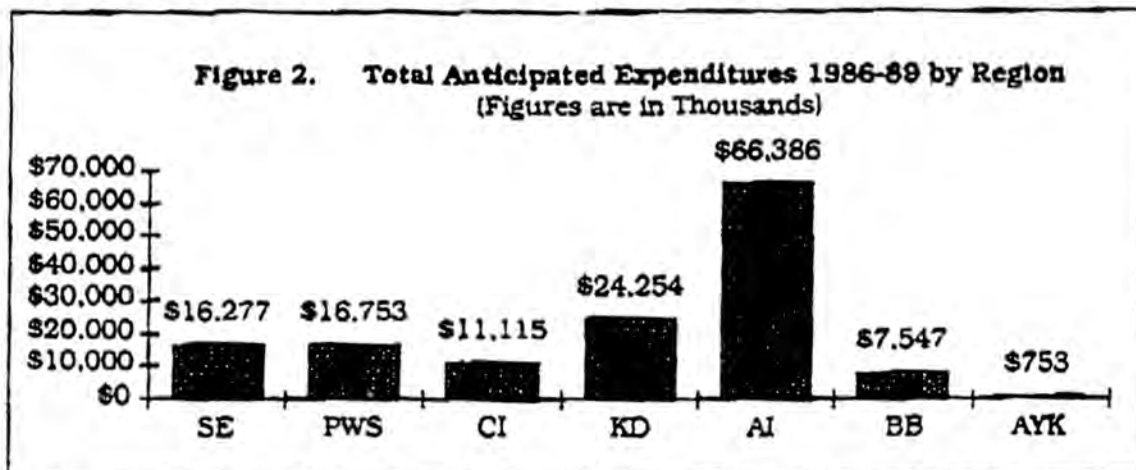
Increase in Shorebased Plant Value. Current estimates put the total insured or assessed value of seafood processing plants and equipment in Alaska at \$800 million to \$1 billion (Alaska Seafood Industry Study, 3/89). Estimated qualifying expenditures made during the past three years represent an increase of more than 15% of the total value of all active processing facilities in the state.

Number of participants. Sixty-seven firms representing 96 Alaska processing facilities have or intend to participate in the fisheries tax credit program. Expenditures actually qualifying for credit during the 1986-1988 period were made at 76 plants. Applications for expenditures during 1989 at an additional 13 facilities have been approved by the Department of Revenue. Credits only were taken on taxes generated by 7 facilities (and applied to expenditures at other plants owned by the same firm).

Table 1. Size and Number of Facilities' Expenditures by Region									
Size of Expenditure (in thousands)		South East	Prince Will	Cook Inlet	Kod/ Chig	Aleut. Is.	Bristol Bay	AYK	Total
Less than	\$10.0	2		1		1			4
\$10.0 -	100.0	7	1	2			2	2	14
\$100.0 -	500.0	8	3	3	5	1	2		22
\$500.0 -	1,000.0	1		8	5	2	3	1	20
\$1,000.0 -	2,000.0	4	2	4	2	1	1		14
\$2,000.0 -	5,000.0	2	2		3	1	1		9
\$5,000.0 -	10,000.0		1		1				2
\$10,000.0 -	20,000.0					4			4
Total		24	9	18	16	10	9	3	89

Concentration of Major Investments. It is estimated that through 1989, 22 firms will have made investments of more than \$1 million at each of 28 plants. This category of large investments will total about \$128 million or 89 percent of the total estimated expenditures of all participating firms.

The approximate size of expenditures and number of plants involved in each area of the state are outlined in Table 1. The expenditures column represents actual expenditures reported through 1988 plus 65% of 1989 expenditures preapproved by the Department of Revenue.



Expenditures by Region. The statewide total of estimated expenditures over the life of the tax credit program is put at \$143 million. Expenditures in the Aleutian Islands area are estimated at \$66 million or 46% of the total. The bulk of expenditures in the Aleutian Islands area are related to the construction of four very large bottomfish plants used for the manufacture of surimi, fillets and meal. See Figure 2.

Comparatively few expenditures were made in the Bristol Bay area (\$8 million) and AYK area (\$1 million).

Credits Taken. Reported expenditures totaled \$83 million during the 1986-1988, generating \$42 million in potential credits. Only about \$23 million in actual credits were applied, and the credit carry forward is about \$19 million. Generally, the credits taken by most major firms are limited by their tax liability and not by the size of their qualified expenditures.

Credits Outstanding. Theoretically, outstanding credits could equal \$66 million (half of the 1989 preapproved amount plus the amount carried forward). Estimating 65% of the preapproved amount as the actual qualifying expenditures that will be reported yields an estimated potential credit outstanding \$49 million, and a total potential credit figure of \$71 million.

The carryforward of most firms will be exhausted by 1990, so credits taken are expected to be higher 1988-1990, and lower in 1987 and 1991. Also, the record high ex-vessel prices of 1988 and the large volume of claims are likely to make that year the peak. Credits are likely to decline steadily after 1988, and to total between \$48 and \$55 million over the life of the program.

Ownership. Of the 89 facilities where expenditures have or will be made, on the order of 44 are owned by Alaska residents or Alaska-based corporations, 24 by foreign entities, and 21 by U.S. citizens or corporations headquartered outside of the state.

Forty-one percent of the credits actually applied through 1988 were taken by Alaskan firms, 29% by US firms, and 31% by foreign firms. Based on the tax liabilities of the companies involved, the 1989 approved expenditures and the amount of credits carried over from prior years, this ratio is not expected to change appreciably in the future.

Value of the Tax Credit Program. It is not possible to determine what investments in plant expansion and new equipment would have been made in the absence of a tax credit program. However, it is clear that the program is responsible for a substantially increased volume of capital investments in shorebased facilities, and probably in the ability of Alaskan and US firms to participate in shorebased bottomfish operations.

Six facilities with over \$5 million expended make up 45% of the total anticipated qualifying expenditures. Four are for new plants, with three bottomfish operations and one cannery. Two are major expansions of existing plants, both into surimi, fillet and meal production. The two Alaskan and one US firm involved all concentrated extensive tax credits from floating operations to build their plant. Principals in each firm report that the tax credit program was a major factor in their decision to invest onshore. The program was of lesser importance to the other three Japanese owned plants, who have very large fishing companies behind them, and who are constrained by law from investing in factory trawlers.

Of the total \$143 million in expected qualifying expenditures, \$79 million was spent on bottomfish facilities, and \$44 million on traditional species. The traditional species investments have considerably increased production capacity, especially refrigeration capacity, and have contributed substantially to production efficiencies.

Increase in Employment. It is not possible to determine the total increase of employment which was generated by plant expansions, because most were incremental expansions or improvements of existing facilities. More efficient equipment and production systems may even have resulted in the elimination of a few jobs. However, four new surimi plants alone which have already been completed or are in the final stages of construction will employ about 750 people full time. Another new facility constructed to handle more seasonal "traditional" species is expected to employ 200. Employment increases associated with firms participating in the tax credit program probably exceed 1,000 persons.

FISHERIES BUSINESS TAX CREDIT PROGRAM REPORT**Type of investments made**

Actual qualifying expenditures as reported on 1987-1988 tax returns were analyzed in detail. These expenditures were classified as being in support of either bottomfish processing or the processing of "traditional" species such as salmon, halibut, herring, and crab. Within those two categories the following classifications were established:

Dock/building repair or expansion: Minor and major expansion of existing processing buildings; utilities maintenance and upgrade (water, power, communications, waste disposal, outfalls); general plant wiring, plumbing, heating and other systems maintenance and upgrade; support facilities and equipment such as office, lunch room, generator shed, shop, supplies storage space, or loading dock.

New plant construction: Construction of a totally new building where one did not previously exist. Construction in association with an existing plant was included in this category if it involved the construction of a new building designed to handle products not previously processed.

Fish Handling equipment: Equipment and closely associated structures for moving, transferring and handling fish. Expenditures in this category were heavily weighted toward fish pumps, fork lifts and cranes, and also included conveyors, pallet jacks, trucks, hoists, elevators, carts, vans, and flumes.

Refrigeration/Ice: Refrigeration equipment, compressor buildings, freezers, refrigerated product storage facilities, refrigerated seawater holding systems, ice manufacturing equipment, and ice storage and delivery systems.

Salmon canning equipment ("Traditional" category only): Equipment used specifically in traditional salmon canning operations: Holding bins, weighing systems, fillers, seamers, can forming machinery, and steam production equipment. The efficiency of traditional canning facilities was substantially increased by the installation of equipment such as automated weighing and patching systems. A number of firms added one-quarter and one-half pound canning lines, which will increase the final product value.

Surimi/fillet equipment (bottomfish category only): Machinery for raw product buffer storage, heading, gutting, skinning, filleting, mincing, dewatering, mixing ingredients, candling, trimming and packaging products. Meal and oil plants associated with bottomfish surimi and fillet operations were included in this classification.

General processing equipment: Equipment usually associated with the processing of traditional species and products - salmon, herring, halibut, shellfish. Raw product holding and distribution systems, scales, tables, totes, headers and gutters, fish washing, glazing, strapping machines, crab cookers, herring graders, and equipment for egg processing (brine tanks, agitators).

Added value equipment ("Traditional" category only): Equipment specifically used in the production of value added products: Skinless/boneless canned salmon, retortable pouch products, fish meal and oil not especially related to bottomfish operations, smoking, salmon fillets and fillet log products, and equipment to facilitate air fresh operations.

Traditional Species Investments.

During the 1986-1988 period, \$45.8 million of the \$83.4 million total reported on tax returns was invested in facilities and equipment devoted primarily to the processing of traditional species. About half of that amount was invested in the improvement and expansion of existing buildings and docks and the installation of new freezing, cold storage and ice making capacity.

Of the \$92 million in expenditures preapproved for 1989, \$29 million will be devoted to the production of traditional species. About 65% of that amount, or \$19 million, is expected to be reported as qualified expenditures on tax returns. Over the life of the program, \$65 million in qualifying, reported expenditures will be invested. Further details about traditional species expenditures are provided in Table 2 and Figure 3.

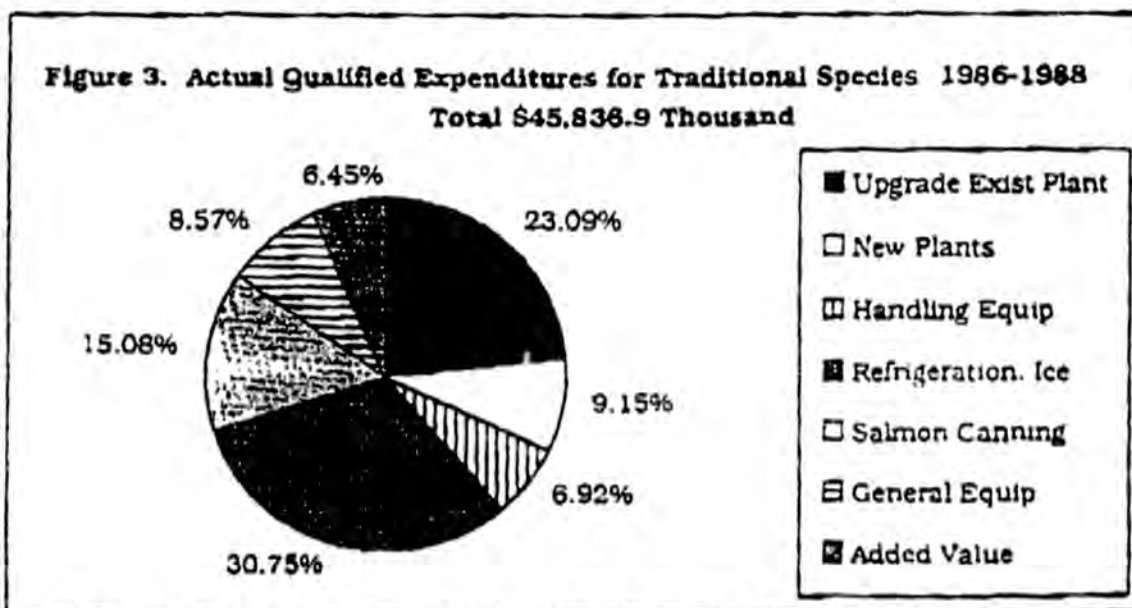


Table 2. Actual Qualified Expenditures 1986-1988 on Traditional Species

	Utilities, buildings	New Plants	Handling Equipment	Refrig. Ice, Freezing	Salmon Canning	General Equipment	Added Value	Total
Southeast	\$2,133.1	\$0.0	\$580.7	\$2,814.9	\$3,518.8	\$695.2	\$912.9	\$10,655.6
Prince William Sd	\$1,007.3	\$4,169.7	\$1,555.8	\$1,872.6	\$2,854.8	\$738.1	\$1,663.7	\$13,662.0
Cook Inlet	\$2,904.9	\$0.0	\$481.8	\$3,170.9	\$4.1	\$1,304.8	\$71.0	\$7,937.5
Kodiak	\$1,083.9	\$23.8	\$285.6	\$2,415.9	\$174.4	\$903.7	\$0.0	\$4,867.3
Aleutian Islands	\$2,387.7	\$0.0	\$43.5	\$129.4	\$0.0	\$0.0	\$300.0	\$2,860.6
Bristol Bay	\$1,042.8	\$0.0	\$238.3	\$3,839.8	\$357.9	\$267.9	\$0.0	\$5,746.7
Arclic-Yuk-Kusk	\$22.5	\$0.0	\$6.0	\$49.1	\$0.0	\$20.3	\$9.3	\$107.2
Total	\$10,682.2	\$4,193.5	\$9,171.7	\$14,092.6	\$6,910.0	\$3,930.0	\$2,968.9	\$45,836.9

Table 3. Actual Qualified Expenditures 1986-1988 on Bottomfish

	Utilities, buildings	New Plants	Handling Equipment	Refrig. Ice, Freezing	Surimi, Fillet	General Equipment	Total
Southeast	\$33.6	\$0.0	\$8.9	\$63.0	\$0.0	\$18.8	\$124.3
Prince Will Sd	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Cook Inlet	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$14.0	\$14.0
Kodiak	\$720.8	\$1,789.0	\$388.8	\$1,775.7	\$8,417.6	\$394.9	\$13,486.8
Aleutian Islands	\$8,839.2	\$3,755.0	\$440.8	\$59.7	\$10,767.1	\$87.5	\$23,949.3
Bristol Bay	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Arc-Yuk-Kus	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Total	\$9,593.6	\$5,544.0	\$838.5	\$1,898.4	\$19,184.7	\$515.2	\$37,574.4

Table 4. Total Actual Qualified Expenditures 1986-88 and Estimated Qualifying Expenditures for 1989*

	Traditional Species			Bottomfish			Grand
	1986-88	'89 Est*	Total	1986-1988	'89 Est*	Total	Total
Southeast	\$10,655.6	\$5,224.2	\$15,879.8	\$124.3	\$272.7	\$397.0	\$16,276.8
Prince Will Sd	\$13,662.0	\$2,613.1	\$16,275.1	\$0.0	\$477.8	\$477.8	\$16,752.9
Cook Inlet	\$7,937.5	\$3,163.6	\$11,101.1	\$14.0	\$0.0	\$14.0	\$11,115.1
Kodiak	\$4,867.3	\$3,400.3	\$8,267.6	\$13,486.8	\$2,499.3	\$15,986.1	\$24,253.7
Aleutian Is.	\$2,860.6	\$1,719.9	\$4,580.5	\$23,049.3	\$37,856.3	\$61,805.6	\$66,386.1
Bristol Bay	\$5,746.7	\$1,799.9	\$7,546.6	\$0.0	\$0.0	\$0.0	\$7,546.6
Arc-Yuk-Kus	\$107.2	\$845.3	\$952.5	\$0.0	\$0.0	\$0.0	\$752.5
Total	\$45,836.9	\$16,586.2	\$64,403.1	\$37,574.4	\$41,106.0	\$78,680.4	\$143,083.5

Bottomfish Expenditures.

Bottomfish investments for the 1986-88 period totalled \$37.6 million. About three-quarters of the amount was invested in new plant construction and specialized equipment for the production of fillets, surimi and meal. Preapproved 1989 expenditures total \$63 million for bottomfish. If 65% of the amounts preapproved are actually reported for credit, 1989 qualified expenditures for bottomfish would be \$41 million. (Table 3 and Figure 4.)

Combining expenditures reported in 1987 and 1988 and 65% of the amounts preapproved in 1989 indicate that during the life of the tax credit program Alaska processors will spend at least \$79 million to initiate the production of bottomfish. See Table 4.

Note that qualifying expenditures represent a minimum figure for investment. Some expenditures are disqualified, and some companies only report enough expenditures to match their anticipated tax liability. For example, one new surimi plant has preapproved expenditures under the tax credit program of about \$11 million. This amount is apparently sufficient to maximize the firm's potential credits given its expected tax liability. However, reliable information indicates that the company will actually spend nearly \$60 million on the project.

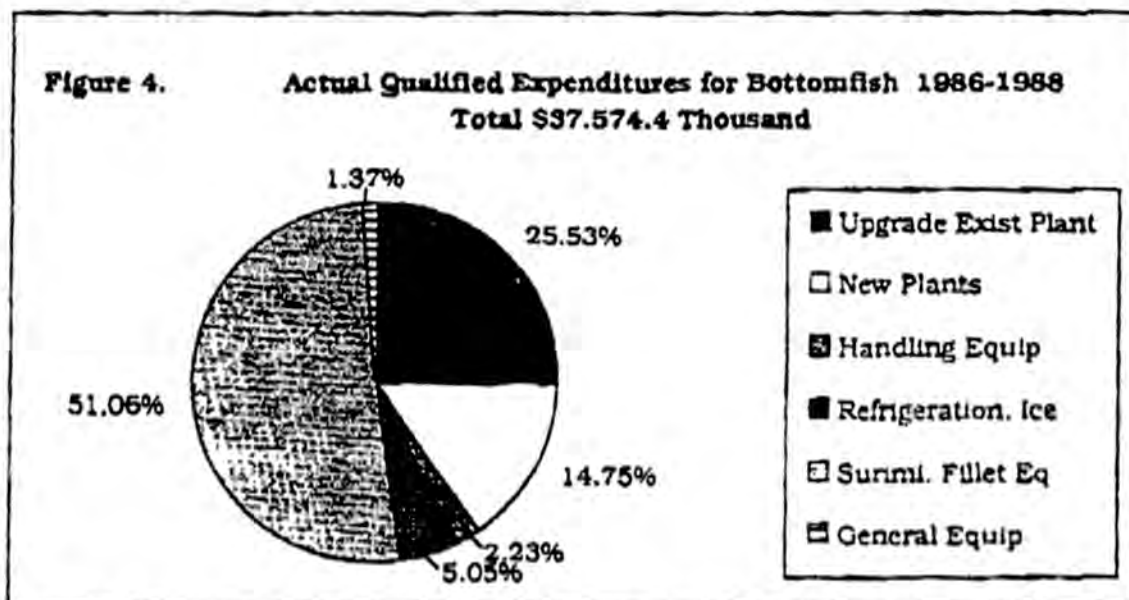


Table 5. Total Credits Applied 1986-88, Carryover, and Preliminary Approved Expenditures for 1989

Regional Analysis Location	Number	Tax Credits Applied		Total 1986-88	Carryover	One-half	Maximum	Theoretical
		1987	1988			1989 App Expend	Theoretical Credits	Credits Outstanding
Southeast	24	\$1,435.8	\$2,044.9	\$3,480.7	\$1,909.1	\$4,228.4	\$9,618.1	\$6,137.5
Prince William Sd	10	\$1,733.1	\$1,860.3	\$3,593.4	\$3,237.8	\$2,377.6	\$9,208.8	\$5,615.4
Cook Inlet	17	\$1,131.5	\$1,660.1	\$2,791.6	\$1,324.6	\$2,433.5	\$6,549.7	\$3,758.1
Kodiak	15	\$1,985.6	\$3,062.8	\$5,048.4	\$4,163.2	\$4,538.2	\$13,749.7	\$8,701.3
Alaskan Islands	11	\$903.8	\$4,712.1	\$5,615.9	\$7,808.3	\$30,443.2	\$43,957.4	\$38,341.5
Bristol Bay	9	\$683.9	\$886.1	\$1,570.0	\$1,411.4	\$1,384.5	\$4,365.9	\$2,795.9
Arctic-Yuk-Kusk	3	\$0.0	\$21.4	\$21.4	\$32.2	\$496.4	\$550.0	\$528.6
Total	89	\$7,873.7	\$14,247.7	\$22,121.4	\$19,976.6	\$45,801.7	\$87,999.8	\$65,878.3

Table 6. Total Credits Applied 1986-88, Carryover, and Estimated Qualifying Expenditures for 1989*

Ownership Analysis Location	Number	Tax Credits Applied		Total 1986-88	Carryover	One-half	Maximum	Max Est
		1987	1988			1989 Est Qual Exp*	Estimated Credits	Credits Outstanding
Alaskan Owned	44	\$4,001.4	\$5,290.8	\$9,292.2	\$3,152.7	\$14,903.1	\$27,347.9	\$18,055.8
US Owned	21	\$1,489.2	\$4,795.8	\$6,285.0	\$1,675.1	\$5,431.4	\$13,391.5	\$7,106.5
Foreign Owned	24	\$1,989.3	\$4,161.1	\$6,150.4	\$15,148.8	\$9,501.6	\$30,800.8	\$24,650.4
Totals	89	\$7,479.9	\$14,247.7	\$21,727.6	\$19,976.6	\$29,836.1	\$71,540.2	\$49,812.7
Fac. > \$1 Million	28	\$5,164.8	\$10,131.7	\$15,296.5	\$18,548.3	\$25,346.8	\$59,191.5	\$43,895.0
Fac. > \$5 million	6	\$1,109.2	\$3,856.3	\$4,965.5	\$11,659.9	\$19,100.1	\$35,726.5	\$30,760.0
Firms > \$2 million	12	\$5,886.9	\$11,223.1	\$17,110.0	\$16,417.6	\$25,870.0	\$59,398.2	\$42,288.2

*NOTE - The estimated '89 expenditures shown are 65% of the preapproved amount. See text for description.

Credits Taken

While reported expenditures totaled \$83 million during the 1986-1988 period, only about \$23 million in actual credits were applied. Credits are limited to 50% of a firm's tax liability and to 50% of qualified expenditures. Generally, the credits taken by most major firms are limited by their tax liability and not by the size of their qualified expenditures. Qualified expenditures made in 1986-1988 generated potential credits of \$42 million, nearly twice as large as the amount actually applied. The credit carry forward is about \$19 million. See Table 5.

The Department of Revenue has preapproved expenditures in 1989 of \$92 million. Total theoretical credits potentially equal \$88 million (half of the 1989 preapproved amount plus the amount carried forward and the amount already claimed). However, based on past experience, qualified expenditures actually reported on tax returns will be about 65% of the amount preapproved (\$60 million), generating an estimated credit of \$30 million. Adding the 1989 estimated credit and the 1987 - 1988 carryover (\$19 million) gives a more probable maximum estimated credit outstanding of \$50 million. See Table 6.

Anticipated Total Revenue Impacts

Investments in facilities and equipment placed in service during 1989 may be used to qualify for credit through 1991. However, credits actually applied will probably peak in 1988, with the smallest amounts taken in 1987 and 1991. The price and volume of fish and shellfish and thus tax receipts (and credits) are expected to be less in 1989 and 1990 than in 1988. By 1991 most firms with credits to carry forward will have exhausted their 3 year window. The overall credits actually applied during the life of the tax credit program are expected to total between \$48 and \$55 million, about 60% of the total credits potentially available (\$87 million).

Plant Ownership

In order to show how the benefits of the tax credit program are distributed, an attempt was made to compare expenditures and credits applied according to the following ownership categories: U.S., Foreign and Alaska. There is no practical way to "officially" determine plant ownership and even arriving at consistent, meaningful definitions is difficult. However, ownership of most major facilities is common industry knowledge and it was felt that it would be more useful to do an imperfect comparison than to avoid the issue. Knowledgeable individuals, news reports and other sources were consulted to help arrive at the ownership designations used.

Firms are designated Alaskan owned if the president or general manager resides in the state, if it is owned by a resident corporation, or if it is generally thought of as a locally owned facility. There are instances where a firm may have begun operations in the state, has a significant proportion of resident stockholders and a substantial part of their management staff are residents, but for business

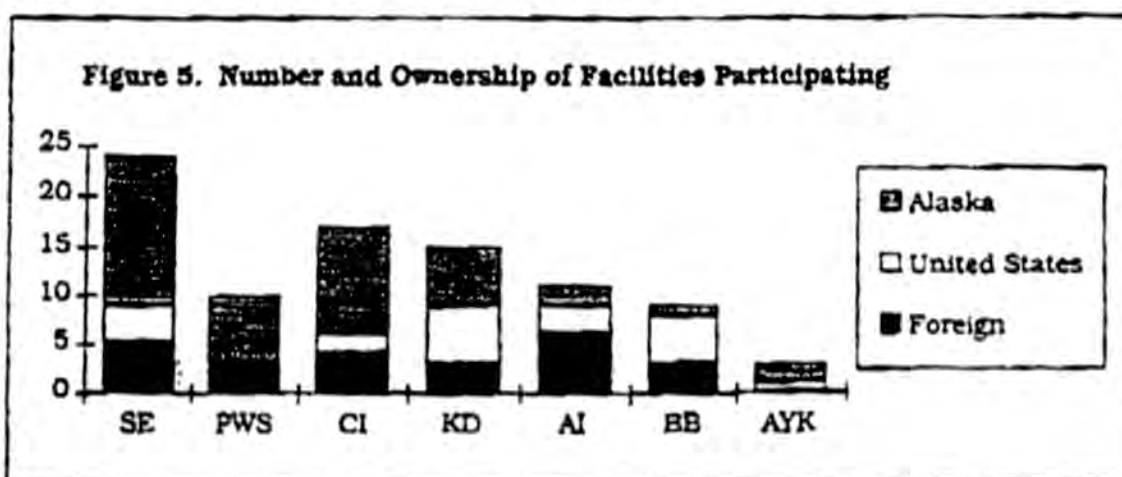
reasons the firm elected to move their corporate offices outside the state. Such firms are also termed Alaskan.

Firms are designated U.S. owned if they are known to be owned by outside corporations, if they have never had their headquarters in the state, if there are no known significant resident stockholders and if most management staff have their homes outside the state.

Firms are termed foreign owned if reports indicate that all or nearly all the company is held by foreign nationals or foreign corporations. In practice, foreign owners tend to have full ownership control of the firms in which they are heavily invested. Those firms classified as foreign in this paper are all thought to have 90% or more foreign ownership.

Of the 89 facilities where expenditures have or will be made under the tax credit program, on the order of 44 are owned by Alaska residents or Alaska-based corporations, 24 by foreign entities, and 21 by U.S. citizens or corporations headquartered outside of the state. See Table 6.

Forty-one percent of the credits actually applied through 1988 were taken by Alaskan firms, 29% by US firms, and 31% by foreign firms. Based on the tax liabilities of the companies involved, the 1989 approved expenditures and the amount of credits carried over from prior years, this ratio is not expected to change appreciably in the future.



Concentration of Major Investments

Through 1988, 14 firms had made investments of more than \$1 million at 18 plants. These large investments amounted to \$65 million or about 77% of all investments made during the period. As a result of these investments, credits totaling \$18.2 million were actually applied. This amount represented 79% of all credits taken during the period. See Table 7.

Adding 65% of 1989 preapproved expenditures to those reported through 1988 gives an estimate of total expenditures through the life of the credit program. Through 1989, 22 firms will likely have made investments of more than \$1 million at each of 28 plants. This category of large investments will total about \$128 million or 89% of the total estimated expenditures of all participating firms.

Total expenditures by company for the life of the tax credit program are estimated below:

Table 7. Company Expenditures by Size

<u>Expenditures</u>	<u>Number of firms</u>	<u>\$Invested</u>	<u>% of Total</u>
Over \$1 million	22	\$128 million	89%
over \$2 million	12	\$114 million	79%
over \$5 million	8	\$99 million	69%
over \$10 million	5	\$75 million	52%
over \$15 million	2	\$43 million	30%
over \$20 million	1	\$26 million	17%

Areas

Area designations used in this paper are:

- SE: Southeast, includes Yakutat
- PWS: Prince William Sound, includes Seward
- CI: Kodiak, includes Chignik
- AI: Alutian Islands, includes Sand Point, King Cove
- BB: Bristol Bay, includes Port Moller, Togiak
- AYK: Arctic, Yukon, Kuskokwim - includes points north of Togiak and interior rivers.

AB 90:

(3/5)

- ADOPT CS // MOVE BILL

Sen. B. STEVENS

- "trying to intrude investment"
- Rev. should deal w/ policy calls.

Chuck Harlament -

- Analysis does not account for increased productivity.
- facility / Business.
- Value / weight of salmon.
- Order of credits should be established.
- Tax delinquency provision should be kept up.

- Definitions of Credits/Process.
- Could add new/used property.

B. STEVENS: should be new equip only. - That is intent of bill.

Chuck H.

- p. 2. line 20: "qualified investments"
- poorly defined
 - "value-added" poorly defined.

Sen. A. Stevens: why would they buy new equipment if they wouldn't use it.

C.H.: w/ 50% could cover much of investment cost.

- We need "claw-back" to protect from equipment being moved to other st.s / regions.
- Recommend (value-added def. / clawback)

- C.H. - Retro-Activity of credit, could be misused from intent. (Sec. 4)

- would be more of a subsidy to past purchases, rather than incentive toward investments

Samuels/STEVENS - retro activity allows for coming Season.

CHRIS Garcia: - for used property

→ equipment placed in service or kept in st.

- for retro-Activity.

Recommendations

- value-added defined
- Claw-back
- Remove heading n-gutting

HB 90

2/2

- Community Substitute Adopted.

Cheryl Sutton:

Sec. 1

- Small processors entering w/
TAX Credit.

- Can't collect if they are in
area or any other taxes

- Can't qualify for two dif.
Credits.

- Tax Credit goes to equipment

- Beyond gutting (headings not required)

Sec. 2 - holds municipalities
free of losing share of Taxes.

- deleted resource tax - Salmon are
not legally caught outside of st. waters

- ~~interstate~~ Commerce clause -
language in B.N. as protection
to State. (unfair adv. to
AK Companies).

- 1986 Bill - groundfish.

- 3 year window for eligibility.
- has precedence under 96 bill
- could be done for longer.

- Raw fish TAX - 50% communities.
- manufacturers will be held
harmless

- Chuck Halenbert.

- "Predominantly"

- Does 3 year carry over apply to after
2005 cap.?

TARGET? Small or large. on vessel
Div. REV.

- Raw F.T. 2003 5.6 m. (TOTAL)
 - estimated credit would be 2.8m (most of S.S. share). — but ~~100%~~ not this many facilities will qualify.
- TAX - PAYERS ~ Facility!
 - Facility would keep tax more focused.
 - ~~A~~ Change to licensed facility ★
 - would seriously restrict.
- tech amend. — order of credits and eligibility. Specifying flow of credits.
 - "First Generated, first use basis"
- credits will be used against TAX until 2008 (2005 + 3)
- even in C.S. there are delinquent requirements that are soft.
 - Could pay arrears on last day of 3 year period.

- provision to give more teeth would use up credit on areas for the years they are in areas. (I think).

"Predominant" use for value-added.
- Value or Weight?

- best to get particulars in Bill.

- must define value added better.
- list of machines / processes
are used in many normal
processes.

- claw Back provision:

- most Federal have. - must
use equipment for duration of tax
credit, "must remain in the state".

- Does this have Commerce
clause problems?

- "Revenue changes to C.S."

Buck Laukitas: N.P.F.A.

- Support incentive concept, glad to hear St. will pick up full burden.
- Many municipalities/Boroughs are totally dependent on Fish Tax.

"Fishermen pay Raw Fish TAX;
Processors collect - issue"

- Concerned about price ↑ passed on to fishermen.

Chris Garcia: C.I. Fishermen's Fund.

- Supports basic intent
- Wants to encourage small processors,
★ - "used equipment put into new production value added" ★

NORMAN COHEN B.S. Fish Assoc.
ermans

- DOES Support.

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