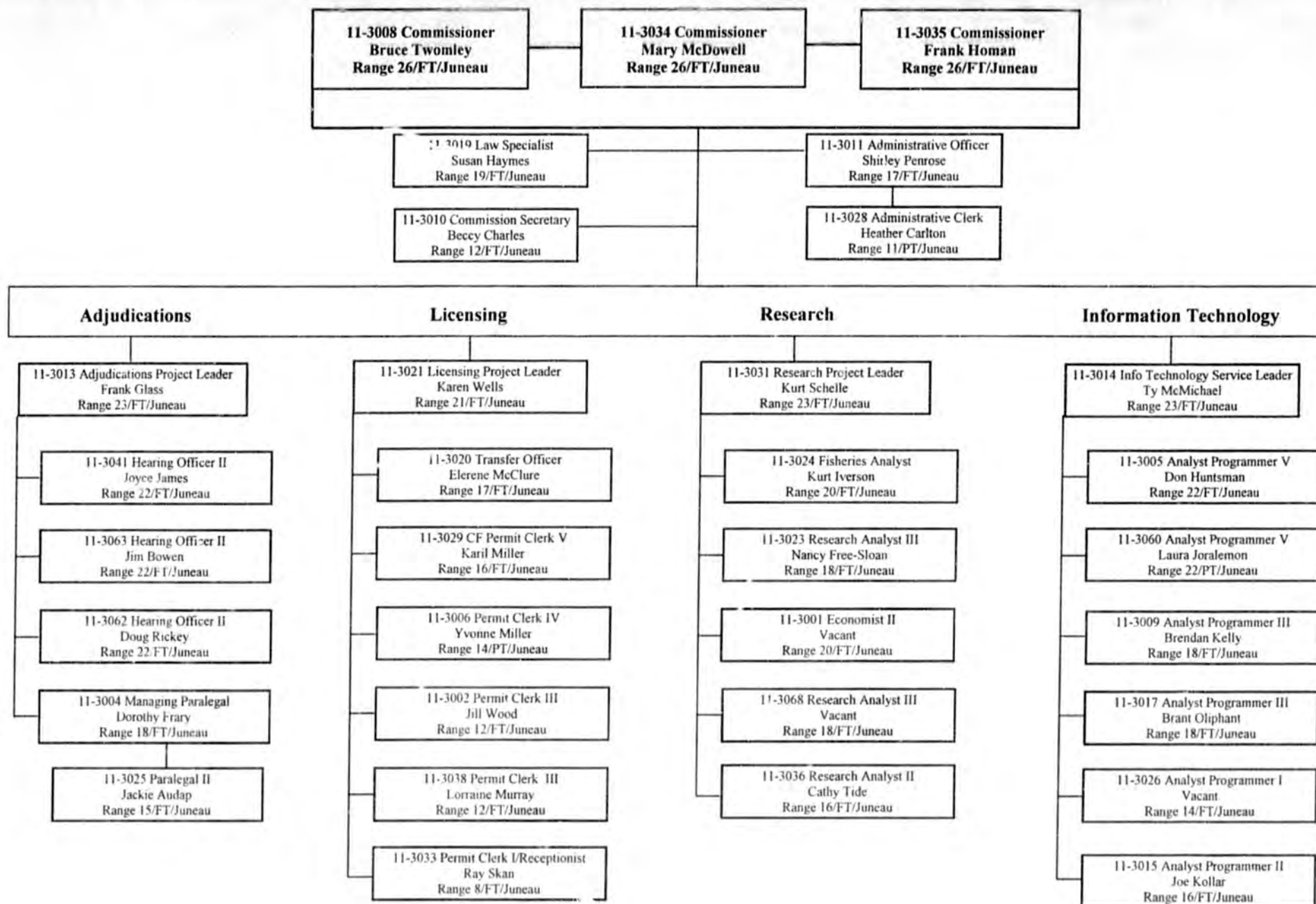


ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

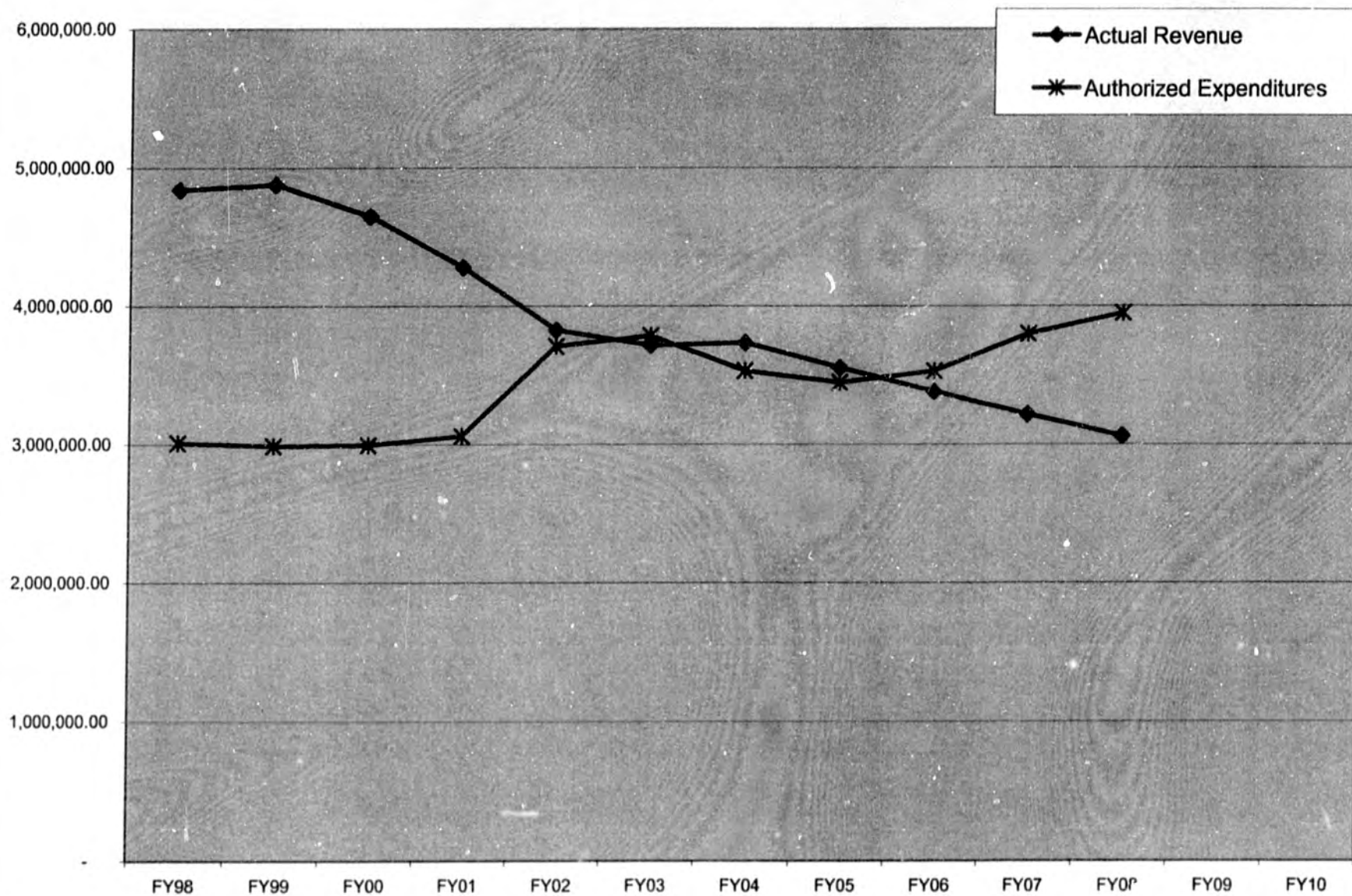
3047 SCOMM 138: HOUSE SPECIAL COMMITTEE ON FISHERIES 2005-2006

Commercial Fisheries (Limited) Entry Commission

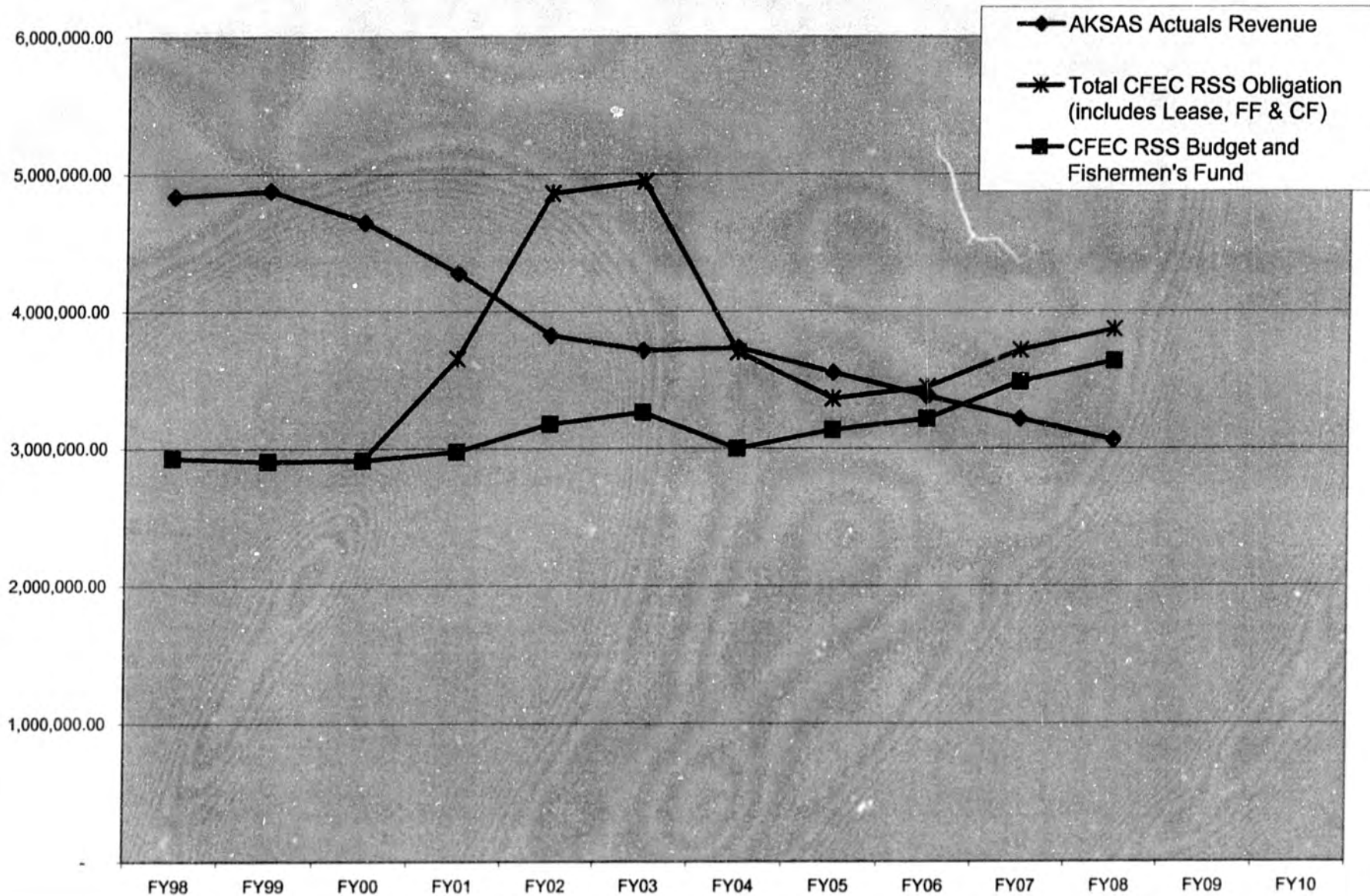
(Administratively attached to the Department of Fish and Game)



Revenue Received Compared To Authorized RSS Budget



Revenue Received Compared To Authorized RSS Budget



CFEC VESSEL LICENSE FEES¹ CURRENT AND PROPOSED

Vessel Length	Number	Current Fee	Proposed Fee
0-25'	3,484	\$20	\$35
25-50'	5,600	\$50	\$80
50-75'	764	\$100	\$145
75-150'	447	\$250	\$310
150-250'	92	\$500	\$575
250'	26	\$750	\$840
TOTAL	10,413		

33.5% would increase only by \$15

53.8% would increase only by \$30

87.3% would increase only by \$30 or less

¹ AS 16.05.530 last amended in 1995

State of Alaska
Commercial Fisheries Entry Commission

Comparison of Permit Renewal Fees For 2005 Licensing Year Under Current Fee Schedule
and Under CFEC's Proposed Methodology for Implementing SB 93

Permit Counts By Base Fee Category

February 10, 2005

Current 2005 Permit Counts By Base Fee Category				2005 Permit Counts Using Proposed Method			
Base Fee	Number of Permits		Total Permits	Base Fee	Number of Permits		Total Permits
	Residents	Non-Residents			Residents	Non-Residents	
				\$3,975	45	220	265
				↓			
				\$2,025	9	42	51
				↓			
				\$1,500	12	54	66
				↓			
				\$1,200	34	17	51
				↓			
				\$900	200	209	409
				\$825	136	240	376
				\$750	101	23	124
				\$675	33	14	47
				\$600	23	2	25
				\$525	71	77	148
				↓			
\$300	747	918	1,665	\$375	10	2	12
\$240	858	272	1,130	\$300	652	254	906
\$180	827	241	1,068	\$225	257	32	289
\$120	3,749	1,634	5,383	\$150	4,496	1,860	6,356
\$60	10,702	1,815	12,517	\$75	10,804	1,834	12,638
Totals	16,883	4,880	21,763		16,883	4,880	21,763



Under the proposed methodology, no permits would fall into the omitted base fee categories.

CFEC Expenditure/Revenue Comparison

	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08
◆ AKSAS Actuals Revenue	4,839,400.00	4,878,100.00	4,649,400.00	4,279,300.00	3,825,000.00	3,714,800.00	3,733,800.00	3,552,337.32	3,379,593.73	3,215,440.61	3,059,170.20
								Projected based on calculated 4.85% decline.....			
CFEC RSS Authorized Budget											
	2,536,500.00	2,520,400.00	2,520,400.00	2,563,800.00	2,786,500.00	2,856,900.00	2,592,900.00	2,727,200.00	2,808,800.00	3,078,800.00	3,228,800.00
FF Obligation	392,000.00	385,300.00	392,700.00	413,600.00	390,800.00	405,800.00	407,000.00	407,000.00	407,000.00	407,000.00	407,000.00
CF Obligation	-	-	-	678,000.00	1,684,100.00	1,684,900.00	704,000.00	230,000.00	230,000.00	230,000.00	230,000.00
■ CFEC RSS Budget and Fishermen's Fund	2,928,500.00	2,905,700.00	2,913,100.00	2,977,400.00	3,177,300.00	3,262,700.00	2,999,900.00	3,134,200.00	3,215,800.00	3,485,800.00	3,635,800.00
* Total CFEC RSS Obligation (includes Lease, FF & CF)	2,928,500.00	2,905,700.00	2,913,100.00	3,655,400.00	4,861,400.00	4,947,600.00	3,703,900.00	3,364,200.00	3,445,800.00	3,715,800.00	3,865,800.00
								Items in orange area above are <u>projections only</u>			
Difference between Revenue and Total CFEC RSS Obligations											
AKSAS Actual	1,910,900.00	1,972,400.00	1,736,300.00	623,900.00	(1,036,400.00)	(1,232,800.00)	29,900.00	188,137.32	(66,106.27)	(500,359.39)	(806,629.80)

CFEC Revenue/Expenditure Comparisons

	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08
◆ AKSAS Actuals Revenue	4,839,400.00	4,878,100.00	4,649,400.00	4,279,300.00	3,825,000.00	3,714,800.00	3,733,800.00	3,552,337.32	3,379,693.73	3,215,440.61	3,059,170.20
								Projected based on calculator 4.86% decline.....			
								Items in orange area above are <u>projections only</u>			
* Authorized Expenditures	3,010,100.00	2,987,300.00	2,994,700.00	3,059,000.00	3,708,100.00	3,783,400.00	3,531,100.00	3,445,800.00	3,527,400.00	3,797,400.00	3,947,400.00
Difference	1,829,300.00	1,890,800.00	1,654,700.00	1,220,300.00	116,900.00	(68,600.00)	202,700.00	106,537.32	(147,706.27)	(581,959.39)	(888,229.80)

Negative amount for FY2003 was offset by staff vacancies.

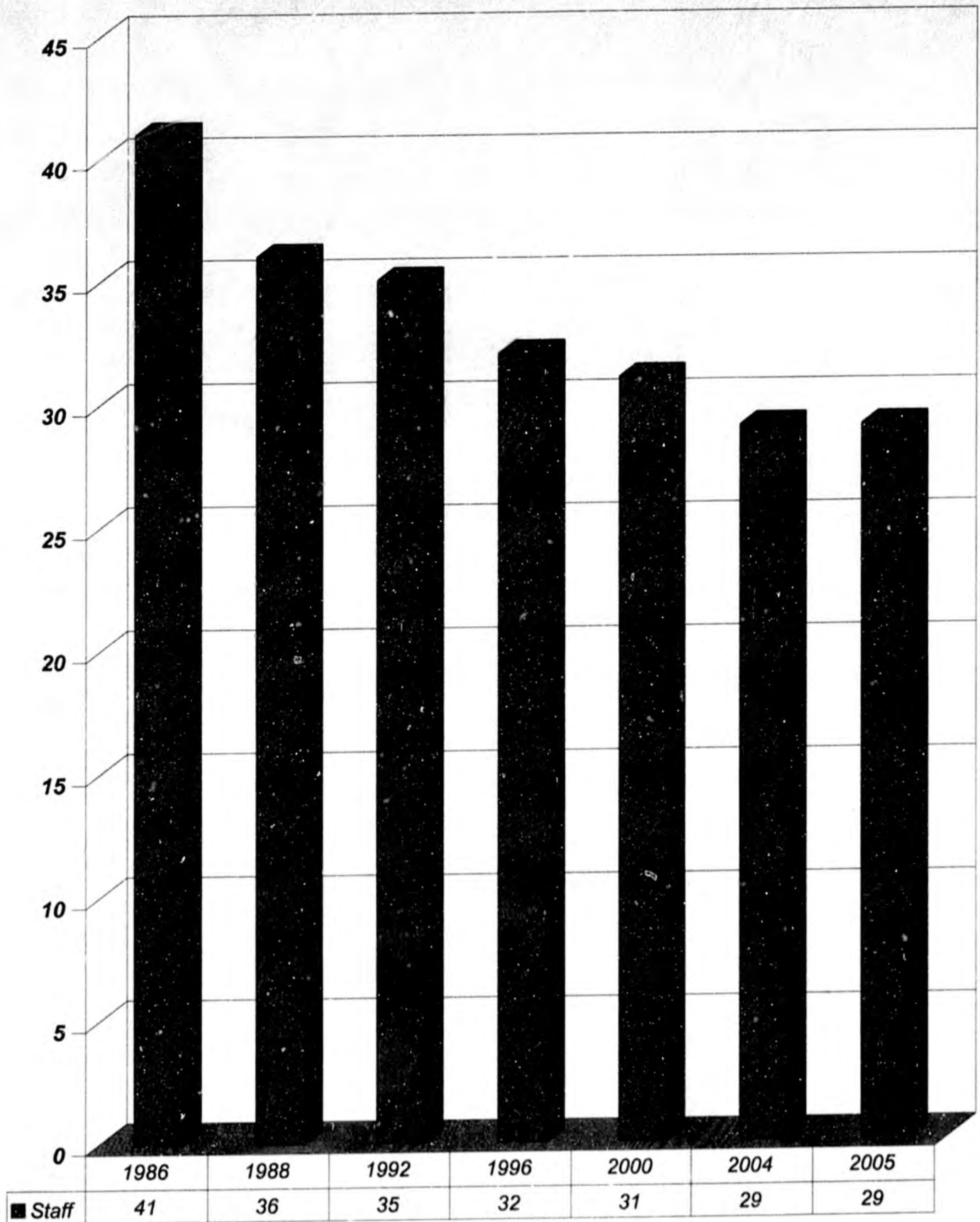
Source: CFEC

2/9/2005 - 9:24 AM

Commercial Fisheries Entry Commission
Personnel Information

PCN	Last Name	First Name	Title	Current Range	Current Step	Salary
3001		Vacant	Economist II	20	A	\$50,700.00
3002	Wood	Jill	Permit Clerk III	12	D	\$23,553.00
3004	Frary	Dorothy	Managing Paralegal	18	J	\$54,588.00
3005	Huntsman	Don	Analyst Programmer V	22	J	\$68,796.00
3006	Miller	Yvonne	Permit Clerk IV	14	E	\$37,140.00
3008	Twomley	Bruce	Commissioner - Chairman	26	C	\$78,828.00
3009	Kelly	Brendan	Analyst Programmer III	18	B	\$45,888.00
3010	Charles	Beccy	Commission Secretary II	12	K	\$37,248.00
3011	Penrose	Shirley	Administrative Officer	17	E	\$47,460.00
3013	Glass	Frank	Adjudications Project Leader	23	M	\$82,356.00
3014	McMichael	Ty	Information Technology Svcs Ldr	23	F	\$73,752.00
3015	Kollar	Joseph	Analyst Programmer II	16	A	\$38,436.00
3017	Oliphant	Brant	Analyst Programmer III	18	E	\$50,700.00
3019	Haymes	Susan	Law Specialist II	19	J	\$58,380.00
3020	McClure	Elerene	Transfer Officer	17	K	\$52,848.00
3021	Wells	Taffy	Licensing Project Leader	21	J	\$64,236.00
3023	Free-Sloan	Nancy	Research Analyst III	18	K	\$54,588.00
3024	Iverson	Kurt	Fisheries Analyst	20	E	\$57,984.00
3025	Audap	Jackie	Paralegal II	15	E	\$41,184.00
3026		Vacant	Analyst Programmer III	18	A	\$44,316.00
3028	Carlton	Heather	Administrative Clerk	11	A	\$18,538.00
3029	Miller	Karil	Permit Clerk V	16	E	\$44,316.00
3031	Schelle	Kurt	Research Project Leader	23	M	\$85,440.00
3033	Skan	Ray	Permit Clerk I/Receptionist	8	B	\$23,892.00
3034	McDowell	Mary	Commissioner	26	C	\$78,828.00
3035	Homan	Frank	Commissioner	26	C	\$78,828.00
3036	Tide	Cathy	Research Analyst II	16	A	\$38,436.00
3038	Murray	Lorraine	Permit Clerk III	12	C	\$23,553.00
3041	James	Joyce	Hearing Officer II	22	J	\$68,796.00
3060	Joralemon	Laura	Analyst Programmer V	22	D	\$41,109.12
3062	Rickey	Doug	Hearing Officer II	22	F	\$64,236.00
3063	Bowen	James	Hearing Officer II	22	K	\$74,052.00
3068		Vacant	Research Analyst III	18	A	\$44,316.00

PFT Budgeted Staff



Percentage of FT
positions lost
since 1986

12.20%

14.63%

21.95%

24.39%

29.27%

29.27%

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: HB174

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Fish and Game

Title Annual commercial fishing permit
and vessel license fees

RDU Comm. Fish Entry Commission

Component Commercial Fisheries Entry
Commission

Sponsor Representative Samuels

Requester House Fisheries Committee

Component No. 471

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	2,300.0	2,188.2	2,081.9	1,980.7	1,884.4	1,792.8
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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						
1156 Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of HB174 will not require additional expenditures or positions. It will provide for increased revenues generated by permit and license fees, though an exact amount cannot be determined at this time.

HB174 maintains the commercial fishing vessel licensing size classes in current law and statutorily establishes slightly higher annual fees for each class. This results in an estimated increase of approximately \$291,000 in annually generated revenue.

For commercial fishing permits, the bill maintains the directive that fees "must reasonably reflect the different

Continued on page 2

Prepared by: Shirley Penrose, Administrative Officer

Phone 907-790-6960

Division Commercial Fisheries Entry Commission

Date/Time 3/21/05 12:55 PM

Approved by: Frank M. Homan, Commissioner

Date 3/21/2005

Agency Commercial Fisheries Entry Commission

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB174

ANALYSIS CONTINUATION

rates of economic return for different fisheries," and removes the \$300 base fee cap in current law. The current fee cap artificially holds fees down in the highest-earning fisheries and results in those fisheries paying fees that are disproportionately lower.

While passage of HB174 would not, in itself, change annual permit fees, the removal of the \$300 maximum base fee effectively authorizes CFEC to implement a fairer fee schedule that more truly meets the statutory mandate that fees are to reflect the earnings in respective fisheries. By allowing fees for high-end fisheries to fall where they naturally would under a fully proportional formula, the regulatory fee structure CFEC intends to propose under provisions of HB174 would result in an estimated annual increase of approximately \$2.1 million in revenues to the state.

The change from a "per permit" nonresident fee differential to a single annual nonresident surcharge (necessitated by recent rulings in the Carlson v. State of Alaska class action), results in an annual estimated decline of about \$67,000 in revenue.

In combination, the various revisions made by HB174, and the regulatory framework CFEC intends to propose to implement the provisions of the bill, would likely result in an overall annual increase in revenues generated by commercial fishing permits and vessel licenses of about \$2.3 million.

Due to steadily declining revenues, CFEC (a receipt supported agency) expects to be in a deficit situation in FY06 or FY07 without passage of HB174. While passage of the bill will likely increase revenues enough to provide revenues to the General Fund above the current cost of CFEC's budget in the next few years, total revenues generated by CFEC fees are expected to continue declining. This is due to economic difficulties in some fisheries (particularly salmon fisheries) resulting in their falling into lower annual permit fee classes, and to ongoing decreases in the number of permits and vessel licenses issued annually. This decrease in participants is due to many factors, including fewer permits being issued after each fishery limitation; consolidation in federally- managed fisheries licensed by the state; and cancellation of nontransferable permits as holders of those permits die or retire. Thus, the amount of revenue generated by CFEC fees, and the cost of funding CFEC's operating budget, will likely converge again in coming years.

Because of the uncertainty of future events and the downward trend in our revenues, we have shown the anticipated revenue this bill may produce to decrease at 4.86% per year, which is our current calculated rate of decline.

MEMORANDUM

STATE OF ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Senator Ben Stevens
Alaska State Senate

DATE: February 3, 2005

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX

FROM: Commercial Fisheries Entry Commission
Frank Homan, Commissioner
Mary McDowell, Commissioner
Bruce Twomley, Chairman

SUBJECT: Need for CFEC Fee Bill

In 2001, the legislature passed legislation to bring the state into compliance with a State Supreme Court decision in the Carlson v. State of Alaska class action brought by non-resident fishermen challenging the state's fee structure charging higher commercial fishing license and permit fees to non-residents. The 2001 legislation eliminated the 3-to-1 non-resident permit fee differential and it was replaced it with the court's formula. Because certain aspects of the case were still under appeal at that time, the legislature recognized that further legislation would likely be required in the future to implement subsequent Carlson decisions.

While much of Carlson remains under appeal, a recent decision determined that the state may only assess the non-resident fee differential once per year per non-resident permit holder, regardless of the number of permits held. Thus, immediate legislative action is required to clarify the statutory language regarding the application of the non-resident differential.

The currently required revision will result in yet another decline in the revenues generated from commercial fishing fees.

Because of Carlson and for several other reasons discussed below, the Commercial Fisheries Entry Commission (CFEC) has experienced a continuing decline in revenues to the point where revenues generated from permit and vessel fees can no longer sustain CFEC's budget. CFEC, a receipt supported services agency funded by industry fees, has traditionally returned revenue to the general fund above its needs. In recent years, the legislature has appropriated these receipts to help fund the Division of Commercial Fisheries. Despite generating more revenue than its own budget, CFEC has experienced a

29% loss of its full-time staff due to budget reductions since 1986, decreasing from 41 full-time employees to 29 full-time employees.

Several factors beyond the control of CFEC have converged to decrease CFEC revenue to the point where it is now impossible to provide sufficient revenue to cover its budget from receipts. In addition to reductions in non-resident fee revenues due to the Carlson case, other factors include: consolidation in federal fisheries has resulted in the purchase of fewer state-issued halibut and black cod permits; reduced permit prices in the salmon fisheries have resulted in lower fees collected since fees are based on permit prices or gross revenues, and as they have declined so have fees; poor fishing seasons in recent years and fishery limitations have caused fewer permits to be purchased.

The outlook is for continued consolidation of the federal and state fisheries. Whether the salmon fisheries will rebound is uncertain, and industry's search for restructuring, product development and new markets are likely to take some time. At this time it is necessary to consider an increase in the annual permit renewal fee schedule, which have not been significantly changed since 1987, and a modest increase in vessels license fees, which have not been raised in 10 years.

What is being proposed by this legislation is a lifting of the statutory cap on permit fees. The existing \$300 statutory fee cap has artificially held down the amount of fees charged despite the substantial economic value of the fisheries affected. Removal of the cap will allow the fees to more closely conform to the statutory guidelines of AS 16.43.160(e), which requires: "The annual base fee must reasonably reflect the different rates of economic return for different fisheries."

The commission then by regulation would propose slight increases in current permit fee classes and add several new fee classes for higher valued fisheries. This change will have little effect on the lower value fisheries.

The annual permit renewal fee increase would begin at \$15 for the lower value fisheries and progress through the fee classes by adding additional \$15 increments at each fee class. We would then add fee classes for the higher value fisheries, that will reflect their economic value. The proposal only has a modest effect on existing fee classes. Those fisheries in the lowest two fee classes, currently \$60 and

\$120 (which represent more than 80% of all permits), would only experience a \$15 and \$30 increase respectively. The current \$60 fee class (representing more than 55% of permits) would increase from \$60 to \$75 and the \$120 fee class (representing another 25% of permits) would increase from \$120 to \$150.

In short, this new fee proposal would have little effect on those in lower valued fisheries. The main effect of removing the statutory cap will be to adjust those very valuable fisheries (that have been artificially held down to \$300) to higher fee categories, that more accurately reflect their real economic return.

This legislation would also increase the range of annual vessel license renewal fees by amounts from \$15 for the 0-25 feet class (the lowest fee class) to \$90 for vessels larger than 250 feet (the highest fee class). The fee increase for the lowest two fee categories which include vessels up to 50 feet (accounting for 87% of all vessels licensed) would only be \$30 or less.

**State of Alaska
Commercial Fisheries Entry Commission**

**Comparison of Permit Renewal Fees For 2005 Licensing Year Under Current Fee Schedule
and Under CFEC's Proposed Methodology for Implementing SB 93**

February 10, 2005

Fishery	Description	Under Limited Entry?	Resident Permits	Non-Resident Permits	Actual 2005 Base Fee	2005 Base Fee Under Proposed Methodology
B05B	HALIBUT, HAND TROLL, STATEWIDE	N	170	0	\$60	\$75
B25B	HALIBUT, DINGLEBAR TROLL, STATEWIDE	N	4	1	\$60	\$75
B26B	HALIBUT, MECHANICAL JIG, STATEWIDE	N	72	3	\$60	\$75
C26B	SABLEFISH, MECHANICAL JIG, STATEWIDE	N	8	0	\$60	\$75
C4CE	SABLEFISH, NET GEAR MAX VL LENGTH 50', PRINCE WILLIAM SOUND	Y	1	0	\$60	\$75
C5AE	SABLEFISH, FIXED GEAR MAX VL LENGTH 90', PRINCE WILLIAM SOUND	Y	1	0	\$60	\$75
C5BE	SABLEFISH, FIXED GEAR MAX VL LENGTH 60', PRINCE WILLIAM SOUND	Y	3	0	\$60	\$75
C5DE	SABLEFISH, FIXED GEAR MAX VL LENGTH 35', PRINCE WILLIAM SOUND	Y	10	0	\$60	\$75
D09D	DUNGENESS CRAB, POT GEAR VL UNDER 60', YAKUTAT	N	0	1	\$60	\$75
D09L	DUNGENESS CRAB, POT GEAR VL UNDER 60', CHIGNIK	N	1	0	\$60	\$75
D10A	DUNGENESS CRAB, RING NETS, SOUTHEAST	Y	5	0	\$60	\$75
D11A	DUNGENESS CRAB, DIVING GEAR, SOUTHEAST	Y	1	1	\$60	\$75
D91D	DUNGENESS CRAB, POT GEAR VL OVER 60', YAKUTAT	N	1	1	\$60	\$75
D9DA	DUNGENESS CRAB, 75 POTS/OR 25% OF MAX, SOUTHEAST	Y	91	10	\$60	\$75
G01K	HERRING ROE, PURSE SEINE, KODIAK	Y	51	14	\$60	\$75
G01L	HERRING ROE, PURSE SEINE, CHIGNIK	N	4	0	\$60	\$75
G01M	HERRING ROE, PURSE SEINE, AK PENINSULA	N	9	0	\$60	\$75
G31K	HERRING ROE, GILLNET & PURSE SEINE, KODIAK	Y	2	0	\$60	\$75
G34A	HERRING ROE & FDI/T, GILLNET, SOUTHEAST	Y	78	37	\$60	\$75
G34H	HERRING ROE, GILLNET, COOK INLET	N	39	0	\$60	\$75
G34K	HERRING ROE, GILLNET, KODIAK	Y	80	9	\$60	\$75
G34M	HERRING ROE, GILLNET, AK PENINSULA	N	4	0	\$60	\$75
G34N	HERRING ROE, GILLNET, NELSON ISLAND	Y	123	4	\$60	\$75
G34S	HERRING ROE, GILLNET, SECURITY COVE	N	44	35	\$60	\$75
G34T	HERRING ROE, GILLNET, BRISTOL BAY	N	137	58	\$60	\$75
G34U	HERRING ROE, GILLNET, NUNIVAK ISLAND	Y	39	4	\$60	\$75
G34V	HERRING ROE, GILLNET, CAPE AVINOF	N	77	0	\$60	\$75
G34W	HERRING ROE, GILLNET, GOODNEWS BAY	Y	138	0	\$60	\$75
G34Y	HERRING ROE, GILLNET, CAPE ROMANZOF	Y	59	0	\$60	\$75
G34Z	HERRING ROE, GILLNET, NORTON SOUND	Y	183	59	\$60	\$75
H01L	HERRING FOOD/BAIT, PURSE SEINE, CHIGNIK	N	1	0	\$60	\$75
H21A	HERRING FOOD/BAIT, SPAWN ON KELP/POUND, SOUTHEAST	N	19	3	\$60	\$75
H34M	HERRING FOOD/BAIT, GILLNET, AK PENINSULA	N	22	0	\$60	\$75
H7BK	HERRING FOOD/BAIT, OTTER TRAWL, FIXED VL 75', KODIAK	Y	0	1	\$60	\$75
H7CK	HERRING FOOD/BAIT, OTTER TRAWL, FIXED VL 70', KODIAK	Y	1	0	\$60	\$75
H7DK	HERRING FOOD/BAIT, OTTER TRAWL, FIXED VL 60', KODIAK	Y	0	2	\$60	\$75
I05B	LING COD, HAND TROLL, STATEWIDE	N	20	0	\$60	\$75
I06B	LING COD, LONGLINE VL UNDER 60', STATEWIDE	N	18	2	\$60	\$75
I25B	LING COD, DINGLEBAR TROLL, STATEWIDE	N	72	3	\$60	\$75
I26B	LING COD, MECHANICAL JIG, STATEWIDE	N	42	2	\$60	\$75
I61B	LING COD, LONGLINE VL OVER 60', STATEWIDE	N	1	0	\$60	\$75
I91B	LING COD, POT GEAR VL OVER 60', STATEWIDE	N	2	1	\$60	\$75
K09D	KING CRAB, POT GEAR VL UNDER 60', YAKUTAT	N	1	0	\$60	\$75
K09O	KING CRAB, POT GEAR VL UNDER 60', DUTCH HARBOR	N	1	0	\$60	\$75
K09Q	KING CRAB, POT GEAR VL UNDER 60', BERING SEA	N	2	0	\$60	\$75
K09X	KING CRAB, POT GEAR VL UNDER 60', SAINT LAWRENCE ISLAND	N	4	0	\$60	\$75
K19A	RED/BLUE KING CRAB, POT GEAR, SOUTHEAST	Y	5	0	\$60	\$75
L12T	HERRING SPAWN ON KELP, DIVE/HAND PICK, BRISTOL BAY	Y	201	6	\$60	\$75
L21C	HERRING SPAWN ON KELP/POUND, SOUTHERN SOUTHEAST	Y	159	16	\$60	\$75
M01B	MISCELLANEOUS SALT WATER FINFISH, PURSE SEINE, STATEWIDE	N	1	0	\$60	\$75
M05B	MISCELLANEOUS SALTWATER FINFISH, HAND TROLL, STATEWIDE	N	72	4	\$60	\$75
M06B	MISCELLANEOUS SALTWATER FINFISH, LONGLINE VL UNDER 60', STW	N	687	60	\$60	\$75

**State of Alaska
Commercial Fisheries Entry Commission**

**Comparison of Permit Renewal Fees For 2005 Licensing Year Under Current Fee Schedule
and Under CFEC's Proposed Methodology for Implementing SB 93**

February 10, 2005

Fishery	Description	Under Limited Entry?	Resident Permits	Non-Resident Permits	Actual 2005 Base Fee	2005 Base Fee Under Proposed Methodology
M17B	MISCELLANEOUS SALTWATER FINFISH, BEAM TRAWL, STATEWIDE	N	4	0	\$60	\$75
M25B	MISCELLANEOUS SALTWATER FINFISH, DINGLEBAR TROLL, STATEWIDE	N	10	0	\$60	\$75
M26B	MISCELLANEOUS SALTWATER FINFISH, MECHANICAL JIG, STATEWIDE	N	445	51	\$60	\$75
M37B	MISCELLANEOUS SALTWATER FINFISH, PAIR TRAWL, STATEWIDE	N	1	0	\$60	\$75
M61B	MISC. SALTWATER FINFISH, LONGLINE VL 60' to 89', STW	N	48	11	\$300	\$75
P09D	SHRIMP, POT GEAR VL UNDER 60', YAKUTAT	N	15	0	\$60	\$75
P09E	SHRIMP, POT GEAR VL UNDER 60', PRINCE WILLIAM SOUND	N	1	0	\$60	\$75
P09J	SHRIMP, POT GEAR VL UNDER 60', WESTWARD	N	14	0	\$60	\$75
P17E	SHRIMP, BEAM TRAWL, PRINCE WILLIAM SOUND	N	5	0	\$60	\$75
P17J	SHRIMP, BEAM TRAWL, WESTWARD	N	2	0	\$60	\$75
P91A	SHRIMP, POT GEAR, SOUTHEAST	Y	271	21	\$60	\$75
P91J	SHRIMP, POT GEAR VL OVER 60', WESTWARD	N	5	0	\$60	\$75
Q11A	SEA CUCUMBER, DIVING GEAR, SOUTHEAST	Y	258	72	\$60	\$75
Q11B	SEA CUCUMBER, DIVING GEAR, STATEWIDE/EXCLUDING SOUTHEAST	N	23	5	\$60	\$75
R18B	CLAMS, SHOVEL, STATEWIDE	N	30	25	\$60	\$75
R23B	CLAMS, MECHANICAL DIGGER, STATEWIDE/NOT SE GEODUCK	N	1	0	\$60	\$75
S01E	SALMON, PURSE SEINE, PRINCE WILLIAM SOUND	Y	188	67	\$60	\$75
S01H	SALMON, PURSE SEINE, COOK INLET	Y	69	8	\$60	\$75
S01K	SALMON, PURSE SEINE, KODIAK	Y	267	85	\$60	\$75
S01M	SALMON, PURSE SEINE, AK PENINSULA	Y	83	26	\$60	\$75
S02K	SALMON, BEACH SEINE, KODIAK	Y	25	5	\$60	\$75
S03A	SALMON, DRIFT GILLNET, SOUTHEAST	Y	351	120	\$60	\$75
S03H	SALMON, DRIFT GILLNET, COOK INLET	Y	386	172	\$60	\$75
S04D	SALMON, SET GILLNET, YAKUTAT	Y	127	32	\$60	\$75
S04H	SALMON, SET GILLNET, COOK INLET	Y	611	120	\$60	\$75
S04P	SALMON, SET GILLNET, UPPER YUKON	Y	53	0	\$60	\$75
S04T	SALMON, SET GILLNET, BRISTOL BAY	Y	693	277	\$60	\$75
S04W	SALMON, SET GILLNET, KUSKOKWIM	Y	732	4	\$60	\$75
S04X	SALMON, SET GILLNET, KOTZEBUE	Y	148	4	\$60	\$75
S04Y	SALMON, SET GILLNET, LOWER YUKON	Y	561	5	\$60	\$75
S04Z	SALMON, SET GILLNET, NORTON SOUND	Y	139	2	\$60	\$75
S05B	SALMON, HAND TROLL, STATEWIDE	Y	961	118	\$60	\$75
S08P	SALMON, FISH WHEEL, UPPER YUKON	Y	100	2	\$60	\$75
S15B	SALMON, POWER TROLL, STATEWIDE	Y	756	186	\$60	\$75
T09K	TANNER CRAB (NOT BAIRDI), POT GEAR VL UNDER 60', KODIAK	N	89	8	\$60	\$75
T09Q	TANNER CRAB, POT GEAR VL UNDER 60', BERING SEA	N	1	0	\$60	\$75
T10A	TANNER CRAB, RING NET, SOUTHEAST	N	105	2	\$60	\$75
T91K	TANNER CRAB, POT GEAR VL OVER 60', KODIAK	N	20	6	\$60	\$75
TB9BK	TANNER BAIRDI CRAB, POT GEAR VL UNDER 60', KODIAK	Y	106	6	\$60	\$75
U11A	SEA URCHIN, DIVING GEAR, SOUTHEAST	Y	34	38	\$60	\$75
U11B	SEA URCHIN, DIVING GEAR, STATEWIDE/EXCLUDING SOUTHEAST	N	3	1	\$60	\$75
Y05A	DEMERSAL SHELF ROCKFISH, HAND TROLL, SOUTHEAST	N	15	1	\$60	\$75
Y06A	DEMERSAL SHELF ROCKFISH, LONGLINE VL UNDER 60', SOUTHEAST	N	181	6	\$60	\$75
Y25A	DEMERSAL SHELF ROCKFISH, DINGLEBAR TROLL, SOUTHEAST	N	8	1	\$60	\$75
Y26A	DEMERSAL SHELF ROCKFISH, MECHANICAL JIG, SOUTHEAST	N	11	1	\$60	\$75
Y61A	DEMERSAL SHELF ROCKFISH, LONGLINE VL OVER 60', SOUTHEAST	N	28	1	\$60	\$75
U09J	DUNGENESS CRAB, POT GEAR VL UNDER 60', WESTWARD	N	24	3	\$120	\$75
D91L	DUNGENESS CRAB, POT GEAR VL OVER 60', CHIGNIK	N	1	0	\$120	\$75
G01H	HERRING ROE, PURSE SEINE, COOK INLET	Y	6	0	\$120	\$75
K91K	KING CRAB, POT GEAR VL OVER 60', KODIAK	N	4	1	\$120	\$75
L21E	HERRING SPAWN ON KELP/POUND, PRINCE WILLIAM SOUND	Y	2	0	\$120	\$75
P07J	SHRIMP, OTTER TRAWL, WESTWARD	N	2	0	\$120	\$75

**State of Alaska
Commercial Fisheries Entry Commission**

**Comparison of Permit Renewal Fees For 2005 Licensing Year Under Current Fee Schedule
and Under CFEC's Proposed Methodology for Implementing SB 93**

February 10, 2005

Fishery	Description	Under Limited Entry?	Resident Permits	Non-Resident Permits	Actual 2005 Base Fee	2005 Base Fee Under Proposed Methodology
TB9AK	TANNER BAIRD CRAB, POT GEAR VL OVER 60', KODIAK	Y	15	4	\$120	\$75
B06B	HALIBUT, LONGLINE VL UNDER 60', STATEWIDE	N	2,211	338	\$120	\$150
C07B	SABLEFISH, OTTER TRAWL, STATEWIDE	N	0	3	\$120	\$150
C5CE	SABLEFISH, FIXED GEAR MAX VL LENGTH 50', PRINCE WILLIAM SOUND	Y	37	3	\$120	\$150
D91J	DUNGENESS CRAB, POT GEAR VL OVER 60', WESTWARD	N	9	2	\$120	\$150
D91M	DUNGENESS CRAB, POT GEAR VL OVER 60', AK PENINSULA	N	1	0	\$120	\$150
D9CA	DUNGENESS CRAB, 150 POTS/OR 50% OF MAX, SOUTHEAST	Y	72	11	\$120	\$150
G01T	HERRING ROE, PURSE SEINE, BRISTOL BAY	N	67	16	\$120	\$150
H01A	HERRING FOOD/BAIT, PURSE SEINE, SOUTHEAST	N	13	1	\$120	\$150
J11A	GEODUCK CLAMS, DIVING GEAR, SOUTHEAST	Y	44	34	\$120	\$150
K09Z	KING CRAB, POT GEAR VL UNDER 60', NORTON SOUND	N	71	5	\$120	\$150
K59A	BROWN KING/TANNER CRAB, POT GEAR, SOUTHEAST	Y	3	1	\$120	\$150
S01A	SALMON, PURSE SEINE, SOUTHEAST	Y	182	222	\$120	\$150
S03M	SALMON, DRIFT GILLNET, AK PENINSULA	Y	71	77	\$120	\$150
S03T	SALMON, DRIFT GILLNET, BRISTOL BAY	Y	900	911	\$120	\$150
T09M	TANNER CRAB, POT GEAR VL UNDER 60', AK PENINSULA	N	11	2	\$120	\$150
T09O	TANNER CRAB, POT GEAR VL UNDER 60', DUTCH HARBOR	N	3	0	\$120	\$150
D9BA	DUNGENESS CRAB, 225 POTS/OR 75% OF MAX, SOUTHEAST	Y	35	8	\$180	\$150
G02Z	HERRING ROE, BEACH SEINE, NORTON SOUND	Y	4	1	\$180	\$150
H1DK	HERRING, FOOD/BAIT, PURSE SEINE, FIXED VL LENGTH 60', KODIAK	Y	5	0	\$180	\$150
K29A	RED/BLUE/BROWN KING CRAB, POT GEAR, SOUTHEAST	Y	5	0	\$180	\$150
K39A	BROWN KING CRAB, POT GEAR, SOUTHEAST	Y	4	1	\$180	\$150
L21A	HERRING SPAWN ON KELP/POUND, NORTHERN SOUTHEAST	Y	96	14	\$180	\$150
P17A	SHRIMP, BEAM TRAWL, SOUTHEAST	Y	29	2	\$180	\$150
S03E	SALMON, DRIFT GILLNET, PRINCE WILLIAM SOUND	Y	403	135	\$180	\$150
S04K	SALMON, SET GILLNET, KODIAK	Y	130	56	\$180	\$150
S04M	SALMON, SET GILLNET, AK PENINSULA	Y	90	17	\$180	\$150
C91C	SABLEFISH, POT GEAR VL OVER 60', SOUTHERN SOUTHEAST	Y	3	1	\$180	\$225
D09M	DUNGENESS CRAB, POT GEAR VL UNDER 60', AK PENINSULA	N	6	1	\$180	\$225
H01M	HERRING FOOD/BAIT, PURSE SEINE, AK PENINSULA	N	17	5	\$180	\$225
D9AA	DUNGENESS CRAB, 300 POTS/OR 100% OF MAX, SOUTHEAST	Y	43	5	\$240	\$225
M09B	MISCELLANEOUS SALTWATER FINFISH, POT GEAR VL UNDER 60', STW	N	163	15	\$240	\$225
S04E	SALMON, SET GILLNET, PRINCE WILLIAM SOUND	Y	25	5	\$240	\$225
B61B	HALIBUT, LONGLINE VL OVER 60', STATEWIDE	N	231	122	\$240	\$300
C06B	SABLEFISH, LONGLINE VL UNDER 60', STATEWIDE	N	396	125	\$240	\$300
K91Q	KING CRAB, POT GEAR VL OVER 60', BERING SEA	N	9	5	\$300	\$300
T19A	TANNER CRAB, POT GEAR, SOUTHEAST	Y	16	2	\$300	\$300
C09B	SABLEFISH, POT GEAR VL UNDER 60', STATEWIDE	N	4	1	\$300	\$375
K09T	KING CRAB, POT GEAR VL UNDER 60', BRISTOL BAY	N	3	1	\$300	\$375
P07E	SHRIMP, OTTER TRAWL, PRINCE WILLIAM SOUND	N	3	0	\$300	\$375
M91B	MISCELLANEOUS SALTWATER FINFISH, POT GEAR VL OVER 60', STW	N	71	77	\$300	\$525
K49A	RED/BLUE KING/TANNER CRAB, PCT GEAR, SOUTHEAST	Y	23	2	\$300	\$600
M07B*	MISC. SALTWATER FINFISH, OTTER TRAWL, VL UNDER 60', STATEWIDE	N	33	14	\$300	\$675
C61C	SABLEFISH, LONGLINE VL OVER 60', SOUTHERN SOUTHEAST	Y	18	6	\$300	\$750
S01L	SALMON, PURSE SEINE, CHIGNIK	Y	83	17	\$300	\$750
C61B	SABLEFISH, LONGLINE VL OVER 60', STATEWIDE	N	68	88	\$300	\$825
C91B	SABLEFISH, POT GEAR VL OVER 60', STATEWIDE	N	5	7	\$300	\$825
T91Q	TANNER CRAB, POT GEAR VL OVER 60', BERING SEA	N	63	145	\$300	\$825
C61A	SABLEFISH, LONGLINE VL OVER 60', NORTHERN SOUTHEAST	Y	82	27	\$300	\$900
K69A	RED/BLUE/BROWN KING/TANNER CRAB, POT GEAR, SOUTHEAST	Y	42	2	\$300	\$900
K91T	KING CRAB, POT GEAR VL OVER 60', BRISTOL BAY	N	76	180	\$300	\$900
G01A	HERRING ROE, PURSE SEINE, SOUTHEAST	Y	34	17	\$300	\$1,200

**State of Alaska
Commercial Fisheries Entry Commission**

**Comparison of Permit Renewal Fees For 2005 Licensing Year Under Current Fee Schedule
and Under CFEC's Proposed Methodology for Implementing SB 93**

February 10, 2005

Fishery	Description	Under Limited Entry?	Resident Permits	Non-Resident Permits	Actual 2005 Base Fee	2005 Base Fee Under Proposed Methodology
M61B*	MISC. SALTWATER FINFISH, LONGLINE VL OVER 89', STW	N	12	54	\$300	\$1,500
K91O	KING CRAB, POT GEAR VL OVER 60', DUTCH HARBOR	N	9	42	\$300	\$2,025
M07B*	MISC. SALTWATER FINFISH, OTTER TRAWL, VL OVER 59', STATEWIDE	N	45	220	\$300	\$3,975
			16,883	4,880		

Under the proposed methodology, CFEC would assess renewal fees based on gross earnings for the M61B and M07B fisheries by splitting each fishery into two separate fisheries based on vessel length:

- M61B Misc. Saltwater Finfish, Longline VL 60' to 89' STW
- M61B Misc. Saltwater Finfish, Longline VL OVER 89' STW

- * M07B Misc. Saltwater Finfish, Otter Trawl VL to 59' STW
- * M07B Misc. Saltwater Finfish, Otter Trawl VL OVER 59' STW

SCOMM

138:8

SB 124 / HB 192

Overview

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

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

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

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

24-GH1013F

Utermohle

3/17/05

CS FOR HOUSE BILL NO. 192(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:

Referred:

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

A BILL**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

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

14 (A) taxes levied under this title; and

15 (B) any assessments under AS 16.51;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) the commissioner has determined under (i) of this section that a
30 claim against the bond filed by the Department of Labor and Workforce Development
31 under (h) of this section met the requirements in (h) of this section; if the amount of

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

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

11 (1) a final judgment in excess of \$2,000 was awarded against the bond
12 required under this section; if the final judgment against the bond was in excess of
13 \$2,000 but less than \$10,000, the amount of the bond is increased to a total of
14 \$10,000; if the final judgment against the bond was \$10,000 or more, the amount of
15 the bond is increased to a total of \$20,000;

16 (2) the commissioner has determined that a fish processor has engaged
17 in the business of a fish processor in the state while not in compliance with this section
18 and has not yet satisfied a final judgment entered against the processor for payment for
19 labor furnished to, or raw fishery resources purchased by, the processor; if the fish
20 processor has engaged in the business of a fish processor while not in compliance with
21 this section and has not yet satisfied a final judgment for payment of labor furnished
22 to, or raw fishery resources purchased by the processor, the amount of the bond is
23 increased to a total of \$20,000; or

24 (3) the commissioner has determined under (i) of this section that a
25 claim against the bond filed by the Department of Labor and Workforce Development
26 under (h) of this section met the requirements in (h) of this section; if the amount of
27 the claim was in excess of \$2,000 but was less than \$10,000, the amount of the bond is
28 increased to a total of \$10,000; if the amount of the claim was \$10,000 or more, the
29 amount of the bond is increased to a total of \$20,000; an increase in bond amount
30 under this paragraph may not be imposed until 45 days after the commissioner
31 determines under (i) of this section that the claim of the Department of Labor and

1 Workforce Development met the requirements in (h) of this section.

2 (d) If a fish processor who has filed a performance bond under (c) of this
3 section processes more than 30,000 pounds of fish in a year, the processor shall,
4 within seven days after the day on which the 30,000 pound threshold is exceeded,
5 notify the commissioner and comply with (b) of this section. If a processor who has
6 filed a performance bond under (c) of this section processes more than 30,000 pounds
7 of fish in a year, and does not comply with (b) of this section within seven days after
8 the date on which the 30,000 pound threshold is exceeded, the processor shall suspend
9 processing fish until a bond has been filed under (b) of this section.

10 (e) A fish processor or primary fish buyer may use only a surety bond, cash
11 deposit, or other negotiable security as a performance bond under this section. The
12 surety must be satisfactory in the determination of the commissioner. The use of other
13 negotiable security as a performance bond must be in a form acceptable to the
14 commissioner. The commissioner shall waive the filing of a performance bond under
15 this section if the fish processor or primary fish buyer

16 (1) has more than \$10,000 in lienable real property located in the state
17 and provides proof of the property in a form satisfactory to the commissioner;

18 (2) is not required under (b) or (c) of this section to post a bond in
19 excess of \$10,000; and

20 (3) within the five years preceding the application under AS 43.75.020,
21 an employee or fisherman has not obtained a final judgment against the fish
22 processor's or fish buyer's bond under this section.

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

26 (g) A claim against a fish processor or primary fish buyer for failing to pay an
27 employee for wages or contractual benefits owed, for failing to pay an independent
28 registered fisherman for the price of raw fishery resource purchased from the
29 fisherman, or for failing to pay an independent contractor for the transportation of raw
30 fish may be brought upon the bond filed under this section in the superior court of the
31 judicial district in which the work was done or in any judicial district in the state in

1 which jurisdiction may be obtained. If an action is brought upon the bond, a copy of
2 the complaint shall be served by registered or certified mail upon the commissioner at
3 the time the suit is filed. The commissioner shall transmit a copy of the complaint and
4 any judgment to the surety or holder of the negotiable security. If a judgment is
5 entered against cash deposited with the commissioner, the commissioner, upon receipt
6 of a certified copy of a final judgment, shall pay the judgment from the amount of the
7 deposit. The commissioner shall maintain a record, available for public inspection, of
8 all suits commenced under this subsection.

9 (h) A claim against a fish processor or primary fish buyer for failing to pay
10 contributions imposed under AS 23.20 may be brought by the Department of Labor
11 and Workforce Development against the bond filed under this section by filing a claim
12 against the bond with the commissioner, along with proof, satisfactory to the
13 commissioner, that the fish processor or primary fish buyer

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

15 (2) did not pay the amount specified in the notice of assessment within
16 30 days after receiving the notice of assessment or, if the assessment was contested
17 under AS 23.20.220, within 30 days after receiving the department's final decision
18 under AS 23.20.220(c); and

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

23 (i) If the commissioner determines that the Department of Labor and
24 Workforce Development has met the claim requirements in (h) of this section, the
25 commissioner shall forward the claim and supporting documents to the surety or
26 holder of the negotiable security. If the fish processor or primary fish buyer has
27 deposited cash with the commissioner, the commissioner shall pay the claim of the
28 Department of Labor and Workforce Development from the amount of the deposit. If
29 the commissioner determines that the Department of Labor and Workforce
30 Development has not met the claim requirements in (h) of this section, the
31 commissioner shall provide the Department of Labor and Workforce Development

1 with written notice of the deficiency of its claim.

2 (j) If a performance bond is insufficient to satisfy all claims filed against it
3 under this section, claims brought against the bond under (g) of this section have
4 priority over a claim filed against the bond under (h) of this section. The Department
5 of Labor and Workforce Development shall return to the commissioner money
6 received from a claim filed against a fish processor's or primary fish buyer's
7 performance bond under (h) of this section if an employee or fisherman obtains a final
8 judgment under (g) of this section against that processor's or fish buyer's bond and the

9 (1) processor or fish buyer has not replenished the bond after it was
10 used to cover the claim filed under (h) of this section; or

11 (2) final judgment obtained by the employee or fisherman is more than
12 the amount of the bond available under (b) or (c) of this section.

13 (k) The term of a performance bond expires two years after the fish processor
14 or fish buyer is no longer licensed in this state, except that if, during that two-year
15 period, a claim has been asserted against the bond, the term of the bond is five years.
16 If the surety on the bond wishes to cancel the bond, the surety may do so by giving the
17 commissioner written notice of intention to cancel. The cancellation is effective 30
18 days after the notice is delivered to the commissioner.

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

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

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

AMENDMENT

Offered in the House Special Committee on Fisheries

To: CSHB 192 (FSH)

By: Rep. Bill Thomas, Co-Chair

- p. 6, line 21: delete "employee or fisherman"
add "employee, fisherman or contracted raw fish transporter"
- p.8, line 7: delete "employee or fisherman"
add "employee, fisherman or contracted raw fish transporter"
- p.8, line 11: delete "employee or fisherman"
add "employee, fisherman or contracted raw fish transporter"

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
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March 1, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill recommending changes to the requirements to obtain and maintain a fisheries business license and to the bonding requirements for fish processors and primary fish buyers.

This bill proposes to require, as a condition of obtaining and maintaining a fisheries business license under AS 43.75.020, an acknowledgment of the obligation to pay the taxes levied under AS 43, Alaska Seafood Marketing Institute (ASMI) assessments under AS 16.51, employment security contributions under AS 23.20, and Alaska Occupational, Safety, and Health Administration (OSHA) fines under AS 18.60. The bill proposes denying an applicant a fisheries business license until the applicant has paid in full all of those same taxes, assessments, contributions, and fines that are outstanding.

The bill also would repeal and reenact AS 44.25.040, which requires the filing of a performance bond by fish processors and primary fish buyers. Under the bill, the performance bond would be more accessible for collection of claims by the Department of Labor and Workforce Development (DLWD) for unpaid employment security contributions. The bill would achieve this by providing a process for the DLWD to file directly with the commissioner of revenue a claim against the bond instead of obtaining a court judgment against the bond. However, this bill would preserve the existing statutory priority for use of the bond to pay fishermen and employees first. To achieve this, the DLWD would be obligated to return money collected from the bond if the processor or buyer does not replenish the bond and a fisherman or employee has obtained a final judgment against the bond.

The Honorable John Harris
March 1, 2005
Page 2

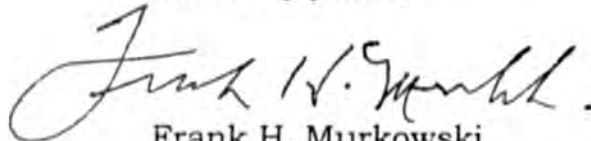
Additionally, the bill would provide that if a bond is depleted by the DLWD's claim, the fish processor or fish buyer would be subjected to an increased bonding requirement (the bill would preserve the existing increased bonding requirement in the case of a final court judgment against the bond).

Last, the bill proposes to prevent the use of real property as a bond substitute if the fish processor or fish buyer has been subjected to an increased bonding requirement or if a final judgment has been obtained against the bond in the preceding five years.

My purpose in introducing changes to the licensing requirements is to prevent the licensure of a fisheries business that has demonstrated that it is, and remains, unwilling to pay its taxes, ASMI assessments, employment security contributions, or OSHA fines. My purpose in introducing changes to the bonding requirements is to expedite the collection of unpaid unemployment insurance contributions by the DLWD and to make the bonding amount more representative of the risk of nonpayment posed to fishermen and employees who work for these bonded fish processors and buyers.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Frank H. Murkowski", written in a cursive style.

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 192
(H) Publish Date: 3/2/05

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Greg Winegar, Director
Division: Investments
Approved by: Edgar Blatchford, Commissioner
Agency: Department of Commerce, Community & Economic Development

Phone 907.465.2510
Date/Time 2/4/05 6:25 PM
Date 2/4/2005

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

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

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 192
(H) Publish Date: 3/2/05

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

Revision Date/Time (Note if correction):

Title: "An Act relating to requirements to obtain
 and maintain a fisheries business license..."

Department: Labor and Workforce Development

RDU: Labor Standards and Safety

Component: Wage and Hour

Sponsor: Rules

Requester: Governor

Component Number: 345

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: None

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Grey Mitchell, Director
 Division: Labor Standards and Safety
 Approved by: Greg O'Claray, Commissioner
 Agency: Department of Labor and Workforce Development

Phone: 465-4855
 Date/Time: 2/24/05 10:47 AM
 Date: 2/24/2005

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: HB 192
 (H) Publish Date: 3/2/05

Revision Date/Time (Note if correction):

Title Bonds & Accountability: Processors/UI
/UI/OSHA

Dept. Affected: Revenue
 RDU Revenue Programs & Services
 Component Tax Division

Sponsor Governor

Requester House Rules Committee

Component No. 2476

Expenditures/Revenues

(Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Chuck Harlamert

Division: Tax Division

Approved by: Tomas Boutin

Agency: Department of Revenue

Phone 465-2320

Date/Time 2/3/05 1:19 PM

Date 2/3/2005

SCOMM

138:9

ALASKA STATE LEGISLATURE

INTERIM

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REPRESENTATIVE JIM ELKINS

Sponsor Statement for HB 198 Dive Fishery Management Assessment

“An Act relating to aquatic farming; and providing for an effective date.”

House Bill 198 amends the state's Aquatic Farming Act (AS 16.40.100 – 199) to allow aquatic farms to continue to operate in compliance with a recent Supreme Court decision.

In mid-April, the State Supreme Court ruled that the Act requires the Department of Fish and Game to deny shellfish farmers exclusive rights to significant populations of wild geoducks on their proposed farm sites. Since then, the Southeast Alaska Regional Dive Fisheries Association (SARDFA), the Alaskan Shellfish Growers Association (ASGA) and the Department have negotiated an agreement that would allow these farmers to harvest “insignificant” populations of standing stocks of geoducks. In order to be implemented, this agreement would require a change in statute. Section 1 of HB 198 amends the Aquatic Farming Act to allow shellfish farmers to own, harvest and sell “insignificant populations” of wild shellfish stocks on their aquatic farm sites.

On February 11, 2005, the Department of Fish and Game announced that it will conduct a commercial dive fishery on designated mariculture sites, to remove the commercially significant population of wild geoducks from these small areas. This fishery will be open to all commercial divers in Southeast Alaska. Section 2 of HB 198 makes it clear that the aquatic farmers will not have to replace the shellfish that are harvested in this common property fishery.

Section 3 gives the Department the authority, when it determines it would be beneficial to do so, to let shellfish farmers remove all but an “insignificant population” of wild stock from their sites themselves and give the proceeds from their sale to ADF&G. Section 4 codifies the requirement that proposed farm sites can only get permits if there is an “insignificant population” of the shellfish species to be cultured there, and Section 7 says that this section applies only to permits issued after July 1, 2005.

This legislation, the product of industry members and the administration working to find a compromise, will help ensure the future of this new fishery in Southern Southeast Alaska for years to come and I urge the members support.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE JIM ELKINS

Sectional Analysis

Section 1 - Amends AS 16.40.100(b) to provide that an aquatic farm permit authorizes the permit holder to acquire ownership of, harvest, and sell wild shellfish from an aquatic farm site if the wild shellfish is present in an "insignificant population" and the wild shellfish is of the same species of shellfish that is intended to be cultured at the site.

Section 2 - Amends AS 16.40.100(e) to provide a limited exception from the requirement that an aquatic farm permit holder restore wild shellfish populations to the levels that existed on the site at the time that the permit was initially issued, so that the permit holder is not required to restore that portion of a wild shellfish population that was removed from the site by a common property fishery.

Section 3 - Amends AS 16.40.100 by adding a new subsection (f) to authorize the commissioner of fish and game to allow an aquatic farm permit holder, under certain circumstances, to remove and sell excess wild shellfish from an aquatic farm site if the population of the wild shellfish species is more than an insignificant population. The permit holder will pay a reasonable amount to the Department of Fish and Game for the harvest and sale of the excess wild shellfish. The money received will be deposited in the General Fund and may be appropriated to the department for shellfish management and enhancement.

Section 4 - Amends AS 16.40.105 by adding a new paragraph to provide that, in addition to the existing criteria for issuance of an aquatic farm permit, the commissioner of fish and game may not issue a permit for a proposed farm site if the site contains more than an insignificant population of wild stock of a shellfish species intended to be cultured on the site.

Section 5 - Adds a new Section AS 16.40.155 to provide, in certain circumstances, confidentiality for aquatic farm and hatchery permit holders.

Section 6 - Adds the definition of "insignificant population" in regards to shellfish populations.

Section 7 - Provides that AS. 16.40.105, as amended by section 4 of the bill, does not apply to aquatic farm permits before the effective dates of the bill.

Section 8 - Provides for an effective date of July 1, 2005.

**A Joint Letter of Agreement between
the Alaskan Shellfish Growers Association and
the Southeast Alaska Regional Dive Fisheries Association**

Dear Alaska Policymakers:

The Alaskan Shellfish Growers Association (ASGA) and Southeast Alaska Regional Dive Fisheries Association (SARDFA) agree to the following package of statutory and regulatory changes to resolve long-standing controversies over how the state should deal with "standing stocks" of geoduck clams on aquatic farm sites.

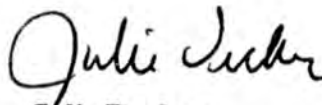
Both organizations are committed to supporting the implementation of the provisions of the agreement, including the passage of legislation and adoption of regulations.

We urge quick action in approving the legislation and adopting the regulations necessary to carry out the agreement.

Sincerely,



Rodger Painter
ASGA vice president



Julie Decker
SARDFA executive director

Description of ASGA-SARDFA Compromise

The Alaskan Shellfish Growers Association (ASGA) and Southeast Alaska Regional Dive Fisheries Association (SARDFA) have reached agreement on a package of statutory, regulatory and administrative actions to resolve the long-standing controversy of how to handle natural stocks of geoduck clams on new aquatic farm sites.

The agreement was reached in the wake of an Alaska Supreme Court decision that already has resulted in the closure of geoduck farming operations near Ketchikan and cast a legal cloud over most other existing littleneck and geoduck farming operations. Complicating the issue is that seed purchases by the closed geoduck operations are considered vital to the viability of the shellfish hatchery in Seward.

While this agreement was negotiated directly by divers and farmers, it also has been endorsed by the parties involved in the original lawsuit and the Murkowski Administration. Here are elements of the agreement.

How the "Standing Stock" Issue is Resolved

The Supreme Court said current statutes do not provide the Alaska Department of Fish and Game clear authority to allocate **any** standing stocks of geoduck clams to aquatic farmers. While the decision was directed at geoducks, it has clear implications for other species, such as littleneck clams.

Statutes would be amended to allow aquatic farmers to select sites with "insignificant" amounts of wild stocks, essentially codifying an earlier superior court decision. This would be defined in statute as an amount less than what it would take to support a commercial fishery. ADF&G would further define what "insignificant" means in regulation.

How Existing Farms will be Affected

Existing geoduck farms would be allowed to continue operations, but would have to meet the provisions of the new statute and accompanying regulations.

How the State Will Determine How Many Clams are on a Farm Site

Population surveys will be conducted by the state or by the applicant with state oversight. The surveys will require a high confidence level to increase accuracy. The farmer will be required to pay for the surveys.

How Harvests of Standing Stocks will be Managed

The agreement would define "insignificant" as less than 12,000 pounds of geoduck clams per farm site. Harvests by farmers would be "capped" at 12,000 pounds. If the amount of standing stocks exceeds the 12,000-pound cap, the farmer would be able to continue harvesting to clear the sites for future crops, but the "net proceeds" of such sales would go into the state general fund.

SARDFA-ASGA Compromise

- 1. Insignificant populations of geoducks would be defined as 12,000 pounds or less.**

Legislation must provide ADF&G with the authority to allow farmers ability to harvest insignificant populations of wild stocks on farm sites. The language should be added to 16.40.100 Aquatic Farm and Hatchery Permits.

- 2. Harvest of standing stocks of geoducks would be limited to no more than 12,000 per farm site.**

This cap could be imposed by regulation as long as the language added to AS 16.40.100 gives ADF&G the ability to limit harvests by farmers.

- 3. In the event a site contains more than 12,000 pounds, the farmers would be allowed to harvest everything, but the net proceeds from anything over the cap would go to the state's general fund. In other words, the farmer would be allowed to harvest and sell the "overages," but would be required to give any sales proceeds over direct harvesting, transporting and processing expenses to the general fund.**

If net sales proceeds of overages are to flow into the state treasury, it will require some authorizing language in statute. While the funds could not be dedicated to support activities such as geoduck development programs, ASGA will work with SARDFA annually to ensure the legislature allocates the funds accordingly.

- 4. Surveys used to determine whether a proposed geoduck farm site contains 12,000 pounds of standing stocks would use a mid-point rather than lower bound estimate. This standard also should be applied to the commercial fishery.**

This is designed to increase the accuracy of the surveys and prevent the approval of sites with more than the 12,000-pound cap. This can be accomplished in regulation with no statutory changes necessary. However, it is uncertain whether ADF&G managers will agree to shift survey confidence levels for dive fishery management of geoducks. ADF&G deputy commissioner David Bedford did agree the department would work with SARDFA to study ways to improve survey accuracy.

- 5. Existing geoduck aquatic farm permit holders should be "grandfathered in, but should be held to the cap.**

The goal is to ensure existing permits would be valid, but permittees would be held to the 12,000-pound cap. Harvests that occurred prior to the legislation would not be counted toward the 12,000-pound limit.



Mission Statement: To develop, expand, and enhance new and existing dive fisheries in Southeast Alaska.

Julie Decker, Executive Director
Box 2138, Wrangell, AK 99929
Ph: 907-874-3110; Fax: 907-874-4270
info@sardfa.org
www.sardfa.org

Co-Chairs of the House Fisheries Committee
Representative Gabrielle LeDoux
Representative Bill Thomas

March 16, 2005

RE: Support for HB 198 / SB 126 – Aquatic Farming

Dear Representatives LeDoux and Thomas,

I am writing on behalf of the Southeast Alaska Regional Dive Fisheries Association (SARDFA) to support HB 198 / SB 126, companion bills related to aquatic farming. SARDFA is a non-profit, economic development corporation whose mission is to develop, expand and enhance new and existing dive fisheries in Southeast Alaska. SARDFA's Board of Directors represents the commercial harvest divers, processors, and communities of Southeast. Currently, three dive fisheries exist in Southeast: sea urchins (80 permit holders), sea cucumbers (330 permit holders), and geoducks (80 permit holders).

Over the past six years, there has been a deep controversy over which group has the right to harvest the wild stocks of geoducks on farm sites: farmers or fishermen. Judge Thompson ruled that insignificant wild geoducks could be taken by farmers, and significant stocks, or those that would "attract and support a dive fishery", could be taken by the common property dive fishery.

Last April, the Alaska Supreme Court upheld the Thompson ruling, but further stated "the department lacked statutory authority to give aquatic farmers exclusive rights to the existing wild stocks". Since then, ***SARDFA has worked with the State and the farmers to compromise on an acceptable implementation of the Courts' rulings. HB 198 / SB 126 are the result of that work.***

HB 198 / SB 126 are necessary for three reasons. First, this legislation will give the department the statutory authority to allow aquatic farmers to harvest insignificant wild stocks on sites. Second, this legislation will end confusion for farmers, the department, and the courts regarding approval or denial of future farm applications. Third, this legislation will deal with the mess leftover by inconsistent decisions regarding the siting

of the current 20-30 geoduck farm permits by allowing farmers who have already planted on sites, which may contain more than an insignificant amount of wild stocks, to harvest those stocks and pay "reasonable compensation" to the state as a levy.

SARDFA understands the farmers also support this legislation, but would like to see the bill amended to specify the amount of "reasonable compensation" (Section 3, line 19). SARDFA does not believe it is necessary to set this "reasonable compensation", or levy, in statute. As the Department of Law has explained it, the State is approaching the development of this particular resource in a completely new way with this levy and SARDFA believes it would be more practical to allow flexibility to the Department of Fish and Game (ADF&G) to set the levy in regulations.

However, if the Legislature believes it is necessary to fix the levy in statute, ***SARDFA strongly encourages the Legislature to set the levy as high as possible.*** SARDFA believes the higher the levy is, the smaller the net profit to the farmer will be, and consequently the less incentive there will be to the farmer to poach wild geoducks from off of farm sites. Poaching of geoducks by licensed farms in remote areas of Alaska is a serious concern for SARDFA. Geoduck poaching has been a big problem for the State of WA, as a quick search on the Google web site will show you. Proper enforcement of farm site boundaries relative to the harvest of wild stock is highly unlikely for farmers operating 365 days per year. In other words, what's to stop a farmer from sliding down the beach a half mile from his farm site to harvest wild geoducks, making a substantial profit?

The Alaska Shellfish Growers' Association (ASGA) agreed to a compromise with SARDFA last spring. Part of that compromise states: "In the event a site contains more than 12,000 pounds (of geoducks), the farmers would be allowed to harvest everything, but the net proceeds from anything over the cap (12,000) would go to the state's general fund. In other words, the farmer would be allowed to harvest and sell the 'overages', but would be required to give any sales proceeds over direct harvesting, transporting and processing expenses to the general fund" (see attached compromise). Although this agreement does not state the exact rate of levy, the essence of the agreement is that there should be ***no net profit*** by farmers on wild stocks that are considered significant, or common property resource.

Farmers have suggested setting the levy at 30% of the average ex-vessel value (or price paid to fishermen) during the most recent commercial fishery. However, farmers are not fishermen. Farmers are a combination of fishermen and processors, and will receive a price similar to the first wholesale value that processors in the geoduck fishery receive. Therefore, if the levy is based on the ex-vessel value, the rate should be higher to reflect the difference between the values.

In comparison, the last geoduck auction held by the State of Washington (WA) on January 6, 2005, saw high bidders pay the State of WA an average of \$6.61 per pound for the right to harvest wild geoducks. If an average first wholesale value for live geoducks was approximately \$8 per pound, the "compensation" paid to the State of WA for wild geoducks would be 82.6% of the first wholesale value. SARDFA recommends setting the levy at 80% of the average ex-vessel value of the most recent commercial

fishery, which is one step below the wholesale value and would properly allow for fluctuations in the market.

The most important concept to remember when discussing the rate of levy is that a higher rate will give less incentive to farmers to poach geoducks.

Thank you for your time and consideration. SARDFA supports passage of this bill in its current form.

Sincerely,

Julie Decker, Executive Director

Members of: Southeast Conference United Fishermen of Alaska Pacific Coast Shellfish Growers' Assoc. Interstate Shellfish Sanitation Conference
--

Cc: Senator Bert Stedman
Representative Jim Elkins
Alan Austerman, Governor's Fisheries Policy Advisor
Tim Barry, Aid to Senator Stedman
Jim Van Horn, Chief of Staff, Rep. Elkins
David Bedford, Deputy Commissioner, ADF&G
Sarah Gilbertson, Legislative Liaison, ADF&G
Rodger Painter, Vice-President, ASGA
Mark Vinsel, Executive Director, UFA
Bobby Thorstenson, President, UFA
Board of Directors, SARDFA



March 15, 2005

**Representative Jim Elkins
Room 416
State Capitol
Juneau, AK 99801**

Dear Representative Elkins:

This letter is to provide a strong endorsement of House Bill 198 and your efforts to seek resolution of the long-standing controversy over the citing of geoduck clam farms in Alaska.

The Alaskan Shellfish Growers Association (ASGA) has been trying to resolve this bitter controversy for the past eight years as it spilled over into the court system, halls of the Capitol and front pages of local newspapers. The industry, state regulators, policymakers, commercial fishermen and the court system have invested innumerable hours wrestling with the difficult issues involved, and we're delighted at the opportunity to put the issue to bed.

Since a decision by the Alaska Supreme Court last spring, ASGA has been working closely with commercial fishermen and the Murkowski Administration to fashion a compromise acceptable to all parties. The result of this cooperative work is HB 198, which has support from farmers, commercial fishermen, Departments of Fish and Game and Law, and Governor Frank Murkowski. While there are many issues upon which we'll continue to disagree, we all support the concepts contained in HB198.

The Department of Law has determined that the legislation does adequately address the issues raised by the Alaska Supreme Court in its 2004 decision. Some of the details wisely are left to be fleshed out in regulation, but ASGA thinks there is one more issue that is best decided by the legislature: the amount of compensation a farmer should pay for harvest of "standing stocks" of wild geoduck clams on the farmsite.

The new section HB 198 adds to AS 16.40.100 is designed to allow farmers to remove "standing stocks" from the farmsite, and provides that the farmer must pay "reasonable compensation" for any "excess wild stock." While we think it is appropriate that harvest of these "excess wild stocks" would result in a tax on the farmer, ASGA believes the amount of "fair compensation" is a legislative prerogative and not a decision to be made by fisheries managers.

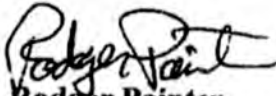
We are preparing a proposed amendment to set an extraction tax rate on harvests of "excess wild stocks" of geoduck clams at 30 percent of the price paid fishermen during the most recent commercial fishery. This tax would be added to the Fisheries Business Tax rate of three percent paid by other harvesters. This combined tax rate would exceed the amount the state collects on Prudhoe Bay oil, including severance taxes, royalties and corporate income tax, and is several times higher than the amount paid by other

Rodger Painter • P.O. Box 20704 Juneau, AK 99802-0704 • Phone: (907) 463-3600
Fax: (907) 586-1097 • Cell: (907) 957-0704 • email: rodgerpainter@hotmail.com

harvesters.

Important to keep in mind is that the tax would affect only those situations where fisheries managers misjudged the amount of standing stocks on new farmsites and that new survey techniques supported by fishermen and farmers would help improve significantly the accuracy of these estimates.

Thank you for this opportunity to resolve this long-standing controversy. The major parties in this dispute are fully committed to setting aside past differences and working together on economic development strategies for Southeast Alaska.


Rodger Painter
Vice President

c.c. Julie Decker, SARDEFA
Alan Austerman
David Bedford
ASGA Board of Directors

STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

March 3, 2005

The Honorable Bert Stedman
Alaska State Legislature
Room 30; State Capitol
Juneau, AK 99801

Dear Senator Stedman:

Thank you for introducing S.B. 126 on behalf of the Southeast Alaska Regional Dive Fisheries Association and the Alaska Shellfish Growers Association. As you know, passage of this legislation carries significant implications for the success of Alaska's mariculture industry.

Under the previous administration, Alaska's mariculture industry was largely ignored. The industry, which was constantly at odds with the Alaska Department of Fish and Game (ADF&G) over regulatory matters, was unable to get the support that it needed from the Governor's office to move forward. As the introduction of S.B. 126 demonstrates, this is no longer the case. The Murkowski Administration strongly supports Alaska's mariculture industry, in part, because it provides promising economic development opportunities for Alaska's fishermen and coastal communities. Over the last two years, ADF&G has been working cooperatively with the industry on a regulatory scheme that will foster the growth of the industry.

However, ADF&G's regulatory work and the industry's ability to develop have recently been slowed by a series of court rulings. The first of these, in the Superior Court, found that the state is required to provide access to insignificant amounts of naturally occurring shellfish to aquatic farmers. The most recent ruling by the Alaska Supreme Court found that existing statutes prevent ADF&G from allocating any naturally occurring stocks to aquatic farmers who are developing new sites, except for use as brood stock.

As you have recognized through the introduction of S.B. 126, in order for this industry to be successful, aquatic farmers should have the opportunity to plant crops where some level of natural stocks already occur. Therefore, ADF&G strongly supports the expeditious passage of S.B. 126 in order to clarify that ADF&G may indeed allocate "insignificant" numbers of wild stocks of shellfish to aquatic farmers. Thank you once again for your support on this matter.

Sincerely,


Wayne Regelin
Acting Commissioner

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: H.B. 198
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title An act relating to aquatic RDU Commercial Fisheries
and providing for an effective date Component Fisheries Development
Sponsor Representative Elkins
Requester House Fisheries Committee Component No. 1942

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sarah Gilbertson Phone 465-6137
Division Legislative Liaison Date/Time 3/17/05 1:26 PM
Approved by: Acting Commissioner Wayne Regelin Date 3/17/2005
Agency Alaska Department of Fish & Game

SCOMM

138:10



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

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Sponsor Statement HB 218

"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities"

Salmon hatcheries in Alaska are successful examples of state assisted economic development programs. Over the years, hatcheries have provided great benefit to our commercial fishing industry and to other users of fish by enhancing the strength of salmon returns and by creating jobs in our communities. The commercial salmon industry has paid into this program through the Salmon Enhancement Tax since 1980.

HB 218 relates to the methods by which hatcheries generate revenue to cover their operating and capital expenses. These methods are referred to as "cost recovery." Under current practices, hatcheries generally contract with processors to purchase part of the returning run of fish that are caught in areas known as Special Harvest Areas immediately in front of hatcheries or at remote release sites where enhanced runs of fish have been developed. Typically only a handful of commercial vessels actually participate in the harvest of these cost recovery fish.

HB 218 provides language that would allow hatchery operators to choose to recover their costs through other methods that would allow these fish to be caught by any salmon permit holder. This would allow the fleet to access more fish. Because each hatchery has a unique financial situation, an open access type of cost recovery may not be applicable to all hatcheries. For this reason, HB 218 merely provides permissive language. It in no way will force a hatchery to change its current practices. However, the intent language in Section 1 of the bill states that the economic interests of the commercial salmon fishery are best served by the harvest of salmon in common property fisheries and the reduction or elimination of the direct sale of salmon by hatchery permit holders. This refers to the fact that hatcheries were created to enhance the productivity of salmon runs; productivity that should primarily benefit the users of the resource.

24-LS0544\Y
Utermohle
4/12/05

CS FOR HOUSE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THOMAS

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."**

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

3 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
4 to read:

5 **FINDINGS.** The Alaska State Legislature finds that Alaska private nonprofit salmon
6 hatcheries should maximize the harvests of returning hatchery-produced salmon by
7 commercial salmon fishing permit holders. The legislature also finds that private nonprofit
8 hatcheries should minimize, to the greatest extent feasible, the direct sale of salmon harvested
9 in special harvest areas.

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

11 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
12 harvest salmon for a facility in a special harvest area through agents, contractees, or
13 employees of the permit holder as provided under regulations of the Board of Fisheries
14 or through the common property fishery under this section.

15 (b) A hatchery permit holder may elect to harvest surplus salmon produced at

1 a facility in a special harvest area established for that facility through the common
2 property fishery. The commissioner of fish and game, after reasonable consultation
3 with the hatchery permit holder, affected commercial fishermen, and other interested
4 or knowledgeable parties, shall adopt regulations governing the harvest of surplus
5 salmon in a special harvest area if the hatchery permit holder elects to harvest surplus
6 salmon produced at a facility through the common property fishery. The regulations
7 must specify the terms, conditions, and rules under which the common property
8 fishery in the special harvest area shall be conducted, including requirements for hold
9 inspections and reporting of harvests and sales of salmon taken in the special harvest
10 area. The board may adopt regulations, as the board considers appropriate, regarding
11 a fisheries management plan governing operations under this subsection in a special
12 harvest area, including allocation plans. Participation in the fishery must be open to
13 all interim-use permit and entry permit holders who hold permits to operate a type of
14 gear that may be used in the administrative area in which the special harvest area is
15 located if that type of gear is authorized by regulation to be used in the special harvest
16 area. An interim-use permit holder or an entry permit holder who takes salmon in a
17 common property fishery in a special harvest area may sell the salmon to any fish
18 buyer or processor who is licensed to do business in the state.

19 (c) As a condition of participation in a common property salmon fishery in a
20 special harvest area under this section, a fisherman who participates in the fishery is
21 subject to the payment of the assessment levied under (d) of this section. The
22 assessment is levied on the value of salmon that the fisherman takes in the special
23 harvest area and either sells to a buyer or exports from the state without being sold in
24 the state. If the buyer of the salmon is licensed under AS 43.75, the buyer shall collect
25 the assessment on salmon taken in a special harvest area at the time of purchase and
26 remit the assessment to the Department of Revenue in accordance with regulations
27 adopted by the Department of Revenue. If a fisherman does not sell salmon harvested
28 in a special harvest area to a buyer licensed under AS 43.75 or if a fisherman does not
29 sell salmon harvested in a special harvest area to a buyer before the salmon are
30 exported from the state, the fisherman shall remit the amount of the assessment to the
31 Department of Revenue in accordance with regulations adopted by the Department of

1 Revenue.

2 (d) The Department of Revenue shall annually set the rate of the assessment
3 levied on salmon taken in a special harvest area in consultation with the Department of
4 Fish and Game, the Department of Commerce, Community, and Economic
5 Development, the hatchery permit holder, and representatives of affected commercial
6 fishermen. The rate of the assessment shall take into account the operating, capital,
7 and maintenance costs of the hatchery permit holder for the facility for which the
8 special harvest area is established, reasonable overhead expenses, including debt
9 service on loans for the facility, the estimated return and harvest of salmon in the
10 special harvest area, the projected price to be paid for salmon in the region, and the
11 amount by which the assessment collected in previous years under estimated or over
12 estimated the costs to the hatchery permit holder for the operation of the facility. The
13 total rate of the assessment may not exceed 40 percent of the value of the salmon.

14 (e) The Department of Revenue shall deposit the assessments collected under
15 this section in the general fund. The legislature may appropriate the funds collected
16 under this section to the hatchery permit holder who operates a facility in the special
17 harvest area in which the assessment was levied. A hatchery permit holder shall use
18 funds appropriated under this subsection for the purposes set out under
19 AS 16.10.450(a).

20 (f) A person who violates a regulation adopted by the Department of Fish and
21 Game or the Board of Fisheries under (b) of this section is guilty of a misdemeanor
22 under AS 16.05.723. A person who violates a regulation adopted by the Department
23 of Revenue under (c) of this section is guilty of a class A misdemeanor.

24 (g) In this section,

25 (1) "facility" means a hatchery or salmon rehabilitation project for
26 which a permit is issued under AS 16.10.400 - 16.10.470;

27 (2) "special harvest area" means a special harvest area established
28 under regulations of the Board of Fisheries in which a hatchery permit holder may
29 harvest salmon for the hatchery at times set by the board or the department;

30 (3) "value" has the meaning given in AS 43.75.290.

31 * Sec. 3. AS 43.76.035 is amended to read:

1 Sec. 43.76.035. Exemption. AS 43.76.001 - 43.76.040 do not apply to
2 salmon harvested under a special harvest area entry permit issued under AS 16.43.400
3 or in a common property fishery conducted in a special harvest area under
4 AS 16.10.455.

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 4, 2005

SUBJECT: Draft bill relating to cost recovery fisheries for private nonprofit hatchery facilities (Work Order No. 24-LS0544\G)

TO: Representative Bill Thomas
Attn: Ian Fisk

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of a draft bill relating to cost recovery fisheries for private nonprofit hatchery facilities.

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

Section 1 of the bill sets out the findings of the legislature in regard to the harvest of salmon returning to private nonprofit hatcheries.

Section 2 of the bill amends AS 16.10 by adding a new section (Sec. 16.10.455) relating to cost recovery fisheries.

Subsection (a) provides that a hatchery permit holder may harvest salmon in a special harvest area through agents, contractees, or employees of the permit holder or through the common property fishery.

Subsection (b) provides that a hatchery permit holder may elect to harvest salmon in a special harvest area through the common property fishery and sets out how the procedures governing the conduct of the common property fishery in the special harvest area would be set.

Subsection (c) provides for the imposition and collection of an assessment on the value of salmon harvested in a special harvest area.

Subsection (d) provides for the setting of the rate of the assessment imposed under subsection (c) and the imposition of a surcharge to cover the costs incurred by the Department of Revenue in setting, collecting, and distributing the assessment. The maximum amount of the assessment, including the surcharge, is 30 percent of the value of salmon taken in the special harvest area.

Subsection (e) provides that the Department of Revenue shall hold the amount of assessment collected on behalf of a hatchery permit holder until the assessment is remitted to the permit holder. The hatchery permit holder shall use the assessments received for purposes set out under AS 16.10.450(a).

Representative Bill Thomas
March 4, 2005
Page 2

Subsection (f) provides that a person who violates a regulation adopted under this section is guilty of a class A misdemeanor.

Subsection (g) sets out the definitions of key terms used in this section.

Section 3 of the bill amends AS 43.76.035 to provide that sale of salmon harvested in a common property fishery in a special harvest area under AS 16.10.455, added by sec. 2 of the bill, is exempt from the salmon enhancement tax.

GU:jad
05-139.jad



Alaska State Legislature

Please enter into the record my testimony to the House Fisheries
(committee name)

committee on HB 218, dated 4/15/05
(bill # / subject)

**VALDEZ FISHERIES
DEVELOPMENT ASSOCIATION INC.**

P.O. Box 125
Valdez, Alaska 99686
Phone 835-4874 Fax 835-4831



Madam Chairman and Committee

This revised CS for HB218 is by far worse than the previous effort, not better.

Findings--

Sentence 1:

Any hatchery organization run by and for the fishermen already has this as their credo. The word "by" should be replaced by "for".

Sentence 2:

"to the greatest extent feasible, the direct sale of salmon harvested in special harvest areas" This really gets to the bottom of the intent of this legislation. The hatcheries are getting a better price because they can negotiate for direct sales. This puts an upward pressure on price and the processing industry can't justify paying their fishermen more than the fish are truly worth.

Page 2 line 0

"The board" What Board is this? I expect it is the Board of Fish. The Board of Fish is a political board appointed by the Governor who seems to care more for the processor than the individual fisherman. The hatcheries will lose any control over their cost recoveries and be subject to an appropriation that the legislature may honor. The sentence relating to the Board of Fish should be eliminated because the board already has allocative abilities. This sentence puts the hatchery operator in another political arena and introduces a huge financial risk.

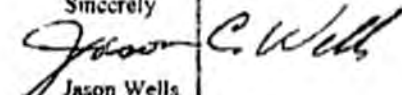
Page 3 line 15

We believe that this is the poison pill for this legislation. The legislature may or may not appropriate the money to each individual hatchery. This means that each hatchery would have to travel to Juneau each year to beg for their appropriation. The hatchery would lose any control it has on its revenue stream and could not project anything for the following year or into the future. Valdez Fisheries Development Association would have to change its fiscal year from May 31 to coincide with the state fiscal year in order to be in an appropriation cycle. This would occur right in the middle of our cost recovery and require us to harvest 1/2 of our cost recovery in one year and 1/2 our cost recovery in the following year. This would require that we borrow 18 months of operating expenses from the state, if available, to insure that we had sufficient funds to operate each year subject to legislative appropriations.

THIS BILL MUST HAVE A FISCAL NOTE ATTACHED THAT SHOWS THE FINANCIAL IMPACT ON THE INDIVIDUAL HATCHERIES AND THE STATE OF ALASKA, DEPARTMENT OF REVENUE.

I think this bill is a red herring to get the hatcheries out of the fish sales business, which can only impact the commercial fishermen negatively. If you change two words in this piece of legislation: Page 1 line 11 may to shall; and Page 1 line 15 may to shall then the hatchery system will cease to function and the State of Alaska can come and get the keys to all the PNP hatcheries and the 60 million worth of debt they carry.

Sincerely


Jason Wells
Executive Director

**DEDICATED TO THE UTILIZATION, CONSERVATION,
AND REHABILITATION OF ALASKA'S FISHERY RESOURCE
WITHIN THE 200-MILE LIMIT**



61

NSRAA's Comments on House Bill 218-"An Act Relating to cost recovery fisheries for private nonprofit hatchery facilities."

More appropriately, the title of this bill should be "~~An act relating to the cost recovery program at NSRAA's Hidden Falls Hatchery.~~" Each year NSRAA sells a small portion of its returning adult salmon, in order to generate funds necessary to the operation of the hatchery. Last year NSRAA sold approximately ~~30% of the adult chum salmon~~ which returned to Hidden Falls ~~for cost recovery~~. Managing the return of adult chum salmon last season was a challenge. Warm sunny weather, higher than normal seawater temperatures (causing the fish to stay deeper than usual), and decreased total run size all contributed to the complexity of ~~managing for broodstock, cost recovery, and the commercial fishery~~. These types of conditions are ever changing, and may or may not be repeated. This bill seems to be a legislative reaction to both weather related, and run size influenced conditions.

Findings: NSRAA fails to understand how the Alaska State Legislature can find that the economic interests of the commercial salmon fishery are best served by reducing or eliminating the direct sale of salmon by hatchery permit holders. This is an opinion expressed by a minority of fishermen. NSRAA is a fishermen's organization, with a Board of Directors elected by their peers, representing three gear groups fishing salmon in Southeast Alaskan waters. The NSRAA Board of Directors are likely some of the best informed fishermen and they unanimously ~~disagree with the finding~~. The Alaska State Legislature authorized cost recovery as a way of financing these hatcheries for producing salmon for Alaska fishermen. ~~The language in this bill is sending a mixed message.~~

Fishermen benefit from the premiums and efficiencies realized in the current cost recovery system. The efficiencies realized and higher prices result in a benefit to fishermen because it allows NSRAA to minimize the number of salmon taken for cost recovery purposes. ~~NSRAA consistently provides approximately 70%-80% of its returning fish to the common property fisheries.~~ To extinguish NSRAA's ability to do this will result in diminished net value to the commercial salmon fishery. With all due respect, the commercial salmon fishery at Hidden Falls is not best served by this bill.

The fishermen that govern NSRAA represent all salmon fishermen of Southeast Alaska, and understand the business of aquaculture and its relationship to commercial fishing better than most. They live with the fiduciary responsibility of making their not-for-profit hatcheries work not only for themselves, but for future Alaskans who choose to fish for a living.

Other Comments: Supporters of HB 218 have "billed" this as an attempt to "put another tool in the box." ~~It does not, however, make much sense to spend a lot of time and effort creating a "tool" that has little chance of working, and very limited potential application.~~

Some individuals have raised questions and issues about numbers of hatchery fish going to common property fisheries, and "Too many fish are going to cost recovery."

Here are some **facts** concerning NSRAA and the issues raised:

- ❖ NSRAA has contributed, on average, 80-82% of its adult returns of salmon to common property fisheries. (See attachment -Note: Sport catches are not included.)
- ❖ In our worst year of common property contribution (2003 season) ~~64% of its adult returns went to common property users~~ (60% of the chums at Hidden Falls). (Attached are some tables and graphs which illustrate NSRAA's harvest history and NSRAA's value to common property fishery history. Note: Sport catches are not included.)

For the most part NSRAA has run a self sustaining salmon enhancement program for the ~~last ten to fifteen years~~ while still providing benefits to the commercial fisheries in excess of the goals established in the Southeast Alaska Enhanced Salmon Plan adopted by the Alaska Board of Fisheries. On a broader scale, in its twenty plus year history NSRAA enhancement programs have returned to commercial fisheries \$130,000,000 in enhanced fish value. Incidentally, the total 3% enhancement tax paid during that same time period totaled approximately \$ 24,700,000 ~~representing a 5.2:1 benefit/cost ratio. We fail to see "what's broken"~~.

NSRAA's cost recovery program is as diverse as they come. The diversity is the result of some sound decisions made by both present and past members of NSRAA's Board of Directors. Like any good investment portfolio, we have diversified our income stream so that we at least have some options in the event that one or more of our programs do not perform as we expect, year after year. Our present cost recovery program consists of three separate sites with three different species at two of the sites and a single species at the third site. ~~NSRAA's cost recovery income comes from chum salmon at two sites, Coho salmon at two sites, and Chinook salmon at three sites.~~ All seven opportunities can contribute to NSRAA's annual cost recovery plan, and putting one of the major components on a "special" plan, will prove disruptive to the total plan.

The real reason this bill is before you is because ~~last year's chum salmon return to NSRAA's Hidden Falls Hatchery was weak enough that some extra precautions had to be taken to insure a good distribution of broodstock and to provide a reasonable opportunity for NSRAA to achieve its cost recovery goal.~~ The end result of last season was that 610,000 chum salmon were caught at Hidden Falls and sold as part of NSRAA's cost, recovery program, 120,000 chum salmon were used for Broodstock, and 1,150,000 were

taken in common property commercial fisheries. We are unaware of any fish going unharvested.

There are and will always be uncertainties, even in near terminal areas. There are many variables most of which we have no input to, nor any level of control. ~~The decision to have or not have a mid-week opening at Hidden Falls~~ has always been an issue. As we co-manage the hatchery return with ADF&G, all we can do is "make the calls as we see them", and realize that sometimes this means inconveniencing someone. As adult returns rise to previously high levels, we should be able to become more aggressive, again, in managing adult returns.

NSRAA has looked at various ideas for changing the way cost recovery is done. We have not, however, come up with an arrangement which does not result in a net loss of value to the commercial fishery. We will continue to evaluate ideas with the hope that some constructive alternative will be found.

Finally, we believe that ~~there needs to be a fiscal note to this bill~~. It is going to cost some money to implement and enforce the provisions of this measure.

Thank you for hearing our reasons for ~~opposing HB218~~

Related questions:

John Esquiro
General Manager

The Alaska State Department of Revenue is going to set the level of assessment based, in part, on the estimated return and harvest of salmon and the projected price to be paid in the region. How are they expected to do this accurately?

Do fishermen realize that under this bill, if they export fish out-of-state that they will have to collect the amount of any assessment themselves to turn over to the Department of Revenue?

What will the administrative costs of HB 218 be as they pertain to the work expected by the Department of Revenue and oversight by ADF&G or other departments to observe and apprehend violators who may be committing a Class A misdemeanor under this legislation? Will this come out of the maximum 40%?

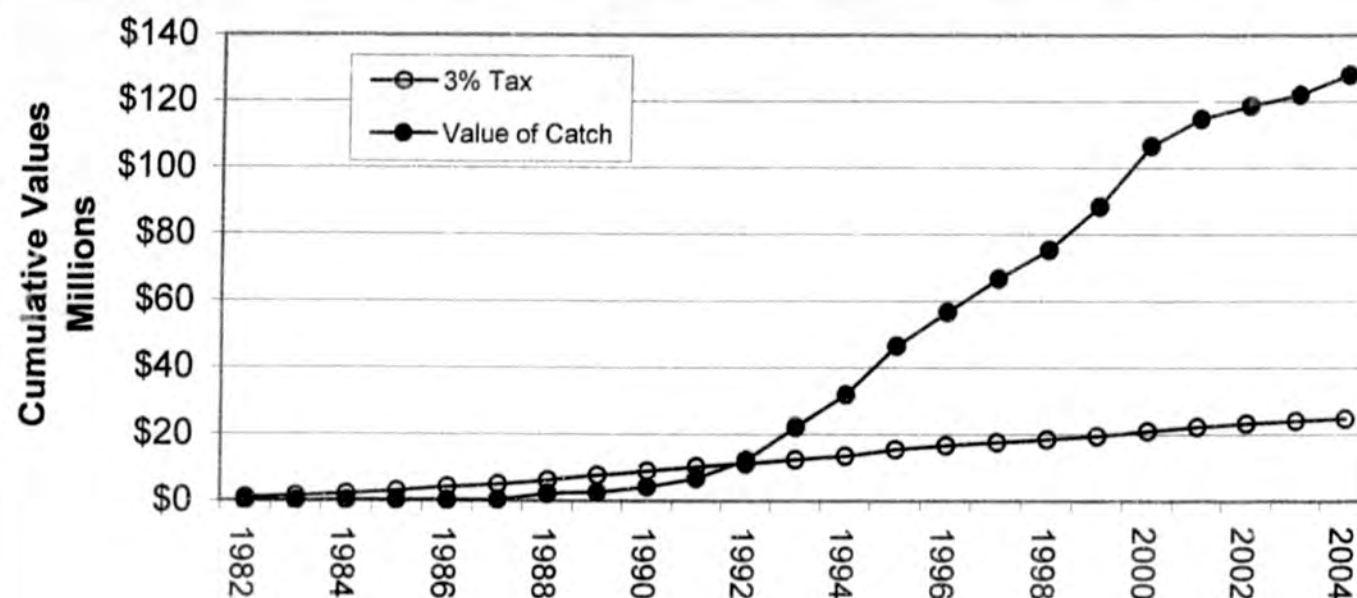
NSRAA SALMON PRODUCTION - ADULT RETURNS

Year	Commercial Catch	Commercial Value	Total Return	Percent Commercial
1984	13,861	\$ 152,884	14,500	96%
1985	682	\$ 6,911	39,970	2%
1986	1,045	\$ 11,193	183,715	1%
1987	10,625	\$ 142,520	155,198	7%
1988	213,750	\$ 1,834,115	470,395	45%
1989	93,643	\$ 441,387	315,118	30%
1990	319,818	\$ 1,584,173	615,095	52%
1991	696,957	\$ 2,656,264	1,134,889	61%
1992	1,129,700	\$ 5,458,588	1,623,485	70%
1993	2,975,002	\$ 10,211,131	3,692,809	81%
1994	4,457,677	\$ 10,010,562	5,295,050	84%
1995	4,962,512	\$ 14,857,179	5,628,278	88%
1996	6,203,569	\$ 10,282,441	7,722,142	80%
1997	4,039,901	\$ 10,172,142	4,841,390	83%
1998	4,947,133	\$ 8,753,561	5,885,665	84%
1999	6,302,429	\$ 13,101,955	7,305,682	86%
2000	6,441,420	\$ 18,285,208	7,332,654	88%
2001	2,312,908	\$ 8,241,057	3,124,713	74%
2002	2,148,868	\$ 3,834,265	3,173,355	68%
2003	2,390,408	\$ 3,391,183	3,722,755	64%
2004	3,112,901	\$ 6,067,090	4,626,954	67%
Grand Total	52,774,810	\$ 129,495,808	66,903,813	79%

NSRAA SALMON PRODUCTION - HIDDEN FALLS CHUM RETURNS

Year	Commercial Catch	Commercial Value	Total Return	Percent Commercial
1984				
1985				
1986				
1987				
1988	205,594	\$ 1,713,420	421,971	49%
1989	50,184	\$ 174,239	154,963	32%
1990	257,587	\$ 1,034,469	479,719	54%
1991	579,329	\$ 1,567,664	869,903	67%
1992	738,121	\$ 3,023,344	1,026,984	72%
1993	1,437,282	\$ 4,839,328	1,791,205	80%
1994	2,855,275	\$ 4,836,836	3,207,873	89%
1995	3,216,855	\$ 8,805,029	3,557,753	90%
1996	3,370,728	\$ 4,496,551	4,055,342	83%
1997	1,377,400	\$ 3,168,020	1,709,864	81%
1998	1,837,515	\$ 2,899,231	2,252,468	82%
1999	2,336,207	\$ 4,075,279	2,714,699	86%
2000	2,740,582	\$ 7,621,559	3,100,449	88%
2001	1,177,019	\$ 3,882,353	1,581,547	74%
2002	1,230,535	\$ 1,915,073	1,620,490	76%
2003	1,351,523	\$ 1,608,457	2,148,941	63%
2004	1,154,761	\$ 1,755,277	1,913,216	60%
Grand Total	25,916,497	57,416,131	32,607,387	79%

Comparison of Commercial Value of NSRAA Production to Enhancement Tax



Value of catch is Commercial ex-vessel value; does NOT include cost recovery value.

Benefit : Cost Ratio is 5.2 : 1 (Ratio of cumulative Commercial ex-vessel value : cumulative 3% Tax)



UNITED FISHERMEN OF ALASKA

April 5, 2005

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Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Representative LeDoux, Co-Chair
Representative Thomas, Co-Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau, AK 99801-1182

Dear Representative LeDoux:

United Fishermen of Alaska (UFA) supports passage of House Bill 218 relating to potential reductions in hatchery cost recovery fisheries and resulting increases in common property fisheries to be accompanied by a voluntary assessment/landing tax collected by the Department of Revenue. The basis for UFA support is three-fold:

1. First and foremost, HB 218 is permissive. That is, the hatchery and its Board of Director must elect to harvest surplus salmon through the common property fishery. Similarly, commercial fishermen are under no obligation to participate in the common property fishery and pay the additional landing tax.
2. HB 218 does not in any meaningful manner disrupt hatchery finances or in any way impinge upon the hatchery's fiduciary duties. The additional landing tax will generate the same level of net revenue now generated by the cost recovery fishery. The tax rate will be adjusted annually to ensure that the tax reflects the reasonable financial needs of the hatchery.
3. HB 218 is a first step toward reducing the direct sale of salmon by hatcheries. UFA does not oppose hatchery sales and in fact has a number of member hatcheries, including NSRAA and PWSAC. However, UFA does maintain that whenever possible, commercial salmon fishermen must have maximum opportunity to harvest and sell salmon produced at hatcheries or in the wild.

If you have any further questions regarding UFA's support of HB 218, please do not hesitate to contact me.

Respectfully

Mark D. Vinsel
Mark D. Vinsel
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Dragners Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve Concerned Area "M" Fishermen • Cordova District Fishermen United • Crab Rationalization and Buyback Group • Douglas Island Pink and Churn • Fishing Vessel Owners Association • Groundfish Forum • Ketchikan Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association • North Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Herring Seiners Marketing Association • Southeast Alaska Regional Dive Fisheries Association • Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

SCOMM

138:11



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us webpage: www.akrebublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-461-3732

888-461-3732

FAX 907-465-2652

SPONSOR STATEMENT HB 230

Loans for Commercial Fishing Tenders

"An Act authorizing the making of loans for upgrade of commercial fishing tender vessels and gear."

House Bill 230 makes a small change in the Commercial Fishing Loan Act (AS 16.10.300 – 370) to allow Alaskan owners of fish tenders to be eligible for loans to improve the quality of our seafood products. Under the current law, the Division of Investments in the Department of Commerce, Community and Economic Development offers low interest loans to fishing permit holders to upgrade their equipment in order to improve the quality of the seafood product they are handling. Fish tenders, who buy fish on the fishing grounds from fishermen and transport the product to processing plants, are an important part of the seafood handling process. However, they are not defined as fishermen and are therefore not currently eligible for the product quality improvement loans. The state has taken some positive steps to emphasize quality improvement on fishing vessels and in processing plants, but has neglected this segment of the seafood production system. This bill will allow qualified Alaska resident tender owners to participate in the state's loan program to upgrade their equipment, encouraging another key component of the fishing industry to improve the way fish are handled and increasing the quality and value of Alaska's seafood. HB230 is supported by the Alaska Independent Tendermen's Association.

Contact Ian Fisk in Rep. Thomas' office at 465-3732

F/V Kupreanof
P.O. Box 2383
Sitka, AK 99835

(907)743-2337 boat/cell

To Whom it may Concern,

Reference: HB 230

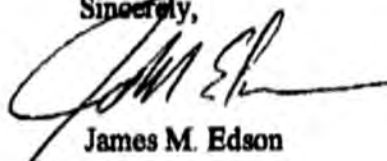
This is a letter of testimony in case I am out of town doing the Herring fishery here in Sitka when the bill comes up. This bill corrects an oversight in the Vessel Quality Improvement Program.

The State has grant and loan programs for processors and a loan program for fisherman however Tenders don't qualify for either. Tenders are where most of the refrigeration of product takes place. Tenders transport fish from the fishing grounds to the processors all over the state. Most Tenders these days are individually owned and operated, NOT company owned. I consider myself to be a normal tender. I own the boat and my wife and kids are the crew. I hire crewmembers as necessary when the kids are in school. We as Tender operators have suffered the same downtrend in the industry just like everyone else. Costs go up and income goes down. For me I consider it a "good year" if I can gross two thirds of what I did ten years ago.

This bill gives access to the Vessel Quality Improvement Program to Alaskans who own and operate tenders in the State of Alaska. Tenders are an integral part of the fishing industry. The ASMI saying "Keep it fresh, keep it cold, keep it moving".....We DO that! We need help to improve our refrigeration and product handling, too. I had to upgrade my refrigeration last spring after a breakdown. I was told by Arne Fugulvog F/V Mitkof to use the program because he just had and it was an excellent program. When I tried to apply I was told I couldn't qualify because I was just a tender. Well, the Mitkof was a Tender, too. It didn't fish, it just tendered! The only difference was that Arne held a permit.

This bill corrects that. I don't know anyone who is opposed to it. It WILL help improve fish quality in the State of Alaska. Thank you.

Sincerely,


James M. Edson

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 230
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Loans for Commercial Fishing Tenders RDU Investments (122)
Component Investments
Sponsor Thomas
Requester House Fisheries Component No. 383

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1036)	0.0	0.0	0.0	0.0	0.0	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 (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would amend the Commercial Fishing Revolving Loan Fund (CFRLF) to allow the department to make loans for the upgrade of existing tender vessels and gear to improve the quality of Alaska seafood products. The total balances outstanding to a borrower on tender vessel upgrade loans may not exceed \$300,000. The department anticipates making approximately five tender upgrade loans each year totaling \$325,000.

No additional administrative costs would be required to accommodate this amendment to the CFRLF.

Prepared by: Greg Winegar, Director Phone (907) 465-2510
Division Investments Date/Time 3/25/05 11:36 AM
Approved by: Edgar Blatchford, Commissioner Date 3/25/2005
Agency Commerce, Community, and Economic Development