

SCOMM

#36:11

<b>BILL NAME</b> An Act relating to wholesale prices for canned salmon; and providing for an effective date.		<b>BILL NUMBER</b> HB 381
		<b>DATE INTRODUCED</b> 4/26/83
		<b>RELATED BILLS PENDING</b>
<b>SPONSOR(S)</b> House Special Committee on Fisheries.		<b>REFERRALS</b> Resources
<b>INITIAL RESEARCH</b>	<b>INITIAL SUMMARY COMPLETED</b>	<b>LEGAL DIVISION SUMMARY</b>
	<b>SPONSOR CONTACTED FOR BACKUP MATERIALS</b>	<b>DEPT OF LAW SUMMARY</b>
	<b>AGENCY RESPONSE</b>	<b>FISCAL NOTE</b>
		<b>OTHER INTERESTED LEGISLATORS NOTIFIED</b>
<b>BACKGROUND RESEARCH</b>	<b>SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES</b>	<b>OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC</b>
	<b>RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS</b>	
<b>HEARING PREPARATION</b>	<b>CHAIRMAN BRIEFED</b>	<b>DATE &amp; PLACE SET</b>
	<b>STAFF MEMO TO COMMITTEE</b>	<b>TELECONFERENCE</b>
	<b>BACKGROUND MATERIAL DISTRIBUTED</b>	<b>PSA/PRESS RELEASE</b>
	<b>LIST OF WITNESSES</b>	<b>SUGGESTED AMENDMENTS/CS DRAFTED</b>

# COMMITTEE REPORT

## HOUSE

(7)

FURTHER: RESOURCES

4/28/83

Date: May 5, 1983

Mr. Speaker:

HOUSE SPECIAL COMMITTEE ON FISHERIES

The Committee on \_\_\_\_\_ has had SSHB 381

"An Act relating to wholesale prices for salmon; and providing for an effective date."

under consideration and reports it back as follows:

do pass [ ] do not pass

[ ] do pass with attached amendments(s)

replace with CS for SS HB 381 [  ] same title [ ] new title

and recommends do pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation [ ] Zero Fiscal Note Attached

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Adelard Horvath  
\_\_\_\_\_  
Jack McBride  
John G. Fuller  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
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Rep. Adelard Horvath  
CHAIRMAN

Introduced: 4/26/83  
Referred: House Special Committee  
on Fisheries and Resources

BY THE HOUSE SPECIAL  
COMMITTEE ON FISHERIES

13-0518  
1 IN THE HOUSE

2 HOUSE BILL NO. 381

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to wholesale prices for canned  
7 salmon; and providing for an effective date."

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

9 \* Section 1. AS 43.80 is amended by adding new sections to read:

10 Sec. 43.80.050. REPORTING OF WHOLESALE CANNED SALMON PRICES.

11 (a) A fish processor engaged in the business of selling canned salmon  
12 products at wholesale shall submit to the department, on a form pro-  
13 vided by the department, a semi-annual report of the prices received  
14 by the processor or an affiliate of the processor for the sale of  
15 canned salmon. Not later than April 30 of each year a processor shall  
16 submit a report for the period October 1 - March 31. Not later than  
17 October 31 of each year a processor shall submit a report for the  
18 period April 1 - September 30.

19 (b) A report submitted under this section shall specify for each  
20 sale to a buyer that is not an affiliate of the processor the name of  
21 the buyer; a description of the product sold, including the species of  
22 salmon and the unit-of-sale category; the quantity sold; and the  
23 wholesale price received. If a processor sells no canned salmon  
24 products during a reporting period the report for that period shall  
25 include only a statement of that fact.

26 (c) A sale to an affiliate of the processor may not be included  
27 in a report submitted under this section by a processor. However, a  
28 processor shall report each sale by an affiliate at wholesale of  
29 canned salmon that was obtained from the processor. The report

1 shall specify the name of the affiliate's buyer; a description of the  
2 product sold by the affiliate, including the species of salmon and the  
3 unit-of-sale category; the quantity sold by the affiliate; and the  
4 wholesale price received by the affiliate.

5 (d) Information shall be reported for the following unit-of-sale  
6 categories:

- 7 (1) 48-pound case of one-pound cans (48 cans);
- 8 (2) 48-pound case of one-half-pound cans (96 cans);
- 9 (3) 48-pound case of one-quarter-pound cans (192 cans); and
- 10 (4) 48-pound case of four-pound cans (12 cans).

11 (e) A person excluded from the fisheries business tax under  
12 AS 43.75.017 is exempt from the requirements of this section.

13 Sec. 43.80.055. WHOLESALE PRICE AVERAGES. (a) Based on the  
14 information provided in reports submitted under AS 43.80.050, the  
15 department shall determine the statewide average wholesale prices paid  
16 to fish processors and their affiliates for the sale of canned salmon.

17 (b) The department shall determine under this section the month-  
18 ly and annual wholesale price averages for each species of canned  
19 salmon in each unit-of-sale category. An annual average is for a  
20 calendar year.

21 Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 60th  
22 day of each regular legislative session the department shall submit to  
23 the legislature a report of statewide average wholesale canned salmon  
24 prices.

25 Sec. 43.80.065. CONFIDENTIALITY OF REPORTS. Information in  
26 reports submitted under AS 43.80.050, and price averages calculated by  
27 the department from the information in the reports, are public infor-  
28 mation, except that information that identifies or could be used to  
29 identify a particular fish processor is confidential and may be

1 released only to the Commercial Fisheries Entry Commission for the  
2 purpose of carrying out the official business of the commission.

3 Sec. 43.80.095. PENALTY. The department may levy and collect a  
4 civil penalty of \$50 per day on a fish processor that fails to submit  
5 a report as required under AS 43.80.050.

6 Sec. 43.80.100. DEFINITIONS. In this chapter,

7 (1) "affiliate of the seller" means a person that directly  
8 or indirectly, through one or more intermediaries, controls, is con-  
9 trolled by, or is under common control with, the seller;

10 (2) "control" means

11 (A) owning directly or indirectly, or having the power  
12 to vote, not less than 10 percent of any class of voting securi-  
13 ties of a corporation; or

14 (B) influencing or affecting in any substantive manner  
15 the election of a majority of the directors or trustees of a  
16 corporation;

17 (3) "department" means the Department of Revenue;

18 (4) "fish processor" means a person engaging or attempting  
19 to engage in a business for which a license is required under AS 43.-  
20 75.010 - 43.75.055;

21 (5) "wholesale price" includes all receipts, whether in the  
22 form of money, credits, or other consideration, from the sale of a  
23 finished canned salmon product at less than retail, without deduction  
24 for the costs of property sold, materials used, insurance, labor,  
25 services, labeling, transportation, storage, interest, taxes, losses,  
26 or any other expense except

27 (A) cash discounts allowed on sales, not to exceed one  
28 and one-half percent; and

29 (B) commissions actually paid to independent brokers,

1 not to exceed five percent.

2 \* Sec. 2. AS 43.80.035 is repealed.

3 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
4 10.070(c).  
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Introduced: 4/28/83  
Referred: House Special Committee  
on Fisheries and Resources

BY THE HOUSE SPECIAL  
COMMITTEE ON FISHERIES

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 381

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to wholesale prices for salmon; and  
7 providing for an effective date."

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

9 \* Section 1. AS 43.80 is amended by adding new sections to read:

10 Sec. 43.80.050. REPORTING OF WHOLESALE CANNED SALMON PRICES.

11 (a) A fish processor engaged in the business of selling canned salmon  
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13 vided by the department, a semi-annual report of the prices received  
14 by the processor or an affiliate of the processor for the sale of  
15 canned salmon. Not later than April 30 of each year a processor shall  
16 submit a report for the period October 1 - March 31. Not later than  
17 October 31 of each year a processor shall submit a report for the  
18 period April 1 - September 30.

19 (b) A report submitted under this section shall, for sales to  
20 buyers that are not affiliates of the processor, include a description  
21 of the products and the quantity sold by species and unit-of-sale  
22 category and the wholesale prices received. If a processor sells no  
23 canned salmon products during a reporting period the report for that  
24 period shall include only a statement of that fact.

25 (c) A sale to an affiliate of the processor may not be included  
26 in a report submitted under this section by a processor. However, a  
27 processor shall report sales by an affiliate at wholesale of canned  
28 salmon that was obtained from the processor. The report shall include  
29 a description of the products and the quantity sold by the affiliate

1 by species and unit-of-sale category and the wholesale prices received  
2 by the affiliate.

3 (d) Information shall be reported for the following unit-of-sale  
4 categories:

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- 7 (3) 48-pound case of one-quarter-pound cans (192 cans); and
- 8 (4) 48-pound case of four-pound cans (12 cans).

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12 information provided in reports submitted under AS 43.80.050, the  
13 department shall determine the statewide average wholesale prices paid  
14 to fish processors and their affiliates for the sale of canned salmon.

15 (b) The department shall determine under this section the month-  
16 ly and annual wholesale price averages for each species of canned  
17 salmon in each unit-of-sale category. An annual average is for a  
18 calendar year.

19 Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 60th  
20 day of each regular legislative session the department shall submit to  
21 the legislature a report of statewide average wholesale canned salmon  
22 prices.

23 Sec. 43.80.065. CONFIDENTIALITY OF REPORTS. Information in  
24 reports submitted under AS 43.80.050, and price averages calculated by  
25 the department from the information in the reports, are public infor-  
26 mation, except that information that identifies or could be used to  
27 identify a particular fish processor is confidential and may be re-  
28 leased only to the Commercial Fisheries Entry Commission for the  
29 purpose of carrying out the official business of the commission.

1           Sec. 43.80.095. PENALTY. The department may levy and collect a  
2 civil penalty of \$50 per day on a fish processor that fails to submit  
3 a report as required under AS 43.80.050.

4           Sec. 43.80.100. DEFINITIONS. In this chapter,

5           (1) "affiliate of the processor" means a person that di-  
6 rectly or indirectly, through one or more intermediaries, controls, is  
7 controlled by, or is under common control with, the processor;

8           (2) "control" means

9           (A) owning directly or indirectly, or having the power  
10 to vote, not less than 10 percent of any class of voting securi-  
11 ties of a corporation; or

12           (B) influencing or affecting in any substantive manner  
13 the election of a majority of the directors or trustees of a  
14 corporation;

15           (3) "department" means the Department of Revenue;

16           (4) "fish processor" means a person engaging or attempting  
17 to engage in a business for which a license is required under AS 43.-  
18 75.010 - 43.75.055;

19           (5) "wholesale price" includes all receipts, whether in the  
20 form of money, credits, or other consideration, from the sale of a  
21 finished canned salmon product at less than retail, without deduction  
22 for the costs of property sold, materials used, insurance, labor,  
23 services, labeling, transportation, storage, interest, taxes, losses,  
24 or any other expense except

25           (A) cash discounts allowed on sales, not to exceed one  
26 and one-half percent; and

27           (B) commissions actually paid to independent brokers,  
28 not to exceed five percent.

29 \* Sec. 2. AS 43.80.035 is repealed.

1 \* Sec. 3. Not later than the 30th day of the Second Session of the  
2 Thirteenth Alaska State Legislature, the Department of Commerce and  
3 Economic Development in conjunction with the Commercial Fisheries Entry  
4 Commission shall submit to the legislature a report on a plan for the  
5 development of a program to determine wholesale price averages in the state  
6 for fresh, frozen, canned, and cured salmon products. The report shall  
7 include the department's findings and recommendations on

8 (1) the benefits and costs to the state and the commercial fish-  
9 ing and processing industry of reporting and collecting wholesale price  
10 information and determining price averages;

11 (2) the appropriate methodology and procedures to be used for  
12 reporting and collecting price information;

13 (3) the appropriate agency to determine wholesale price averages  
14 for salmon; and

15 (4) the need for and methods of eliminating duplication of  
16 reports required of fish processors and commercial fishermen by state  
17 agencies, including a plan for the sharing of information among state  
18 agencies.

19 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
20 10.070(c).

AMENDMENT TO SS HB 381

Page 2, line 6 is amended to read:

(2) 24-pound case of one-half-pound cans (48 cans);

Page 2, line 7 is amended to read:

(3) 12-pound case of one-quarter-pound cans (48 cans);

Page 2, line 19 is amended to read:

Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 15th

Page 4, line 4 is amended to read:

Commission and the Department of Revenue shall submit to the legislature a report on the possible

Page 4, line 11 is amended to read:

(2) the appropriate methodology and procedures that could be used for

**BILL ANALYSIS - SS HB 381**

Section 1 sets up a procedure for reporting of wholesale prices for canned salmon. Processors will report their monthly prices semi-annually and the Department of Revenue will compile the information for release to the public and inclusion in an annual report to the legislature.

Section 2 repeals the old statute on wholesale price reporting (43.80.035).

Section 3 directs the Department of Commerce in conjunction with the Commercial Fishery Entry Commission to complete a study on the feasibility of collection of wholesale information on all product forms of salmon. This report will be submitted to the legislature not later than the 30th day of next session.

Section 4 sets an immediate effective date.

**Sec. 43.80.035. Reporting of salmon prices.** (a) Except when the requirement is suspended under (d) of this section, the commissioner shall compute and report to the legislature not later than the 60th day of each regular session the average wholesale prices obtained for canned salmon by Alaska salmon canneries during the months of August, September, October, November, and December for the previous five years. In computing and reporting prices, the commissioner may require canneries to provide information on wholesale price by species of salmon.

(b) The commissioner may

(1) issue summons under AS 43.05.040 to compel the testimony of witnesses and the production of records and documents necessary to obtain and audit reports and information on wholesale prices of salmon when required under (a) of this section;

(2) levy and collect a civil penalty for failure to report information on wholesale prices of salmon under (a) of this section;

(c) A person who fails to file a report containing information on the wholesale prices of salmon required by the commissioner under this section is liable for a civil penalty of \$5,000. The penalty shall be assessed and collected in the same manner as taxes are assessed and collected under AS 43.05.010 — 43.80.040.

(d) Computation and reporting of the average wholesale price of a species of salmon by the commissioner under (a) of this section is not required during a calendar year in which the commissioner does not receive at least one request jointly presented by a fish processor doing business in Alaska and an organization representing fishermen that they desire the report for a species of salmon under (a) of this section for purposes of price negotiation. If a joint request is not presented to the commissioner for a salmon species for a calendar year, information about the average wholesale price of that salmon species may not be collected by the commissioner for that calendar year, and the last report submitted by the commissioner under (a) of this section for that species is the final report of prices for that species required under this section.

(e) In this section,

(1) "commissioner" means the commissioner of revenue;

(2) "wholesale price" includes all receipts, whether in the form of money, credits or other consideration, received from the sale of the finished product without deduction for the cost of property sold, the cost of the material used, insurance costs, labor or service costs, label and labeling costs, transportation and storage cost, interest paid, taxes, losses, or any other expense except

(A) cash discounts allowed on sales not to exceed one and one-half percent;

(B) commissions actually paid to independent brokers not to exceed five percent; and

(C) swell allowance not to exceed one-tenth of one percent. (§ 2 ch 66 SLA 1980; am § 94 ch 59 SLA 1982)

**Cross references.** — As to confidential nature of certain reports and records concerning the landings of fish, see AS 15.05.815.

**Sec. 43.80.040. Definition.** In this title "department" means the Department of Revenue.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SSHB 381  
 Title: Wholesale Prices for Salmon  
 Sponsor: House Special Comm. on Fisheries  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Develop.  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL		5.0				
300 CONTRACTUAL		55.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		60.0				
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)


GENERAL FUND		60.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard E. Reynolds Phone: 465-2018  
 Division: Office of Commercial Fisheries Development Date: \_\_\_\_\_  
 Approved by Commissioner: Richard A. Lyon  Date: 5/3/83  
 Department: Commerce & Economic Development

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

3/8/83

SSHB 381 - Fiscal Note Analysis

The report requested of the Department of Commerce and Economic Development is an ambitious and complex undertaking. The fiscal note represents an estimate of the value of time and effort necessary to provide a useful level of accuracy and thoroughness. Major expenditures for Contractual Services are indicated, however, as much work as possible will be done in-house by employees of the DCED and CFEC.



DEXTER HORTON BLDG., SEATTLE, WASHINGTON 98104 • (206) 624-4344 • TWX 910-444-1638

February 22, 1983

Ms. Adelheid Herrmann, Chm.  
House Fisheries Subcommittee  
Pouch V  
Juneau, Alaska 99811

Dear Ms. Herrmann:

Peter Pan Seafoods, Inc. has recently signed a three year agreement with the Alaska Independent Fishermen's Marketing Association. This agreement provided for a base price on reds with an additional payment based on the net selling price.

The Alaska Department of Revenue figure would be used if it is available.

It is our understanding that there is no legislation on the books which would permit the Department to do this although such legislation is being considered.

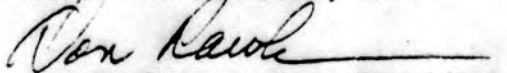
We are currently negotiating with the Western Alaska Cooperative Marketing Association and it is possible we will have a similar type of agreement with them. We would then have approximately 200 boats under such an agreement.

At the present time we know of one other company that has such an agreement but it is likely that more agreements of this type are forthcoming.

We feel it would be a great service to the fishermen and processors in Bristol Bay if the Department of Revenue would compile such information for reds and we urgently request that you introduce and support the necessary legislation.

Very truly yours,

PETER PAN SEAFOODS, INC.

  
Don Rawlinson, Vice-President  
Bristol Bay Operations



700 14TH STREET  
BELLINGHAM, WASHINGTON 98225

January 28, 1983

(206) 734-1876

POSITION PAPER on legislation requiring the Alaska Department of Revenue to collect wholesale price data from Salmon Processors for canned salmon (and other processed forms of salmon) originating in Alaskan jurisdiction.

From: AIFMA COOP., of Naknek, Alaska.

As AIFMA is a Cooperative Marketing Group of Bristol Bay Gillnetters and comprise the single largest such group in Bristol Bay (probably the state); and that the size of the Bristol Bay Red Salmon Production is equal to or larger than the combined total production of red salmon in the rest of Alaska; the ex-vessel price in Bristol Bay will set the standard for red salmon prices elsewhere. Further, the economic value to the state is of such a magnitude that it is in the interest of the State to promote an orderly harvest of the resource. Additionally, because of the price disputes resulting from last minute bargaining tactics of the processors, Bristol Bay has been plagued, in recent years, by lengthy price disputes which have resulted in a under-harvest of the fish and thus an economic loss to the citizens of the State.

It is therefore, held by AIFMA COOP., that the State of Alaska should, in its' best interest, legislate to accommodate the conditions of the price settlement which AIFMA and Nelbro Packing Company arrived at on December 1, 1983 for the Red Salmon Seasons of 1983, 1984, 1985. This agreement appears to have set the standard for settlement with other processors in Bristol Bay and has generated interest in other Alaska Salmon Fisheries.

The key point is for a law to require the Alaska Fish Processors to report to the state their wholesale prices for canned salmon; for a period from August 1 of each year to March 15 of the following year. The length of time of this period is essential in order to obtain statistically significant data, which can be used to base the ex-vessel price. The reporting period under the old law only covered approximately 20% or so of the actual wholesale transactions and was subject to much speculation concerning manipulation of the price. The longer reporting period should, by historic standards cover approximately 55% of the wholesale sales and thus significantly reduce the possibility of market manipulation.

Assuming that the data generated by this legislation is the key to future price settlements throughout Alaska Salmon Fisheries, this



700 14TH STREET  
BELLINGHAM, WASHINGTON 98225  
(206) 734-1876

data must be collected for all species of salmon (REDS, CHUMS, PINKS, COHO, KINGS). Further, for the purposes of the present price settlement the data must include one pound talls and one-half pound cans. Looking into the future, it would appear to be prudent to include the one-fourth pound cans as well.

Under the old system the discount allowed for promotion and brokerage (about 6.8%) should not be altered as they have already been accounted for in the completed settlement and changing them could disrupt this agreement.

An area that needs to be considered also is the frozen product. This product has grown rapidly in Bristol Bay and Alaska and now comprises near half of the total production. The market for frozen salmon is very volatile and numerous problems arise; but the State should have available the value of this product in its various forms. Given the inherent mistrust between fishermen and processors the area of the value of the frozen product desperately needs to be addressed.

For the sake of expediency the frozen reporting system should be dealt with in separate legislation.

AIFMA COOPERATIVE

*Karl R. Hellberg*

KARL R. HELLBERG  
PRESIDENT

KH:jk

# MULTI-YEAR SALMON MARKETING AGREEMENT

--1983-1984-1985--

THIS AGREEMENT, date \_\_\_\_\_, 1983 between Alaska Independent Fishermen's Marketing Association, a California corporation and the AIFMA Cooperative, an Alaska Cooperative Corporation (hereinafter collectively referred to as "AIFMA") and Peter Pan Seafoods, Inc. a Corporation (hereinafter "PPSF").

## I

### DEFINITIONS

The following terms, when used in this Agreement, shall, unless the context otherwise requires, have the following meanings:

Fishing Periods. "Fishing periods" shall mean those periods of time established by the Alaska Department of Fish and Game during which it shall be legal for properly-licensed individuals to engage in commercial fishing for sockeye or chum salmon.

Fishermen. "Fishermen" shall mean the individual members of the Alaska Independent Fishermen's Marketing Association ("AIFMA") who have executed Individual Fishing Agreements with PPSF.

Individual Fishing Agreements. "Individual Fishing Agreements" shall mean individual written undertakings by Fishermen to fish and deliver exclusively to PPSF in accordance with the terms of this Agreement and shall be in the form attached hereto as Appendix A.

Other Persons Regularly Fishing for PPSF. "Other persons regularly fishing for PPSF" means persons other than those who are "Fishermen" under the terms of this Agreement, with whom PPSF has an agreement or understanding, express or implied, oral or written, that such persons will sell, and PPSF will buy, substantially all of such persons' catch or salmon during a fishing season in Bristol Bay.

## II

### WARRANTIES

A. AIFMA warrants that it is a marketing association authorized by the laws of the United States (Title 15 U.S.C. §§1521-22) and duly organized as a cooperative corporation under the laws of the State of Alaska, with members fishing as independent fishermen with their own or leased boats and gear or assisting in the operation of such independently owned or leased boats and gear on a share basis in the areas covered by this Agreement. (AIFMA further warrants that each of the

individual members subject to this Agreement have agreed to sell all salmon caught by them in any of the fishing districts of Bristol Bay during the season or seasons covered hereby exclusively through AIFMA).

B. PPSF warrants that it is lawfully engaged in purchasing, processing, canning, marketing and distributing salmon and is desirous of contracting for the purchase of salmon caught by Fishermen in the salmon fisheries of Bristol Bay.

### III

#### AGREEMENT

A. This Agreement establishes the terms and conditions governing the sale of salmon caught by Fishermen and purchased by PPSF during the years covered hereby, in the areas and of the species as follows:

1. Area--all districts in Bristol Bay, except that in the case of chum salmon it shall apply only to those chums caught in the Naknek, Kvichak, Egegik and Ugashik districts.

2. Term--this Agreement shall apply to all sales between Fishermen and PPSF of the species covered hereby in the years 1983, 1984, 1985, EXCEPT that it may be sooner terminated by PPSF in the event of a major disruption of PPSF's markets or by either party in the event of a major change in PPSF's method of processing, upon written notice.

3. Species--this Agreement shall apply only to king, sockeye ("red") and chum salmon.

B. The acceptance or rejection of this agreement and any renewals hereof, by AIFMA membership shall be subject only to a vote of those members of AIFMA who regularly delivered to PPSF during the season next preceding the submittal for approval.

C. PPSF, by its execution of this Agreement, acknowledges that AIFMA is the sole agent of Fishermen authorized to negotiate, administer or enforce the provisions of this Agreement.

D. Fishermen shall, subject to the terms and conditions of this Agreement, tender delivery of all fish of the species covered by this Agreement to PPSF so long as PPSF is accepting delivery of fish.

E. PPSF will purchase, subject to the terms and conditions of this Agreement, all salmon of the covered species which are caught and delivered by any Fishermen, provided however, that if PPSF, pursuant to the terms and conditions of this Agreement, shall refuse to purchase some or all of the

fish tendered by any Fisherman to PPSF, then the Fisherman shall be free to sell or otherwise dispose of those fish which PPSF refused to purchase, in any manner whatsoever.

F. Contemporaneously with the execution of this Agreement, or before, AIFMA will deliver to PPSF a list of its members who are intended to be under this contract. It is expressly understood and agreed that the selection and identification of Fishermen with whom PPSF will do business shall be exclusively and without any limitation the sole right of PPSF, notwithstanding the fact that the terms under which said business is transacted shall be governed by this Agreement. Therefore, within ten (10) days after receipt of the said list of members from AIFMA, PPSF shall advise AIFMA in writing which, if any, of the members identified thereon it declines to accept within its fleet. The remaining members shall constitute the "agreed list." Thereafter, within sixty (60) days following the redelivery to AIFMA of the agreed list or on or before February 25, 1983, whichever is sooner, each member on the agreed list shall furnish PPSF with an executed Individual Fishing Agreement in the form attached hereto. Any member failing to deliver an Individual Fishing Agreement within the time specified may, at PPSF's exclusive option, be removed from the agreed list. AIFMA will also furnish to PPSF supplementary lists at a later date naming persons regularly delivering to PPSF and who have joined AIFMA after the execution of this Agreement. In the case of such supplemental lists, those members who are acceptable to PPSF shall be added to the said agreed list of Fishermen, subject to their providing PPSF with an executed Individual Fishing Agreement.

#### IV

#### WEIGHING THE FISH

A. King Salmon shall be weighed by species.

B. Chum salmon and red salmon delivered to floating receiving stations shall be weighed as "red salmon." That portion of the total poundage of fish delivered to PPSF by individual Fishermen and weighed as "red salmon" pursuant to this subsection, which are to be paid for by PPSF as chum salmon, shall be computed as follows: At the end of each one (1) week period (measured from 12:01 a.m. Sunday to 11:50 p.m. the following Saturday) or more frequently at PPSF's option, while it is accepting deliveries of fish, PPSF shall determine the total number of cases of chum salmon packed during that one (1) week period and the total number of cases of red salmon packed during that one (1) week period. The poundage of fish delivered to PPSF by individual drift Fishermen during that one (1) week period and weighed as "red salmon" pursuant to this subsection which are to be paid for as chum salmon shall be determined by multiplying the total poundage of fish delivered to PPSF by individual drift Fishermen and weighed as "red salmon" by a fraction, the numerator of which is the total of cases of chum

salmon packed by PPSF during that one (1) week period (multiplied by 78 pounds), plus the pounds of chum salmon frozen by PPSF, and the denominator of which is the total number of pounds of both red salmon and chum salmon canned or frozen by PPSF during that one (1) week period. The percentage figure which the above fraction represents plus the total number of cases of chum salmon packed, the total pounds of chum salmon frozen and the total pounds of red salmon canned or frozen by PPSF during that one (1) week period shall be posted at PPSF's cannery. PPSF further agrees to permit AIFMA, or its agent, free access to PPSF's fish books and pertinent fish records at convenient times for purposes of verifying the accuracy of the above-described computations by PPSF. Where practicable Fishermen's chum percentages shall be calculated separately for fish delivered by drift Fishermen at Nushagek, Naknek-Kvichak, Ugashik and Egegik. Each individual Fisherman's chum percentage shall be based only on the chum percentage determinations for the weeks during which he actually delivered fish to PPSF. All chum and red salmon caught and delivered by set net Fishermen shall be tallied and paid for as red salmon.

C. It is the responsibility of PPSF to weigh all fish on delivery or to employ a sample weighing technique which will comply with the provisions of AS 16.10.270.

D. If weighing on the grounds becomes impractical because of weather or mechanical breakdown, it may be temporarily suspended. Repairs or replacement of faulty mechanical equipment shall be taken care of as soon as possible.

E. Suspension of weighing because of necessity to deliver fish to the cannery on the tide is permissible under the following conditions: (a) Tidal conditions shall not be used for the purpose of avoiding the weighing of fish at the point of delivery; and (b) the scow must weigh as much fish as practicable before suspension is put into effect.

F. At any time that weighing is suspended, the balance of the fish not weighed shall be counted and credited on the basis of the average weight of fish weighed and delivered to that scow on that tide. Average weights shall be posted as soon as available.

G. All scales used to weigh fish must have a current approved weight and measure inspection seal from Alaska Weight and Measure.

H. Weighing scales shall be clearly visible to Fishermen during delivery. Each brailer weight may be verified by the Fisherman, if he so desires.

I. There shall be a brailer weight limit of 1,000 pounds.

PRICE OF FISH

The parties recognize that both volume and rate of delivery contribute significantly to the efficiency of PPSF's operation. Accordingly, to encourage fishermen to fish during the entire fishing season, as defined below, and to deliver all of their catch to PPSF, PPSF will make an additional post-season incentive payments to Fishermen who qualify, which payment is described below as the "Formula Adjustment."

A. Base Price. PPSF shall pay Fishermen 25 cents per pound for chums, 58 cents per pound for reds and 50 cents per pound for kings during the 1983 fishing season.

The base price to be paid by PPSF to Fishermen for these species delivered during the 1984 season shall be 75% of the total of the 1983 base price plus the 1983 formula adjustment.

The base price to be paid by PPSF to Fishermen for these species delivered during the 1985 season shall be 75% of the total of the 1984 base price plus the 1984 formula adjustment.

B. Formula Adjustment.

1. Fishermen Eligible. All Fishermen who deliver all of their fish to PPSF during every Fishing Period of any of the Fishing Seasons for 1983, 1984, 1985 (exclusive of the exceptions specified below) shall receive a formula adjustment to fish price for that year calculated in accordance with this section, with respect to all fish delivered to PPSF by such Fishermen.

2. Fishing Season. For purpose of the formula adjustment the "Fishing Season" is the period of time from June 23 to July 18 (or earlier if PPSF elects to close) during which PPSF is accepting salmon for processing.

3. Exceptions. The following circumstances shall relieve Fishermen from the requirement to deliver all of their fish during each Fishing Period to PPSF in order to qualify for the formula adjustment:

a. A Fisherman elects to fish in a river system where PPSF has no receiving station of its own and PPSF has not made other arrangements for accepting deliveries.

b. An illness preventing a Fisherman's boat from fishing.

c. A death in the Fisherman's family which in the judgment of the Fisherman prevents the Fisherman's boat from fishing.

d. Weather conditions which in the Fisherman's judgment prevent his boat from fishing.

e. Mechanical breakdown or other emergencies preventing a Fisherman's boat from fishing.

f. Limits or suspensions as defined herein being in effect.

g. The mutual agreement of a Fisherman and PPSF.

h. If for any reason PPSF refuses to accept fish tendered by the fisherman.

In all cases the fisherman is responsible for notifying PPSF in the case of nondelivery. In order to be valid for purposes of excusing nondelivery the exception relied upon by the Fisherman must be confirmed by an appropriate entry in the Fisherman's fish book endorsed by a designated, authorized representative of PPSF. PPSF will give any Fisherman who fails to qualify for the formula adjustment, written notification of ineligibility by October 31st of the year in which the unexcused failure to deliver took place.

4. Calculation of Formula Adjustment. For purposes of calculating the post-season adjustment, the identification of product as "frozen" or "canned" shall be done with respect to the end-use of the product by PPSF and/or affiliated companies. Such end-use shall govern whether a particular poundage shall be considered frozen or canned for purposes of the price adjustment. The calculation of the post-season adjustment shall be on the basis of wholesale prices as described in the following sub-paragraphs except that no consideration shall be given to PPSF's receipts for salmon roe. The wholesale price basis to be used is as follows:

a. FROZEN SALMON: PPSF's actual average price per pound received from nonaffiliated companies for Bristol Bay salmon frozen round and PPSF actual price per pound less .60 cents per pound for frozen salmon dressed. For the purpose of developing this average PPSF's sale records shall be subject to audit by a mutually agreed upon independent auditor, which access shall be under circumstances and conditions which will preserve the confidentiality of PPSF records. The cost of any such audit shall be borne equally by the parties. The receipts used shall be for frozen salmon prices FOB PPSF's owned or leased processing facilities.

1. It is further agreed that if less than 50% of the PPSF's Bristol Bay frozen salmon are sold to non-affiliated companies PPSF's overall average price shall be used.

2. If the average wholesale price as described above is less than the Nelbro Packing Co. average wholesale price then Nelbro's price will be used. In the event Nelbro does not freeze, or if Nelbro freezes less than \_\_\_\_\_ and if Nelbro changes ownership, PPSF's price will be used.

3. If any frozen salmon are produced as portions they shall be considered as round for the purpose of this agreement.

b. CANNED RED SALMON: The wholesale prices used shall be either (i) as reported by the Alaska Department of Revenue ("ADR") as the industry average wholesale price net of discounts for sales of canned salmon between the dates of August 1 of the season involved to March 30 of the year following, or (ii) PPSF's actual average wholesale prices received from non-affiliated companies, net of discounts, for sales of canned salmon between the dates of August 1 of the season involved to March 31 of the year following, whichever is the lower. For purposes of developing PPSF's average net wholesale price, PPSF's sales records shall be subject to audit by a mutually agreed upon independent auditor, which access shall be under circumstances and conditions which will preserve the confidentiality of PPSF's records. The cost of any such audit shall be borne equally by the parties. The final price shall be computed as follows:

(1) A weighted average case price shall be determined by combining a value equivalent to twenty-five percent (25%) of the average net price for a case of 96 one-half pound cans or equivalent and a value equivalent to seventy-five percent (75%) of the average net price for a case of 48 one pound tall cans, provided that in calculations using PPSF's actual receipts from sales to nonaffiliated companies, the actual average net wholesale price received for cases of 48 cans of tall shall be used or, alternatively, eighty percent (80)% of the average net wholesale price received for cans of 96 one-half pound cans or equivalent, whichever is greater.

(2) For those fish tendered outside of Bristol Bay for canning \$2.16 per case of 48 one pounds or 96 half pounds shall be deducted.

(3) The resulting weighted average shall be divided by 72 pounds; and

(4) The resulting price per pound shall be multiplied by forty-four percent (44%) which will produce the final price component for canned red salmon.

c. CHUM SALMON AND KING SALMON:

(1) The price per case shall be calculated as in (b) above except using values for cases of 48 can tall only; and

(2) The said average wholesale net case price shall be divided by 78 pounds for chums and 85 pounds for kings; and

(3) The resulting price per pound shall be multiplied by forty-four percent (44%) which will produce the final component for canned chums and king .

d. PPSF's pack shall be apportioned between canned and frozen product as follows:

(1) Canned: PPSF's pack in full cases shall be multiplied by the agreed pounds per case (72 pounds for reds, 78 pounds for chum and 85 pounds for kings) and the result will be "agreed pounds canned."

(2) Frozen: The total poundage per PPSF's invoices for frozen round product plus the pounds frozen dressed divided by the actual recovery rate shall equal the "pounds frozen."

(3) Salmon which is frozen and subsequently canned shall be considered as "canned" for price determination purposes.

(4) The poundages of canned and frozen salmon shall be converted to percentages of the PPSF pack for purposes of calculation of final price.

e. There shall be a single fish price by species determined by using the canned and frozen fish prices from subparagraphs (a), (b) and (c) combined in proportion to the canned and frozen percentage of shares as determined in subparagraph (d) (4) above.

f. The final formula adjustment, to be paid by species, will be the amount per pound arrived at in accordance with the terms of this paragraph less the amount paid as the base price.

g. For purposes of calculating the formal adjustment, "affiliated companies" shall mean PPSF's parent corporation or any company in which either PPSF or its parent has more than a ten percent (10%) ownership interest and "non-affiliated companies" shall mean all other.

5. Time of Final Settlement. The formula adjustment shall be paid by May 1, or, if the Alaska Department of Revenue net canned wholesale prices are not available by April 15 for the period specified, then PPSF will make the final payment within fifteen days after receipt of the Alaska Department of Revenue data. In the event the ADR data are not reasonably expected to be available at all, then the PPSF actual data are to be used and payment made on May 1 of the year following the season involved.

G. The amount owed the individual fisherman shall be reduced by any unpaid charges on the fisherman's account with PPSF. The balance shall earn interest from October 1st to the date of payment, calculated on a weekly basis, without compounding, at a rate equal to the effective annual return for three (3) month Treasury Bills sold that week at the Federal Reserve Bank's weekly auction, provided that, if the said rate is at any time higher than the Seattle-First National Bank Prime Rate for Seattle branches, less three percent (3%), then the latter rate

calculated for the same week will be used. Interest after May 1 shall be based on the average interest rate during the October 1 through May 1 period.

## VI

### QUALITY OF FISH

All salmon offered for sale must be in good condition and of a quality suitable for processing in the judgment of PPSF or PPSF's agent-in-charge. Highly water-marked fish may be rejected. Fish with peugh or pick marks may be rejected by PPSF.

## VII

### ADVANCES AND DEDUCTION

A. PPSF shall withhold from any amounts due Fishermen and shall pay over on behalf of Fishermen, Bristol Bay Borough taxes.

B. PPSF also agrees to pay to the AIFMA for the account of all Fishermen who have actually commenced fishing and who have made a delivery to PPSF, the Fisherman's membership fees and assessments to the AIFMA for the then current year. Such payment shall be made only upon presentation to PPSF of a written request, (signed by the individual Fisherman), authorizing PPSF to pay said membership fees directly to the AIFMA. Such payment by Nelbro shall not take priority over current boat account charges including Borough taxes.

## VIII

### DELIVERY OF FISH

A. Buyer agrees to maintain receiving stations of a number and capacity to receive without undue delay the catches made by Fishermen. PPSF further agrees to take delivery at such stations of all fish whether caught by drift boats, drift skiffs, or by set net Fishermen who deliver by boat or skiff.

B. If a fishing period is twenty-four (24) hours or less, the final delivery from fish boats and gear shall be made immediately at the end of the fishing period. If a fishing period is more than twenty-four (24) hours in duration then during continuous fishing delivery of fish shall be made within eighteen (18) hours from the beginning of the period and within each eighteen (18) hour period thereafter. All boats shall be discharged clean at the receiving station in the presence of the tallyman; provided, however, that a boat shall be permitted to leave a receiving station with all over-limit fish aboard. In the event that a Fisherman shall elect to leave the receiving station with over-limit fish aboard, PPSF shall not be obligated to accept delivery of any additional fish from such Fishermen until such Fishermen shall have reported to one of PPSF's

receiving stations with his boat clean of all fish and had his fish book signed by one of the PPSF's agents. Any Fishermen making delivery later than the time period specified herein may be required to deliver their fish directly to PPSF's cannery and when required to do so pursuant to the terms of this section, the provisions of subsection E of Section VIII of this Agreement shall not apply.

C. At the close of each fishing period it shall be the responsibility of the Fishermen to report or deliver all salmon aboard the drift skiff or boat to a receiving station or to notify PPSF within four (4) hours after the close of the fishing period of the fish on board to be delivered. Failure of the Fisherman to so notify or deliver as provided above shall relieve PPSF from any liability for loss of fish; provided, however, there shall be one (1) receiving station on the fishing grounds on each river where fishing operations are conducted for four (4) hours after the close of fishing period.

D. Fishermen detained from delivery of salmon at PPSF's receiving station for five (5) hours after having reported their arrival shall be credited as follows for each additional hour's detention during an open fishing period:

1. Two-man drift gill net boats and one-man drift gillnet boats equipped with brailer -- 550 pounds of red salmon for each hour of detention time.

2. All other types of gear so detained shall be credited with 275 pounds of red salmon for each hour of detention time.

E. Detention shall commence five (5) hours from the time the boat reports to any of PPSF's receiving station with its nets cleared and shall continue until the fish are actually accepted at such receiving station.

F. Fishermen who are instructed by PPSF to deliver fish directly to PPSF's cannery shall receive, in addition to the base fish prices set forth herein, the sum of five cents (\$.05) per pound for the fish so delivered.

## IX

### LIMIT PERIODS

A. PPSF reserves the right to curtail the deliveries of Fishermen by putting them on limit, provided that PPSF places the same restriction upon deliveries of all other persons regularly fishing for and delivering fish to PPSF and, while limits are in effect, PPSF refrains from accepting fish from other persons except those with swamped boats or similar emergencies or conditions of distress. The limit for each twenty-four (24) hour period, or portion thereof, declared open for fishing by the Alaska Department of Fish and Game, shall be not less than 12,000 pounds.

B. Notice of limit shall be given by hoisting a large red flag at PPSF's cannery and at all receiving stations and by announcing over the radio the amount of the limit and the time at which the limit period is to commence. Notice of a limit period shall be given in the manner set forth above at least six (6) hours before the time period is to commence.

C. PPSF shall start the limit period with the commencement of the twenty-four (24) hour period within which it is to apply, or at six (6), twelve (12) or eighteen (18) hours thereafter. It shall be either:

1. Twenty-four (24) hours after starting; or
2. At the end of the fishing period as originally announced or as extended, whichever occurs first.

D. Successive limits and limit periods shall be established by successive notice, except that if the fishing period as originally announced, or as extended, continues beyond twenty-four (24) hours a new limit period with such limit as may be announced by PPSF shall then automatically commence and continue for twenty-four (24) hours and for successive twenty-four (24) hour periods until the fishing period ends with the limit to be announced by PPSF for each successive period.

E. When notice of limit has been given, all boats shall make delivery and clear their nets before the time fixed for the next limit period to start.

F. The limit in effect may be increased by raising a blue flag under the red one, or removed by taking all flags down. Radio announcements of increase or removal shall be made, and the change shall be effected immediately.

G. When a Fisherman has delivered his limit for the limit period, he shall not catch any more fish for delivery to PPSF until three (3) hours before the commencement of the next limit period. Fish caught during this three (3) hour period shall be counted against the next limit period.

H. PPSF shall have no obligation to purchase fish excess of the limit. If, however, PPSF accepts such fish and accepts delivery thereof, then those over the limit shall, as designated by the Fisherman making such delivery, be credited to a Fisherman who is short of the limit providing both Fishermen are at the same receiving station at the time of delivery, and if not so designated shall be credited to the AIFMA. PPSF shall maintain a register showing all over-limit deliveries accepted and the disposition thereof, and PPSF shall enter into the fish book of the Fisherman making the over-limit delivery the amount so delivered. A copy of the over-limit register shall be furnished to the AIFMA. All checks payable for over-limit fish credited to the AIFMA shall be made payable directly to the AIFMA Research and Welfare Fund.

PAYMENT FOR SALMON

A. If requested by Fisherman, payment for salmon purchased shall be made by check, payable to Fisherman. Any such payment shall, to the extent of such payment or payments, discharge PPSF's obligation to the AIFMA and to Fisherman.

B. Upon demand by the Fisherman, and before payment of the base price, PPSF agrees to advance up to seventy-five percent (75%) of the amount due to Fisherman for fish sales at the base price provided herein, net of the balance then currently due on the fisherman's boat account.

C. Interim settlement on the base price between a Fisherman and PPSF shall be made not later than four (4) weeks after the Fisherman stops fishing and gives notice to Buyer of such action. Final settlement for any adjusted amounts under the terms hereof shall be made not later than May 1st of the next following year, or fifteen days after the Alaska Department of Revenue price data are available. At the time of interim settlement, PPSF shall furnish each Fisherman with an itemized statement of account and sales slips.

D. PPSF shall retain no funds due Fisherman at final payment unless authorized to do so in writing by Fisherman. PPSF shall have no obligation for any purchase made by Fisherman unless authorized by a company purchase order.

## XI

ABANDONMENT OF OPERATION

A. In the event the PPSF's cannery is destroyed or so greatly damaged from any cause, or the laws, rules or regulations with reference to salmon fishing or canning are changed, or, in PPSF's judgment, because of strikes or any of the reasons set forth above, it would be impracticable or unprofitable to continue operation, PPSF may forthwith terminate its purchase of salmon from Fishermen provided that PPSF also terminate its purchase of salmon from all other sources. Should PPSF abandon operations for any reasons encompassed within the meaning of the above-specified conditions, PPSF may terminate its purchase of salmon from Fishermen by giving such Fishermen under this Agreement at least twelve (12) hours notice prior to the time set for the cessation of operation. Should PPSF not give said minimum notice, then PPSF shall credit the Fishermen affected with 550 pounds of red salmon for each hour less than the required twelve (12) hour minimum period that notice is not given.

B. In the event of circumstances beyond the control of PPSF, it is impractical to operate its cannery for a temporary period of time but PPSF does not want to abandon operations as above provided, then PPSF may temporarily suspend the purchase of salmon from Fishermen, provided:

1. That PPSF gives notice to AIFMA and to Fishermen of the action to be taken and the effective time and date of that action; and

2. That PPSF shall make every effort to find another market for fish caught by Fishermen during the period of suspension. Suspension of operations under this subsection shall not be deemed an abandonment of operations within the meaning of subsection A above.

C. In addition to the above, if a cannery or a consolidation is operating at maximum practicable capacity, the company, or consolidation may suspend its fishing effort even though such suspension takes place in periods open for fishing if such fishing would exceed the utilization possible by the company or consolidation. (Maximum capacity for the purpose of this section shall mean utilization of all lines which can be practically operated at the time at each of the canneries being operated by PPSF in Bristol Bay, if more than one, or being operated in a consolidation. In cases of a breakdown of a line in one or more operating canneries, such lines will not be counted in defining maximum capacity)

D. During periods of time when the anticipated supply of salmon is likely to near or exceed PPSF maximum practicable capacity, PPSF may impose limit periods of less than twenty-four (24) hours, provided that PPSF may impose limit periods of less than twenty-four (24) hours on not more than four (4) occasions during a season.

## XII

### BOAT STORAGE

Except as provided in Article XV, hereinafter, PPSF agrees to provide free handling and storage of boats and gear for Fishermen during the entire winter following each of the subject season's operations. PPSF also agrees to provide, at no charge to Fishermen, haul-out and launching service for all boats in need of repair requiring such haul-out or launching service. PPSF agrees to transport Fishermen's gear to Bristol Bay without costs in accordance with space available on PPSF's tender.

## XIII

### ROOM AND BOARD

PPSF agrees to provide Fishermen Room and Board. The Room and Board shall be at the expense of the Fishermen and charged at the following rates during 1983 at \$20.00 per day and for 1984 and 1985, \$20.00 plus an adjustment equivalent to the change reported between June 1983 and June of the year in question, by the U.S. Department of Labor in the Consumer Price Index, all commodities for the State of Alaska.

PPSF agrees to furnish beds, springs mattresses and covers, pillows, pillow slips and sheets, clean linen and towels weekly, toilet paper, and also two (2) blankets for each Fisherman, if so requested.

For each thirty (30) boats regularly fishing at PPSF's cannery, there shall be a washing machine in good condition, available for use by the Fishermen.

#### XIV

##### PORT ENGINEER

PPSF agrees to provide mechanics for repairs and maintenance of boats of Fishermen and further agrees that said mechanics shall repair the boats of Fishermen and other persons regularly fishing for PPSF on a "first-come-first-serve" basis as reported to PPSF's superintendent upon arrival at PPSF's dock. Should a boat of a Fisherman be undergoing major repairs or about to undergo major repairs, PPSF's mechanic may pass over said boat and repair a boat taken out of turn. Major repairs are understood to be repairs which are estimated by PPSF's mechanic to require more than two (2) hours to complete. Fishermen shall pay \$35 per hour for the services of mechanics during the 1983 season, and for the 1984 and 1985 season the rate shall be \$35 per hour plus an adjustment based on the same rate used for adjusting the price of meal tickets.

#### XV

##### TERMINATION OF FISHERMAN

PPSF agrees that if it intends not to accept fish from a particular Fisherman for the next following Fishing Season, PPSF will notify AIFMA and the Fisherman in writing, not later than December 15th of the year prior to the affected season, except in those instances where the termination is for cause.

Fishermen agree to notify PPSF in writing, by December 15th if they do not intend to deliver to PPSF during the next following season.

The parties acknowledge the uncertainty and difficulty in estimating damages accruing to the other if notice of termination is not given in a timely manner as herein provided. To liquidate the amount of these damages, it is agreed that if either PPSF or a Fisherman should fail to notify the other of termination in a timely manner as herein provided, and thereafter fails or refuses to sell or buy fish, as the case may be, in accordance with the terms and conditions of this agreement, the party failing to give notice as herein provided shall be liable to the other in the amount of Three Thousand Five Hundred Dollars (\$3,500.00).

PPSF agrees that it will not discriminate against a Fisherman because of his activities on behalf of AIFMA.

XVI

POSTING

PPSF shall post copies of this Agreement in the lobby of its office at its cannery and the Fishermen's bunkhouse.

XVII

NO CHANGE -- SUBJECT TO LAW

Neither PPSF nor AIFMA, nor any agent of either, has any power to change or alter any of the provisions in this Agreement, and the same is entered into subject to all present and future laws and regulation which may be prescribed by state or federal authorities during the term of this Agreement, and if at any time it shall be established as a matter of law that any of the provisions of this Agreement are contrary to law, rules and regulation, then in that event the said provision so far as they may conflict shall be considered as not binding upon either of the parties hereto.

ALASKA INDEPENDENT FISHERMEN'S  
MARKETING ASSOCIATION

By \_\_\_\_\_

Its \_\_\_\_\_

AIFMA COOPERATIVE

By \_\_\_\_\_

Its \_\_\_\_\_

PETER PAN SEAFOODS, INC.

By \_\_\_\_\_

Its \_\_\_\_\_

HOUSE SPECIAL COMMITTEE  
ON FISHERIES  
April 5, 1983  
4:07 p.m.

Members Present: Rep. Herrmann, Chairman  
Rep. Fuller, Vice-Chairman  
Rep. McBride  
Rep. Bussell  
Rep. Goll

Members Absent: Rep. Grussendorf  
Rep. Zharoff

COMMITTEE CALENDAR

Discussion on Salmon Wholesale Average Price  
Reporting

WITNESS REGISTER

Melvin Monsen  
Aide  
House Special Committee on Fisheries  
Pouch V  
Juneau, Alaska 99811  
465-4924

PREVIOUS ACTION

NONE

ACTION NARRATIVE

TAPE#29  
Recording  
Number 0001

Chairman Herrmann called the meeting to order at 4:07 p.m., and announced the first order of business to be a discussion on Wholesale Price Average Reports for salmon. She stated that price negotiating in Bristol Bay has in the past not gone very smoothly.

Chairman Herrmann introduced Melvin Monsen, Professional Aide to the Special Committee on Fisheries to give the committee members an update on the current wholesale price draft legislation.

Number 0027

Rep. Fuller stated that apparently the

fishermen do need some legislation help in order to make the negotiating process a little easier on all parties involved.

Number 0034

Chairman Herrmann stated that some of the fishermen in western Alaska have signed contracts with the processors in order to do away with the strikes.

Number 0047

Mel Monsen began his presentation on the background information of the Wholesale Price Average Bill that will probably be coming up in the near future. The reason for this bill is, the Alaska Independent Fishermen's Marketing Association (AIFMA) has signed a new contract that has been tried before but hasn't been successful. This type of settlement has an initial base price payoff and following the sales of the salmon during the winter and spring, a final price payment will be given to the fishermen based on what the processor got for his pack selling at wholesale. The contract that AIFMA has signed with most of the processors in Bristol Bay is a multi-year agreement in that the next year's price is based on the previous year's base price; plus again a portion of the wholesale price during the following winter. It has the ability of solving the problems of having price determination strikes in Bristol Bay and everywhere else in the state if this system is successful.

Number 0075

Rep. Fuller asked if it was a negotiated price for three years with perhaps a bonus connected with it and if it was a contract using the base price of the first year for every year that follows.

Number 0081

Mel Monsen answered yes to Rep. Fuller's first question regarding the bonus and said no to the second question. The way the contract is worded, (the contract with Peter Pan Seafoods) is the fishermen would receive 58¢ a pound for canned red salmon within four weeks of the end of the fishing season and then on May 1, 1984, based on the wholesale price determination they would get a final payment that is basically equivalent to 44% of the wholesale price with certain factors involved. For the 1984 salmon season, the fishermen would receive 75% of the 1983 season's final settlement as their

base price, plus the settlement for their final payment in the following May. The process would continue for the next season using the previous year's prices.

Number 0106

Rep. Fuller stated that the contract before him is very complicated and asked if it was necessary for them to understand it fully.

Number 0112

Chairman Herrmann stated that the legislation that will be introduced by Senator Kerttula did have a lot of problems with the processors. Chairman Herrmann said she attended a meeting with the Department of Revenue, United Fishermen of Alaska, and a number of other people and Rick Lauber the Alaska Manager of Pacific Seafood Processors Association who was not present, and at this meeting they thought they could get approval so the Governor could introduce this bill. There was consensus among the group but the processors didn't agree with the way it was working.

Number 0125

Rep. Fuller asked legislatively where does their responsibility lie and what do they have to know in order to make an intelligent decision.

Number 0133

Mel Mosen continued his testimony and stated that the area that the legislature should take care of to help the fishermen with this contract is the area that used to be under the Department of Revenue called Reporting of Salmon Prices, Section 43.80.035 of the statutes. This Reporting of Salmon Prices was established originally because the state tax on processors was based on the wholesale price. This was changed a few years ago to the Raw Fish Tax and so this section was no longer needed for its original use. A clause was added that would phase this section out anytime it wasn't used for any given year for any given fishery. This section of the statutes is no longer usable to determine wholesale prices for the fishermen's contracts. So, a new one has been worked on and two bills have been drafted. The first bill had some problems, so a second bill was drafted that basically moves everything over to the Department of Commerce and Economic Development, because they have the computer facilities and the technical people to handle it without new

capital costs for equipment.

What happened under the first draft was the Department of Revenue would have to send out a form to the processors requesting them to turn in information. The form was very complex and the processors came back saying, "this form is unworkable and it would cost millions of dollars to report in this way." This caused the second bill to be drafted which still has the Wholesale Price Average being determined. But the way it will be done is; the Department of Commerce and Economic Development will determine it with an individual from the Department that will take a significant random sample of processors rather than having all of the processors turn in the information. There are still problems with the second draft which states that wholesale averages must be determined for canned, fresh, frozen and cured salmon, but in the contracts it is only required for canned. There is a meeting on April 8, 1983, between the processors, fishermen's organizations, Department of Commerce and Economic Development, and Department of Revenue in which they hope to come to a decision on the problem areas. All parties involved seem to be working together well and they hope to get these problem areas worked out before the legislation is introduced in order for it to go through smoothly.

Number 0209

There was discussion between the committee members as to whether the House Special Committee on Fisheries should introduce a bill similar to Senator Kerttula's bill.

Number 0239

Rep. McBride stated that the committee should discuss and have a working knowledge of what is happening. It is a complicated situation and the committee should have knowledge as to why it didn't work before. Fishermen are very willing to think that wholesale is wholesale, and their problem seemed to be that they didn't feel the processors were reporting the wholesale price and that's why they've asked the state to do this job. Rep. McBride continued by stating that he didn't think the fishermen understand what "wholesale" means. As written in the second draft bill, "wholesale

price" is defined as, all receipts whether in the form of money, credits or other considerations. This doesn't answer the problem when some processors own brokerage firms. If this processor sells to his brokerage firm, he's not going to care whether he makes his profit on the processing side or the brokerage firm's side. The fishermen have to be satisfied when this is all done that all the questions are being answered.

Number 0263

Mel Monsen stated that in the AIFMA contract, this particular problem was addressed regarding sales within affiliated companies and that there were problems such as this in past contracts. It does not address this in the draft of the legislation, but Mel Monsen stated he had spoken to Cass Parsons of UFA and she said she would address the definition of 'wholesale' at the April 8th meeting.

Number 0281

Rep. McBride stated that another topic that has discouraged the fishermen was, they didn't feel that the processor should give discounts. But this is one way that the salmon sell and the fishermen don't understand this. We have to answer all of these questions to everyone's satisfaction, said Rep. McBride.

Number 0295

There was discussion on whether the committee should introduce its own bill.

Number 0310

Rep. Goll asked if the primary purpose of this proposed legislation is to provide a bargaining tool for fishermen's organization to use in developing contracts with their local processors.

Number 0316

Mel Monsen said yes, it would give a credible source for a wholesale average that both processors and fishermen would be able to point to for final determination of price contracts. Wit out this, long term contracts are not going to be possible.

Number 0323

Rep. Goll was concerned that this requirement would discourage new processing ventures.

Number 0350

Chairman Herrmann stated that this requirement is needed to eliminate strikes.

Number 0360

Rep. Goll stated that there is a great diversity of organizations in both the marketing and the selling of fish plus the new individuals who would like to enter into the processing and marketing industry who may not be able to meet these prices set in the contracts for their first year. He stated that he wouldn't want to see a standard set.

Number 0366

Chairman Herrmann stated she felt they are not setting a standard. The contracts vary for different fishermen's organizations and different areas.

Number 0372

Rep. McBride stated that the parties can negotiate any way they want to; all the legislature is doing is providing credible information that both sides can look at and make their own decisions from.

Number 0380

There was further discussion on whether to have a Special Committee on Fisheries' bill. Chairman Herrmann stated that it would be best to wait until after April 8 meeting to decide what to do. The reason this topic of discussion was brought before the committee was to inform the committee members about this piece of legislation that will be introduced in the near future.

Number 0404

Rep. Goll asked Mel Monsen if there were specific points in Senator Kerttula's bill that would require changing.

Number 0406

Mel Monsen went on to explain the certain problem areas. The section that describes the canned, fresh, frozen, and cured reporting requirement was unfavorable for the processors because of the many options of fresh, frozen and cured. They wouldn't be able to be covered adequately with a wholesale average and that maybe a range should be included. Also, the section that requires averages for each administrative area was also unfavorable by some processors.

Number 0418

Chairman Herrmann stated that sometimes it's a benefit for the contracts to pertain to just administrative areas; and asked for clarification from Mel Monsen.

Number 0423

Mel Monsen explained that if the fishermen's

association felt that there was a significant difference in the wholesale average of their area compared to a statewide average, they've always got the option in their contract to appoint an independent auditor to look at the processor's books and take a wholesale average from that. There are certain fishermen's associations who are interested in just administrative area averages.

Number 0435

Rep. McBride stated that problems are going to arise unless the administrative area topic is addressed.

Number 0440

Rep. Bussell questioned regarding joint ventures.

Mel Monsen explained that "no, the reporting wouldn't affect the joint ventures".

Number 0444

Mel Monsen pointed out that the other problem area was the "wholesale price" definition which had already been discussed earlier in the meeting. Mr. Monsen further pointed out to the committee members, certain letters included in the packets from a number of different parties involved: AIFMA supports the legislation along with Peter Pan Seafoods; Nelbro Packing Company expressed concern over the first draft of legislation which included all of the different types of processing; a letter from UFA to Lennie Boston of the Governor's Office concerning the initial draft which has some explanation for rationale behind the legislation; and a piece of testimony from the Cordova District fishermen's Union which is a couple of years old but pertains to the same issue.

Number 0480

It was decided that they would stick with the second draft and would wait until after the April 8th meeting to decide what action the committee would take.

Number 0494

Mel Monsen stated that the processors' basic concern was with the cost of providing the information.

Number 0500

Chairman Herrmann stated that at Thursday's meeting they would discuss the committee members' fisheries priorities. Also a report from Mel Monsen regarding what went

on at the Board of Fisheries meetings in Anchorage.

Number 0510

Chairman Herrmann adjourned the meeting at 4:40 p.m.

MEMORANDUM

DATE: May 23, 1983

TO: Representative Adelheid Herrmann  
FROM: Melvin Monsen *MM*  
SUBJECT: Possible Amendment to CS SS HB 381 (Res)

Ed Hein talked to Paul Taylor from revenue and a new question came up. Apparently, one processor did not report in the past because they said it violated anti-trust provisions.

The amendment makes it crystal clear what the information is for and that the legislature realizes what it is doing.

The amendment may not be totally necessary as we have it on record in the committee meeting. But, we can get it put in, in Senate Resources or Finance if you want it.

A M E N D M E N T

Offered in the SENATE

TO: CSSH B 381(Res)

Page 1, following line 8, insert the following:

"\* Section 1. FINDINGS AND DECLARATION OF POLICY. The legislature finds that it is in the public interest to prevent disruption of the state's salmon fishing industry caused by strikes and by deadlocked price negotiations between commercial fishermen and fish processors. To that end this Act requires the reporting and calculating of wholesale canned salmon prices and price averages in order to assist parties in resolving price disputes. It is the policy of the state that the unfettered business freedom of processors and fishermen to negotiate and establish prices for salmon be displaced to the extent necessitated by this Act in order to benefit the fishing industry and the economy of the state."

Re-number remaining sections accordingly.

STATE OF ALASKA  
FISCAL NOTE

Revision Date                     , 1983

I. **REQUEST**

Bill/Resolution No: SS HB 381  
Title: Wholesale Price - Canned Salmon  
Sponsor: House Spec. Comm. on Fisheries  
Requestor: House Spec Comm on Fisheries

II. **FISCAL DETAIL**

Agency Affected: Department of Revenue  
Program Category Affected: Rev Coll & Mgmt  
BRU, Program of Subprogram(s) Affected: Audit Division

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	25.5	28.0	30.8	33.9	37.3
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	9.9	2.5	2.5	2.6	2.6
400 COMMODITIES	-	.8	1.0	1.0	1.0	1.0
500 EQUIPMENT	-	1.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	37.2	31.5	34.3	37.5	40.9
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-	37.2	31.5	34.3	37.5	40.9
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

**POSITIONS:**

FULL-TIME	-	1	1	1	1	1
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. **SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

None

IV. **ANALYSIS: Attach a separate page for any Analysis.**

Prepared By: Paul W. Taylor  
Division: Audit Division

Phone: 465-2371  
Date: April 28, 1983

Approved by Commissioner: J. Donohue  
Department: Revenue

Date: 5/4/83

**Distribution:**

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

#### IV. Analysis

This bill rewrites AS 43.80.035 pertaining to the reporting of average wholesale prices of canned salmon. The impact on the operation of the division would be to hire a tax examiner to be responsible for the compiling of this information and to obtain a computer terminal on which to key punch the data for various report forms.

The Department would like to recommend one amendment to the bill, that Sec. 1(d) be amended to show a reporting size for half-pound cans and quarter-pound cans of a forty-eight can case (as opposed to a forty-eight pound case).

# NEIBRO PACKING COMPANY

WE'VE MOVED  
4242 22nd AVENUE WEST  
SEATTLE, WASHINGTON ~~98122~~ 98199



(206) ~~285-3941~~  
285-3941

March 22nd, 1983

The Honorable Adalheid Herrmann,  
Alaska State House of Representatives,  
Pouch V,  
Juneau, Alaska 99811.

Dear Adalheid:

I understand that legislation may be introduced providing for the accumulation and compilation of wholesale price information on Salmon.

I was alarmed at the scope of the proposed legislation and want to give you my views on it since I believe its genesis was brought about in part by the Bristol Bay Fishing Agreements which we have signed with the Alaska Independent Fishermens Marketing Association and other non-member fishermen.

Our Agreements call for the following information:

"the Industry average wholesale price, net of discounts, for sales of Canned Salmon between the dates of August 1 of the season involved, to March 15 of the year following the season involved."

This information applies to Tals and Halves cans only, and exactly parallels the information which the Department of Revenue compiled in previous years (and is still compiling on canned Pink Salmon) with the exception of the time period of sales, and we would respectfully request that provision be made to accumulate and report this limited amount of data.

My understanding of the proposed legislation is that it would require reporting every month - 12 months a year - for each of the following:

1. Sales by area of production,
2. Sales by species,
3. Sales of canned by four different can sizes,
4. Sales of fresh - in any number of different forms and differing markets,
5. Sales of frozen - in any number of different forms and differing markets,
6. Sales of cured,
7. Sales of any specialty pack by type of pack, etc.

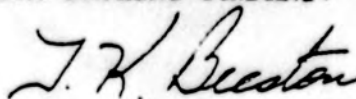
For Industry the cost and time required to accomplish this reporting would be both tremendous and impractical, and for the Department of Revenue it would most certainly involve a significant additional workload and expense to compile and report this vast amount of data.

At a time when this Industry is fighting for its economic survival, while the State also has serious financial concerns, it seems inappropriate to burden either of us with this ill-advised and costly, expanded requirement which doesn't appear to serve any useful purpose.

I thank you for your consideration of my comments.

Respectfully yours,

NELBRO PACKING COMPANY.



T. K. Beeston.

TEB:bb

c.c. Robert Heath,  
Commissioner of Revenue,  
Pouch S,  
Juneau, AK 99811.



# UNITED FISHERMEN OF ALASKA

Cass M. Parsons  
Executive Director

Lennie Boston  
Special Assistant  
Office of the Governor  
Pouch A  
Juneau, Alaska 99811

MAILING ADDRESS & OFFICE  
197 SOUTH FRANKLIN ST.  
JUNEAU, ALASKA 99801  
907-586-2820

March 15, 1983

Dear Lennie:

This is a draft of the Alaska Wholesale Average legislation I spoke with you about last week. The proposed changes:

- ✓ 1) require average wholesale price reporting for fresh, frozen, canned and cured salmon (now required only for canned);
- ✓ 2) require average wholesale price reporting for all species of salmon (now collected for pink salmon only);
- ✓ 3) require average wholesale price reporting on a monthly basis throughout the year (now required for August, September, October, November and December only);
- 4) reduce the civil penalty for not reporting from \$5,000 to \$1,000 per report; and
- 5) omit the necessity for a joint request for the information from both a processor and a fishermen's organization.

There are many arguments that can be made for this legislation from a fisherman's point of view, but there are also several valid points to make from the State of Alaska's view. I will list as many as possible here for your information.

## Fishermen

- 1) The Alaska Wholesale Average (AWA) prices are used by Bristol Bay, Prince William Sound and other fishermen to negotiate ex-vessel prices. The prices set in these areas in turn determine prices offered to fishermen in every other area of the state.
- 2) The Alaska Wholesale Average is recognized by fishermen and processors as being the only unbiased credible data base available to the public.
- 3) The AWA collected by the Department of Revenue is the only source of this information.
- 4) The AWA enables fishermen to negotiate prices that more accurately reflect true market values of the product.

Lennie Boston  
March 15, 1983  
Page Two

5) Price on all species information and all processed product forms are necessary so that prices can be established for salmon other than pink salmon and because the frozen, fresh, and cured salmon products now comprise over 50% of total sales. The canned product prices no longer adequately reflect the scope of the sales.

6) This legislation requires each report due on the last day of the month following the month for which the reported sales are made. The monthly report submitted for each of the 12 months is necessary so that information is both current and timely. It will also allow an accurate picture of the entire sales year, rather than the present 5-month segment.

#### State of Alaska

1) The AWA provides Alaska citizens with information which, combined with other marketing information, allows them knowledge of market pricing, structure, forecasting, etc. for the seafood industry.

2) The state has spent hundreds of thousands of dollars on marketing studies which have had to cite data limitations (AWA information included) as responsible for an inadequate marketing analysis.

3) The AWA information which directly or indirectly affects every citizen of the state. Increased revenues from the raw fish tax, either through higher price settlements or through increased harvests resulting from fewer strikes, affect everyone in the state.

4) Information gathered through AWA helps fishermen and processors settle on more realistic prices and result in fewer strikes. When strikes are prevented, the state gains in increased revenue from the raw fish tax (increased harvests) and in not having to participate in strike settlement.

I hope this information helps clarify the need for the legislation and why it would be appropriate to introduce it at the request of the Governor. I will call you later in the week or early next week to discuss it further. Please call if you have any questions.

Sincerely,

Cass M. Parsons  
UFA Executive Director

CMP/jb

5) AWA will assist state in determining domestic processing intent needed when deciding to allow foreign processors in

# Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

SB 346

Mr. Chairman, members of the committee, my name is Bob Blake, I am currently President of the United Fishermen of Alaska, The Cordova Aquatic Marketing Association and Chairman of Cordova District Fisheries Union.

I am here before you today to testify in support of SB 346, which, as you know, is a bill which would require the Dept. of Revenue to compute and report average wholesale prices for Alaska canned salmon. The amendment SB 346 addresses, prior to 1979, has been a statutory requirement of the Department of Revenue and the Alaska salmon canner for many, many years. It does not call for increasing the bureaucracy or for a new budgetary program, or inflict any additional cost to the State of Alaska or the canning industry that hasn't been required previously. It merely calls for the continuation of a process that has been recognized as the most credible means of assessing the value of Alaska canned salmon for a given year.

The Alaska Wholesale Average values for canned salmon are the only source of information available, or obtainable at any cost, that are recognized and accepted by processors and fishermen as a credible base from which to negotiate ex vessel prices.

It was argued by a member of the Resource Committee that HB 773 was a special interest piece of legislation simply because my Cordova organization requested its introduction. I certainly admit that we do have a special interest in this bill, because it does provide for the basis from which we have successfully negotiated marketing agreements with Prince William Sound processors for the past 15 years. We definitely desire to continue this practice.

However, it is totally erroneous to label HB 773 "special interest" unless it is felt that the interest of the statewide fishing and processing industry, and the economy of the State of Alaska is a "special interest."

Bristol Bay, Sand Point, Kodiak, and Prince William Sound have all in the past negotiated deferred payment, or sliding scale marketing agreements totally dependent on AWA figures. Cook Inlet and Southeastern ex vessel prices are directly related to those settlements. Even when the contracts are not sliding scale, the canned product values are negotiated from the AWA figures.

We are all consciously concerned with the large runs expected in Bristol Bay this coming season. The impact of these runs and the price settlement there is going to effect the entire salmon industry of Alaska, Canada, and the West Coast, as well as literally every resident of Alaska. Those runs will govern the market conditions and price of salmon for several years, and as you know, the direct tax revenue from those runs is based on the negotiated ex vessel price.

In 1980, the majority of the Bristol Bay Red salmon will be put in the can. Pink salmon have literally all been canned and will continue to be processed that way for some time to come. With the vast majority of Alaska salmon production being canned, it is imperative that there be a guaranteed credible data base available to work from for a fair and equitable ex vessel price settlement, and a fair and equitable tax revenue to the state.

It must be noted that the two price offers on Bristol Bay salmon that have surfaced to date utilize canned salmon prices as a base. There are strong indications that future negotiations will follow the same line. If the AWA is not guaranteed by statute in the very near future, it will drastically curtail the ability of the involved parties to reach an equitable settlement. The spin off from that will effect the statewide industry and the State itself.

There is no other means by which to obtain the information provided by the AWA. The NMFS pink sheet which gives weekly values of canned salmon is not accepted by salmon canners as a qualified source. It can only be used for an indicator of market conditions, not a fact sheet.

The Department of Revenue is considering a contract with NMFS to produce similar figures to those disclosed by the AWA, now that they are not required by law to compile them. Therefore, cost to the State, if this arrangement is pursued, is going to continue and probably increase. However, the inability of NMFS to obtain all the information necessary will result in only a glorified pink sheet, with no credibility at all. A quick phone call to Mr. John Bishop, who compiles the information for the pink sheet, will verify that fact. Unless the legislature wishes to change the confidentiality statutes that are now on the books, no one can obtain the necessary information to produce values comparable to the AWA.

My organization had a sliding scale contract for Pink salmon in 1979. We hired a very reputable and capable consulting firm to develop a projection of the 1980 AWA in the event that we might have to use it to reach the final settlement of our contract. To arrive at the 1980 AWA, we required the firm to correlate the past ten years' AWA figures with the past ten years' August through December average prices from the pink sheet. Based on the percentage of relativity, and utilizing the 1979 August through December pink sheet averages, the firm projected our 1980 AWA. It looks impressive, and it is; statistically it is sound, but it lacks some of the most important factors necessary to give it judicial credibility. It lacks the ability to weigh the pink sheet monthly averages with the volume of sales, it lacks the ability to accurately project promotion discounts, etc. These lacking factors can only be provided for by the processors themselves, no one else can obtain them, and without those key missing links, it is impossible to even "buy" a credible, acceptable data base.

The cost to the processor incurred in reporting to the Department of Revenue was referred to as a negative factor. I simply ask, what cost to the processors? \$100,000 was thrown out at the Resource Committee hearing and was apparently accepted at face value. I really question that cost. Any major processor has an accounting staff that certainly keeps tabs on what they sell their canned salmon for. I seriously doubt that any major processor can attribute more than one day's wages, for one person, directly to computing and

filling out a one page form. As far as the small operator goes, my wife runs a Mom and Pop cannery in Cordova; it takes her at the most, 10 minutes to fill out and mail her report. I honestly feel that any processor that opposes this bill is much more concerned with other potential costs, and not with the cost of reporting the information.

Conversely, the ability to negotiate deferred payment or sliding scale contracts based on AWA figures represents a tremendous savings in interest dollars for the processors. For example, our 1979 Prince William Sound Pink salmon contract, if projected at current interest rates, saved Prince William Sound processors approximately \$595,520 in interest. With high interest rates and tight money, this has to be appealing to processors. This split payment schedule allows processors the opportunity to actually sell a major portion of their pack before they fully pay for the raw product.

To answer the question, "Who uses the AWA figures?", the answer is simple, every resident of the State of Alaska uses those figures either directly or indirectly. The fishing industry is dependent upon those figures to arrive at a fair and equitable price settlement. The State of Alaska is dependent upon that fair and equitable settlement to in turn receive a fair and equitable return through raw fish taxes which are a percentage of that settlement. The raw fish tax revenue from the 1979 season exceeded the cost to the State of the entire ADF&G budget including vessels, Game, Sport and Commercial Fish, FRED, and Fish and Wildlife Protection by 20 million dollars. Salmon taxes were a major contributor to that excess. Even if some residents didn't derive benefit from fish and wildlife management and protection, they did derive benefit from the general fund. Unquestionably, though possibly indirectly, every resident of the State benefits from having the State continue to compile and compute the Alaska Wholesale Average for canned salmon.

We know too well the necessity of a timely settlement in Bristol Bay, especially this year. Any impediment which keeps that from happening is not in the best interest of the State. The AWA is the key tool toward a timely settlement, therefore HB 773 and SB 346 must pass through the legislature, and they must pass now.

I wish to thank you for the opportunity to appear before this committee in support of SB 346, and I hope that my presentation has helped inform you in this decision.

IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the reporting of the average wholesale prices of salmon under AS 43.80; and providing for an effective date."

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

\* Section 1. AS 43.80.035 is amended to read:

Sec. 43.80.035. REPORTING OF SALMON PRICES. (a) (1) [EXCEPT WHEN THE REQUIREMENT IS SUSPENDED UNDER (d) OF THIS SECTION,] The department [COMMISSIONER] shall compute and report to the legislature each month [NOT LATER THAN THE 60TH DAY OF EACH REGULAR SESSION] the average wholesale prices obtained for canned, fresh, frozen and cured salmon for the previous month. Statements shall be issued by the department both on a statewide basis and by management area (designated by the Department of Fish and Game) basis. The department shall also issue similar statements to the legislature not later than the 90th day of each regular session of the average wholesale prices obtained for canned, fresh, frozen and cured salmon for the previous calendar year. [BY ALASKA SALMON CANNERIES DURING THE MONTHS OF AUGUST, SEPTEMBER, OCTOBER, NOVEMBER, AND DECEMBER FOR THE

PREVIOUS FIVE YEARS.] In computing and reporting prices, the commissioner may require [CANNERIES TO PROVIDE] information on wholesale price by species of salmon.

(2) Reports must be submitted to the department on average wholesale prices computed as follows for each species of salmon (King, Red, Pink, Coho, Chum):

(A) canned: 48 pounds - 1 pound can - case size  
48 pounds - 1/2 pound can - case size  
48 pounds - 1/4 pound can - case size  
12 pounds - 4 pound can - case size

(B) fresh: per pound

(C) frozen: per pound

(D) cured: per pound

(E) If canning consists of any special pack, such as skinned and boned, skinned and sliced, spiced, fillets, sliced or in odd-size cans, or any other special method other than standard packing method, report this portion of pack on a separate statement and attach to the report.

(3) Any person who sells processed salmon, i.e.: frozen, canned, fresh or cured salmon at wholesale as defined in this section must file a report. This includes product processed by the filer or product processed for the

filer by a custom processor but does not include fishermen who process their own product who are claiming an exclusion under AS 43.75.017.

(b) The department [COMMISSIONER] may

(1) issue summons under AS 43.05.040 to compel the testimony of witnesses and the production of records and documents necessary to obtain and audit reports and information on wholesale prices of salmon when required under (a) of this section;

(2) levy and collect a civil penalty for failure to report information on wholesale prices of salmon under (a) of this section.

(c) The average wholesale price report described in (a) must be submitted to the department monthly and is due by the last day of the month following the month of sales. If no sales occur during a month, the report must be filed stating such.

(d) [(c)] (1) A person required to file a report described in (a)(3) who fails to timely file [A] the report [CONTAINING INFORMATION ON THE WHOLESAL PRICES OF SALMON REQUIRED BY THE COMMISSIONER UNDER THIS SECTION] is liable for a civil penalty of \$1,000 [\$5,000]. The penalty shall be assessed and collected for each report not timely filed, in the same manner as taxes are assessed and collected under AS 43[.05.010 - 43.80.040].

[(d) COMPUTATION AND REPORTING OF THE AVERAGE WHOLESale PRICE OF A SPECIES OF SALMON BY THE COMMISSIONER UNDER (a) OF THIS SECTION IS NOT REQUIRED DURING A CALENDAR YEAR IN WHICH THE COMMISSIONER DOES NOT RECEIVE AT LEAST ONE REQUEST JOINTLY PRESENTED BY A FISH PROCESSOR DOING BUSINESS IN ALASKA AND AN ORGANIZATION REPRESENTING FISHERMEN THAT THEY DESIRE THE REPORT FOR A SPECIES OF SALMON UNDER (a) OF THIS SECTION FOR PURPOSES OF PRICE NEGOTIATION. IF A JOINT REQUEST IS NOT PRESENTED TO THE COMMISSIONER FOR A SALMON SPECIES FOR A CALENDAR YEAR, INFORMATION ABOUT THE AVERAGE WHOLESale PRICE OF THAT SALMON SPECIES MAY NOT BE COLLECTED BY THE COMMISSIONER FOR THAT CALENDAR YEAR, AND THE LAST REPORT SUBMITTED BY THE COMMISSIONER UNDER (a) OF THIS SECTION FOR THAT SPECIES IS THE FINAL REPORT OF PRICES FOR THAT SPECIES REQUIRED UNDER THIS SECTION.]

(e) Notwithstanding paragraph (d) of this section, for calendar year 1983 the penalty for failing to timely file a report described in (a) will be assessed at \$100.00 per failure to file not to exceed \$1,200 for the year. Reports for the months January through August will be due on September 30, and each succeeding month's report for the remainder of 1983 will be due on the last day of the month following the month of sales.

Definitions

(f) [(e)] In this section,

[(1) "COMMISSIONER" MEANS THE COMMISSIONER OF REVENUE;]

(1) [(2)] "wholesale price" includes all receipts, whether in the form of money, credits or other consideration, received from the sale of the finished product without deduction for the cost of property sold, the cost of the material used, insurance costs, labor or service costs, label and labeling costs, transportation and storage cost, interest paid, taxes, losses, or any other expense except

(A) cash discounts allowed on sales not to exceed one and one-half percent;

(B) commissions actually paid to independent brokers not to exceed five percent; and

(C) swell allowance not to exceed one-tenth of one percent.

(2) -"wholesale" means the selling of goods to another reseller at prices other than retail.

\* Section 2. This act is retroactive to January 1, 1983.

\* Section 3. This act takes effect immediately in accordance with AS 01.10.070(c).

HOUSE SPECIAL COMMITTEE  
ON FISHERIES  
May 3, 1983  
4:10 p.m.

Members Present: Rep. Herrmann, Chairman  
Rep. Bussell  
Rep. Goll  
Rep. Grussendorf  
Rep. McBride  
Rep. Zharoff

Members Absent: Rep. Fuller, Vice-Chair

COMMITTEE CALENDAR

SSHB 381: "An Act relating to wholesale prices for salmon; and providing for an effective date."  
HB 382: "An Act relating to fees for salmon limited entry and interim-use permits; and providing for an effective date."  
HB 376: "An Act amending the Limited Entry Act; and providing for an effective date."

WITNESS REGISTER

Rick Lauber  
Alaska Manager  
Pacific Seafood Processors Association  
120 W. 1st. Street  
Juneau, Alaska 99801  
586-6366

Cass Parsons  
Executive Director  
United Fishermen of Alaska  
319 Seward Street  
Suite 208  
Juneau, Alaska 99801  
586-2820

Norm Staton  
Department of Revenue  
Pouch SA  
Juneau, Alaska 99811  
465-2371

Bob Kessel  
Director

Division of Audit  
Department of Revenue  
Pouch SA  
Juneau, Alaska 99811  
465-2320

Dick Reynolds  
Department of Commerce and Economic Development  
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Juneau, Alaska 99811  
465-2018

Alan Stein  
Fisherman  
Box 535  
Petersburg, Alaska 99833  
586-5922 (Juneau)

PREVIOUS ACTION

HB 376: 4/21/83 - First Reading.  
  
Committee referrals - Fisheries, Resources  
and Rules Committees.  
  
Governor's transmittal letters appears on  
page 973 of the House Journal.  
  
Fiscal note with analysis appears in House  
Supplement No. 44.  
  
No previous action in Fisheries Committee.

HB 381: 4/28/83 - First Reading.  
  
Committee referrals - Fisheries, Resources  
and Rules Committees.  
  
No previous action in Fisheries Committee.

HB 382: 4/26/83 - First Reading.  
  
Committee referrals - Fisheries, Resources  
and Rules Committees.  
  
No previous action in Fisheries Committee.

ACTION NARRATIVE

TAPE#35  
Recording

Number 0001

Chairman Herrmann called the Special Committee on Fisheries meeting to order at 4:10 p.m. She announced the first order of business; SSHB 381 and informed the committee that the bill had been discussed in a work session in the past.

Chairman Herrmann said with certain contracts between fishermen and processors, there needs to be a process by which the wholesale prices for salmon are determined and gathered, benefitting both parties involved. She called upon Rick Lauber to begin his testimony.

Number 0030

Rick Lauber representing the Pacific Seafood Processors Association (PSPA) began his testimony by stating that the Chair was correct in stating that interest was sparked in this type of legislation because of agreements that have recently been made that have involved a sliding scale. However, in the discussion with parties involved with this piece of legislation, it appears that this reason is a rather almost insignificant portion of the intent behind the effort to obtain wholesale price information. It seems there is a feeling that by obtaining information on the price that product has been sold for in the past will somehow enable one to determine what would be the price that should be paid for in the future.

Mr. Lauber addressed the "contracts" that have or will be signed that involve the reporting of wholesale prices. In the first place, those contract while they make reference to a state report, they also have provisions in them for the obtaining of that information by other means. He stated that he would like to consider that as an alternative that would be more advantageous to all concerned.

Mr. Lauber said that there had been a lot of discussion in the past about quality control and quality products in the seafood industry. If a fisherman is going to be paid based on a statewide average, it would seem that he would have little interest in presenting the product to his buyer in prime condition. Whereas, if the price that the fisherman was going to be paid on the sliding scale was related directly to the

sale price that that buyer would get for the product when they sell it, the fisherman would take more interest in the product than they would if it was going to be lumped together with hundreds of other buyers into a statewide average.

Mr. Lauber stated that he didn't want to minimize the importance of these "contracts", the processors are in favor of any type of a contract that would make for an early settlement and do away with price disputes.

Some areas of the state do have these types of agreements, but there is a lack of agreement with some fishermen, certain processors and other areas of the state. Some have no interest or inclination to go into this type of agreement. Until these parties do go into these agreements, it is imposing the will of a few upon the many. This bill is requiring that fishermen and processors that have no interest in this type of agreement, comply with a state law that will be imposed upon them. He then stated that he was in favor of fishermen and processors bargaining collectively and coming up with a settlement agreement that they feel comfortable with, but the majority of the fishermen have not signed such contracts.

Under the existing law, it is required that canned pink salmon prices be reported because Prince William Sound has a contract of this type and has had for a number of years. There was a dispute and a controversy over a piece of legislation a number of years ago which would require something similar to SSHB 381, but a compromise was reached that fishermen and processors would report if there was a request for such a report. At that time, there was a statewide forecast of catch of 105,000,000 and 5,000,000 of that was forecasted for Prince William Sound. That meant that Prince William Sound wished to impose on the rest of the state what they all should do which is something that the rest of the fishermen don't necessarily care to do. Since the time that bill passed, and all processors in the State of Alaska are now having to report all of their wholesale

prices for canned pink salmon.

Prince William Sound does not like those statewide figures, so they have made an agreement with their processors to get a second report. So now there is a situation existing today where all processors are having to report pink salmon wholesale prices for canned salmon and the organization that asked for it is using another method of obtaining the information that they want for purpose of payment by means of a sliding scale.

Mr. Lauber further stated that he felt that this same situation is going to happen again. There is a provision in these contracts that allows the fishermen can request an audit be done on the processor, and its very likely that is what they will do. If the fishermen want those figures and the processors want them to have them and the contract provides for this, they should make provisions to obtain this information. Not based upon what one processor in some district pays, but what the processor in that fisherman's district pays.

The other reason for obtaining these prices is that somehow by having the past year's prices, this is going to assist in the next year's negotiations. The most recent prices are of some value, but to have average prices of the previous years would be of no value. This information has been available in the past and if the processors thought it would be of some value to compile this information, they would have. There are many other significant factors; such as the inventory on hand, the volume on the market, labor costs, taxes, cost of cans, cost of freight, cost of warehousing the product, and the incidental costs imposed by other government mandates, that affect the prices.

Mr. Lauber said this legislation is something that some people think is going to help them but in actuality, it will just be imposing another layer of government on an industry without any benefit. With the money that it will take to compile the information it will not be cost effective. He spoke on the proposed amendment concerning the promotional discounts and

explained how the promotional discounts work with the retailers that they sell to. He said this allowance is needed for the processors to be able to give these discounts in order to sell the salmon to the consumers through the retailer's promotional efforts.

He spoke on the section of SSHB 381 that is a statutory letter of intent calling for a study to be made on whether it would be feasible to require reporting on other product forms. He did not feel that it would be feasible to have this type of reporting.

Number 0364

Chairman Herrmann thanked Rick Lauber for his testimony and opened it up for questions from the committee members.

Number 0365

Rep. McBride commented on Mr. Lauber's statement regarding the past information not being of value for future prices and said he may agree with him, but part of the reason for collecting this information was to be of value in having some kind of information credible to both parties to decide what the final price should be in order for the fishermen to get their sliding sale payment. He said this part of the collecting of information would be valid.

Number 0377

Rick Lauber stated that he did not believe it would be valid, and explained that the individuals who have the "contacts" and are financially interested in obtaining correct information as to what the product was sold for, should be interest in knowing what the product that they fished for and sold to the processor was sold for on the market. This information can and is being obtained from the processor by the fishermen, rather than lumping that in to the statewide average. The fishermen would be encouraged to deliver a quality product if he knew he would benefit from it.

Number 0416

Rep. Bussell asked Mr. Lauber what percent of the fishermen of the state would benefit from this data.

Number 0419

Rick Lauber stated that he wasn't ready to admit that they would benefit at all and that he wasn't sure exactly how many would

be affected by this data.

Number 0436

Rep. Bussell asked Mr. Lauber what other method was available to obtain information to satisfy the requirement of these contracts or people wanting it.

Number 0440

Rick Lauber stated that the only way other than what SSHB 381 would require, would be to obtain it from the individual processor company. These contracts have provisions for doing this. There are a number of different ways of obtaining this information but they aren't all accurate. There are alternatives that give close figures.

Number 0471

Rep. Bussell then asked what benefit to the state this information would be?

Number 0473

Mr. Lauber stated that he didn't see any benefit himself but it has been sold to the state as a way to do away with the striking by fishermen. All of the contracts have the provision of permitting an audit for the fishermen who want it. Settlements have been reached in certain areas of the state, he didn't feel that SSHB 381 is necessary.

Number 0488

Rep. Bussell than commented that he resisted setting up another area of bureaucracy without any benefit to the state. He did not see any assurances that there won't be any striking if SSHB 381 is passed.

Number 0507

Chairman Herrmann thanked Rick Lauber for his testimony and announced the next witness to testify, Cass Parsons.

Number 0519

Cass Parsons, Executive Director of United Fishermen of Alaska began her testimony. HB 381 serves two purposes; it authorizes the Department of Revenue to collect wholesale price information on all species of canned salmon, and secondly; it authorizes a study to determine the costs and benefits, methodology, and appropriate state agencies for collecting wholesale information on fresh, frozen, and cured salmon products, as well as canned. This is important for two reasons; first, the wholesale price determined by this method assists fishermen and processors in settling prices which more accurately reflects the true worth of the product, thus avoiding strikes.

Historically, wholesale price information collected by the Department of Revenue has been used by fishermen in Bristol Bay, Price William Sound, Kodiak, and Sand Point. This average price has a wide reaching impact.

The wholesale average price is used in two ways; in addition to market conditions such as inventories, expected levels of supply, and estimates of demand, the wholesale value of the product establishes a base price for the raw salmon. Some fishermen are payed just a base price, others negotiate a base price plus a formula adjustment which reflect the actual average wholesale value of products sold during a certain time period of the coming year. The other primary purpose of compiling this information is to provide data which serves as a basis for any seafood market analysis. This data also allows the state to determine the value of the resource and eventually to determine the cost to its citizens by subsidies to the industry and the actual costs to consumers. In addition it determines the benefits received from employment by the industry.

The study authorized by this legislation is vital to our goals to provide fishermen with an accurate wholesale value alternative on which to base prices, and of providing the necessary data for a market analysis. Fresh, frozen and cured salmon products now comprise over 50% of the total salmon production and thus should be included in determining the wholesale value of salmon. But a system for collecting and compiling the information needs to be devised.

Ms. Parsons then commented on the statement made by Rep. Bussell regarding another layer of bureaucracy. She said that the information is presently being collected by the Department of Revenue for canned pink salmon prices. It would just expand the collection to the rest of the canned species.

Number 0575

Chairman Herrmann thanked Cass Parsons for her testimony and introduced Bob Kessel and Norm Staton, Department of Revenue.

Number 0577

Norman Staton, Special Assistant to the

Commissioner, Department of Revenue said the Department wouldn't have problems complying with whatever is decided on this issue. The concerns of the department are the availability of that information and how well they can compile it to make it something worthwhile. Another concern is Section 3 of SSHB 381 which says that the Department of Commerce and Economic Development in conjunction with the Commercial Fisheries Entry Commission shall submit to the legislature a report. He asked that the Department of Revenue who is compiling that information, be included in making this report to the legislature on the study. We may have some insight to give since we are doing the collecting and compiling. In regard to the section that would call for elimination of duplication of reports on fish processors and commercial fishermen, Mr. Staton stated that the Department of Revenue is already collecting information on this.

Number 0613

Bob Kessel, Director, Division of Audit, addressed Section 1 of the bill which requires that no later than April 30 of each year a processor shall submit a report. He said that the department could not report to the legislature by the 60th day and suggested that it be changed to something more reasonable. The second item of concern was the packaging and marketing section of the bill. He suggested that item 2 (48 lb. case of one-half pound cans - 96 cans) be changed to 24 lb. case of one-half pound cans - 48 cans; and item 3 "48 lb. case of one-quarter pound cans - 192 cans" be changed to 12 lb. case of one-quarter pound cans - 48 cans.

The third item that he addressed was the comment relating to the fiscal note. This bill expands the reporting from canned pink salmon to all canned salmon and provides for a semi-annual report on a monthly basis.

Tape 36  
Recording  
Number 0001

Rep. McBride asked Mr. Kessel if he felt there was a need of more manpower or a change in the legislation to give him the ability to make some audits.

Number 0012            Bob Kessel said he didn't think they needed to change the legislation to give the ability to do audits the Department can already do that. The manpower that is currently dedicated to the wholesale average price reporting is taken from the fisheries business tax and so it's just diversion of current staffing into another area that we really don't have staffing for.

Number 0023            Rep. McBride asked if it would dilute the information if the department didn't have the ability to audit.

Number 0027            Bob Kessel replied by saying it's consistency and uniformity are needed to come up with correct pricing mechanisms.

Number 0036            Chairman Herrmann thanked the witnesses for their testimonies and introduced Dick Reynolds as the next witness.

Number 0046            Dick Reynolds of the Department of Commerce and Economic Development began his testimony by explaining their fiscal note on SSHB 381. He stated that he estimated the level of time and energy that would be reasonable for data collection and recording and that its simply an estimate of the kind of size of study that he judged would be necessary to do that work which is being required. There is an interest in the Department for these figures.

Number 0083            Rep. McBride stated that there have been studies made in the past on the problems and therefore, each year what may develop into being the market. Do you see this kind of thing being a help to the process you've gone through so far in past studies or are there other things that should be asked for, instead of or in addition to?

Number 0097            Dick Reynolds said the more information the people in Alaska have about the full range of the fish business, the better off we're going to be.

Number 0110            Rep. Bussell asked Mr. Reynolds if he knew how the magazine "Pacific Fishermen" got it's data? (Rick Lauber had stated in his testimony the magazine's information was accurate).

- Number 0113 Dick Reynolds answered by saying that the magazine calls up the processor and asks them.
- Number 0115 Rep. Bussell then asked if he thought it was accurate information.
- Number 0117 Dick Reynolds guessed that it was fairly accurate but doesn't have a sequence that can be followed over a period of time. It is just a range of the product overall. It's just used by the magazine to give an impression to it's readers of what is happening in the market. This particular statistic would not be valuable to the fishermen for negotiations.
- Number 0149 Rep. Bussell stated that under the scheme in the bill, they're not going to know anything about it either because the wholesale prices are going to be put together and an average taken.
- Number 0151 Dick Reynolds stated that he agreed with him and said that the average would be used as a gauge by the fishermen for their contracts, negotiations, or arrangements. As far as validity, this will be covered in the study.
- Number 0166 Rep. Goll asked if any of these types of studies have been made in the past or any international marketing studies have been conducted.
- Number 0175 Dick Reynolds explained some of the ways of selling in Europe and Asia. Actions are also considered actual sales.
- Number 0192 Rep. McBride commented that information in a magazine may be accurate information on what something sold for today but it may not have any relation to the total price. Other factors are considered in determining the wholesale average.
- Number 0210 Chairman Herrmann thanked Mr. Reynolds and announced the witness; Alan Stein.
- Number 0214 Alan Stein, fisherman and broker, said the difficulties of this bill are because of an absence of a central market. He addressed Section 3 as difficult regarding the collection of wholesale prices for fresh, frozen, and cured. Laundering of money

needs to be addressed. Another area of problem is the question of when these figures will be available to be used in price negotiations; this should be addressed in the bill. Last year 80% was frozen and fresh, 20% was canned. This may be a trend that is going to continue. He stated that he didn't want to condemn the bill outright but he felt there were a few problems with it.

- Number 0289 Rep. Goll asked Mr. Stein if he could rephrase some of these points and express some recommendations.
- Number 0296 Mr. Stein said that in Section 3 it should be stated when the information will be available for negotiations.
- Number 0316 Chairman Herrmann stated the date for reporting is stated on the first page, not later than October 31 of each year a processor shall submit a report for the period April 1 - September 30.
- Number 0325 Alan Stein said that not enough of the pack would be sold by then to make the prices useful for areas throughout the state.
- Number 0330 There was discussion on the reporting date.
- Number 0335 Rep. Goll asked if Mr. Stein had any ideas as to handling the laundering of money.
- Number 0339 Alan Stein didn't feel there was any way of dealing with this unless there is an examination of the processors scale contract or invoice. How can you take into account when a processor is payed by other means than money?
- Number 0349 Rep. McBride pointed out that "wholesale price" is defined in the bill to include all receipts, whether in the form of money, credits, or other considerations.
- Number 0353 Alan Stein asked how the other considerations would be reported.
- Number 0365 Chairman Herrmann thanked Mr. Stein for his testimony and said at the next meeting, the questions will be answered; after we have time to work on them.

Number 0369

Rep. Grussendorf inquired about the fiscal note of Department of Commerce and Economic Development. He asked Mr. Reynolds why there was only a fiscal note for FY '84.

Number 0374

Dick Reynolds stated that he was just complying with Section 3 which requires a report be made during the Second Session of the 13th Alaska State Legislature.

Number 0379

Rep. McBride asked if the information would be available to the public previous to the deadline in the bill for reporting to the legislature.

Number 0398

Chairman Herrmann said the committee staff would have answers to the question that were unanswered at the next meeting and also stated that HB 382 and HB 376 will be taken up at the next meeting.

Number 0403

There being no further business to come before the committee, Chairman Herrmann adjourned the meeting at 5:20 p.m.

HOUSE SPECIAL COMMITTEE  
ON FISHERIES

May 5, 1983

4:06 p.m.

Members Present: Rep. Herrmann, Chairman  
Rep. Fuller, Vice-Chair  
Rep. Grussendorf  
Rep. McBride  
Rep. Goll

Members Absent: Rep. Bussell  
Rep. Zharoff

COMMITTEE CALENDAR

SSHB 381: "An Act relating to wholesale prices for  
salmon; and providing for an effective  
date."

HB 376: "An Act amending the Limited Entry Act; and  
providing for an effective date."

WITNESS REGISTER

Rep. Clocksin  
State Capitol Building  
Pouch V  
Juneau, Alaska 99811  
465-3704  
Position Statement: In favor of SSHB 381.

John Williams  
Chairman/Commissioner  
Commercial Fisheries Entry Commission  
Department of Fish & Game  
Pouch KB  
Juneau, Alaska 99811  
465-4081

Rick Lauber  
Alaska Manager  
Pacific Seafood Processors Association  
120 W. 1st Street  
Juneau, Alaska 99801  
586-6366

John Gaguine  
Assistant Attorney General  
Department of Law  
Pouch K  
Juneau, Alaska 99811

465-3600

PREVIOUS ACTION

SSHB 381:

4/26/83 - First Reading.

Committee Referrals - Fisheries and Resources.

See Fisheries minutes of May 3, 1983.

HB 376:

4/21/83 - First Reading.

Committee Referrals - Fisheries and Resources.

Governor's Transmittal Letter appears on Page 973 of the House Journal.

Fiscal Note with Analysis appears in House Journal Supplement No. 44.

See Fisheries minutes of May 3, 1983.

ACTION NARRATIVE

TAPE#37  
Recording  
Number 0001

Chairman Herrmann called the meeting to order at 4:06 p.m., and announced the first order of business; SSHB 381. She explained a few areas of concern and further explained the intent of the bill. The following amendments were presented for consideration:

Page 2, Line 6 is amended to read:

(2) 24-pound case of one-half-pound cans (48 cans);

Page 2, Line 7 is amended to read:

(3) 12-pound case of one-quarter-pound cans (48 cans);

Page 2, Line 19 is amended to read:

Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 15th.

Page 4, Line 4 is amended to read:

Commission and the Department of Revenue shall submit to the legislature a report on the possible

Page 4, Line 11 is amended to read:

(2) the appropriate methodology and procedures that could be used for

Chairman Herrmann announced Rep. Clocksin to testify.

Number 0102

Rep. Clocksin stated that he would be speaking in favor of SSHB 381. He explained that his testimony was based on his past experiences, working in fish camps and working for a law firm in Anchorage as an Attorney. This law firm represented Alaska Independent Fishermen's Marketing Association (AIFMA). He said his testimony was on behalf of himself and not any other individual or group. He explained the price settlements of AIFMA with the processors and stated that SSHB 381 makes wholesale information available to aid all parties in negotiations in order to eliminate the strikes. SSHB 381 is a very positive step that the legislature can take to help the fishermen of the State.

Number 0185

Rep. McBride commented that the information that will be gathered won't necessarily be from the fish that will be caught this year. There is still some of the 1981 pack remaining to be sold, which will defuse the information.

Number 0193

There was discussion on the stipulations in the bill and contracts between the fishermen and processors, that took into account the inventory of past year's canned salmon.

Number 0210

Discussion continues between committee members regarding the proposed amendments.

Number 0222

Rep. Grussendorf made a motion to adopt the amendments as submitted for purposes of discussion. All members were in favor.

Number 0227

Rep. McBride questioned Rick Lauber, who was present in the audience, regarding the case size proposed amendments as to whether it would be right to change.

Number 0237

Rick Lauber stated that he was in opposition to this particular section being amended. Historically the pack has been computed based upon a 48 pound case. After an explanation and discussion, it was decided that the two amendments regarding case size would be left out for the present time.

Number 0297

Rep. Grussendorf removed his motion to accept the proposed amendments and replaced the motion to accept the last three following proposed amendments:

Page 2, Line 19 is amended to read:

Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 15th.

Page 4, Line 4 is amended to read:

Commission and the Department of Revenue shall submit to the legislature a report on the possible

Page 4, Line 11 is amended to read:

(2) the appropriate methodology and procedures that could be used for

There were no objections, motion carried.

Number 0308

Rep. McBride moved and asked unanimous consent that SSHB 381 with amendments be passed out of committee. No objections, motion carried.

Number 0313

Chairman Herrmann announced the next order of business; HB 376 and introduced John Williams to testify.

Number 0318

John Williams, Chairman of the Commercial Fisheries Limited Entry Commission said that the amendments to the Limited Entry Act, being proposed in HB 376 are described as solving problems that would otherwise come up at some point during the year. He then went on to explain each section of the bill.

Section 1 would allow the Commission to adopt regulations to provide for breaking tie votes when the Commission is adjudicating a claim.

Section 2 would be a means of covering some

of the costs of administering the Limited Entry Act to be born by the users of the services. One of the possible fees for the future would be a transfer fee to possibly encourage proper filling out applications for transfers.

- Number 0356 Rep. Fuller asked how much of a fee there would be?
- Number 0359 Mr. Williams stated that it would be in terms of about \$10.00. It would not be considered as a revenue maker, but would cover the costs for all the work involved with transfers. There are approximately 1200 transfers a year.
- Number 0375 Rep. McBride commented that the reason for some of the applications not being filled out properly is because of a possible lack of education in the different areas of the state.
- Number 0384 John Williams explained that the commission is working toward informing the fishermen of the rights, duties, responsibilities and risks involved in the transferring of permits.
- Number 0395 Chairman Herrmann asked if the Commission's Togiak office handled transfers. Mr. Williams answered no and explained that Togiak was only a pilot project.
- Number 0400 Section 3 is a correction to the statutes which the Department of Law has suggested. It would allow correction of administrative errors to be done legally.
- Number 0415 Rep. Fuller asked how many administrative errors there were per year.
- Number 0417 Mr. Williams said that there were about two dozen requests for reviews a year and about 4 - 5 errors are found by just looking over files. There was discussion on a few of the different errors.
- Number 0448 Section 4 is a change in wording. From "Administrative Area" to "fishery", in order to make this section consistent with the new definition of "fishery".
- Section 5 is also a technical correction.

It clarifies the intent for non-transferrable permits which do not survive the death of the holder.

Section 6 deals with probating estates. It originally stated that after the death of a permit holder, the permit went directly to the surviving spouse unless, "a contrary intent is manifested". This was changed to read, "the deceased holder has expressed a contrary intent in a will which is probated."

Number 0497 Rep. McBride questioned the wording of this section, regarding whether it would be legal and fully expresses the intent.

Number 0506 Mr. Williams stated that the language has been reviewed by the Department of Law; and then directed the question to John Gaguine, the Assistant Attorney General who was present in the audience.

Number 0510 John Gaguine answered by explaining that the will would say who the permit is to go to, and then stated he didn't feel there was a problem with the wording of this section.

Number 0522 John Williams continued with an explanation of Section 7 which presently says that if the proposed transferee can demonstrate present ability to participate actively in the fishery and doesn't presently hold a permit in that fishery, then the Commission must transfer that permit to him. This amendment removes the language that suggests that it is mandatory upon the Commission to approve a transfer if the person can show ability to fish. By this removal, the Commission may review every request for transfer according to the restrictions that are placed on legal transferability of permits.

Number 0537 Chairman Herrmann asked how long the review process would take for a transfer and would it be done on all transfers?

Number 0538 Mr. Williams stated that in most instances it would not take long at all. There are particular things that key the Commission's interests to review a certain transfer, like permits going back and forth between unrelated parties, or gift transfers between

unrelated parties. The Commission has adopted regulations which will become effective in October which will ask the parties involved in the transfer to submit to the Commission on paper what the agreement is to the transfer. Based upon on this written document, the Commission will decide whether it is consistent with the law.

Section 8 expands the power of the Commission to adopt the regulations for purposes of declaring an eligibility period. Mr. Williams went on to explain the purpose of this amendment.

Number 0598

Rep. Goll questioned Mr. Williams about the eligibility of people who missed a year or two, but had fished for years before and were denied the permit because of those years he missed.

Number 0607

Mr. Williams said that there will be a sufficient amount of points to still be intitled a permit, even if he misses a year of fishing. He explained that there is always a sufficient number of years involved in the requirements for a limited entry permit and that missing a year or two wouldn't make a difference. There is also the factor of whether that person would suffer a great deal of hardship because of his dependence on that fishery in which he did not acquire enough points.

Tape #38  
Recording  
Number 0001

Rep. Goll asked about serving in the military and missing the essential years.

Number 0002

Mr. Williams stated that the Commission recognizes the years spent in the military during a conflict or time of war, but does not qualify those years if it was military service during peace time. At this time it would be considered as a voluntary change of occupation.

Number 0019

Chairman Herrmann asked Mr. Williams if the Commission holds public hearings before they decide to limit a fishery.

Number 0022

Mr. Williams said that yes they do. The Commission would propose to the public a

maximum number to be established for that fishery an eligibility period, and a ranking system.

Number 0035

Chairman Herrmann asked if there were any further questions and said the intent of the Chair was to hold the bill over until May 10.

Number 0051

No further business to come before the committee, Chairman Herrmann adjourned the meeting at 5:01 p.m.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No: SS HB 381  
Title: Wholesale Price - Canned Salmon  
Sponsor: House Spec. Comm. on Fisheries  
Requestor: House Spec Comm on Fisheries

II. FISCAL DETAIL

Agency Affected: Department of Revenue  
Program Category Affected: Rev Coll & Mgmt  
BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	25.5	28.0	30.8	33.9	37.3
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	9.9	2.5	2.5	2.6	2.6
400 COMMODITIES	-	.8	1.0	1.0	1.0	1.0
500 EQUIPMENT	-	1.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	37.2	31.5	34.3	37.5	40.9
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	37.2	31.5	34.3	37.5	40.9
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	1	1	1	1	1
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Paul W. Taylor *Paul W. Taylor*  
Division: Audit Division

Phone: 465-2371  
Date: April 28, 1983

Approved by Commissioner: J. Donohue  
Department: Revenue

Date: 5/4/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

#### IV. Analysis

This bill rewrites AS 43.80.035 pertaining to the reporting of average wholesale prices of canned salmon. The impact on the operation of the division would be to hire a tax examiner to be responsible for the compiling of this information and to obtain a computer terminal on which to key punch the data for various report forms.

The Department would like to recommend one amendment to the bill, that Sec. 1(d) be amended to show a reporting size for half-pound cans and quarter-pound cans of a forty-eight can case (as opposed to a forty-eight pound case).

STATE OF ALASKA  
FISCAL NOTE

Revision Date                     , 1983

I. REQUEST

Bill/Resolution No: SS HB 381  
Title: Wholesale Price - Canned Salmon  
Sponsor: House Spec. Comm. on Fisheries  
Requestor: House Spec Comm on Fisheries

II. FISCAL DETAIL

Agency Affected: Department of Revenue  
Program Category Affected: Rev Coll & Mgmt  
BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	25.5	28.0	30.8	33.9	37.3
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	9.9	2.5	2.5	2.6	2.6
400 COMMODITIES	-	.8	1.0	1.0	1.0	1.0
500 EQUIPMENT	-	1.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	37.2	31.5	34.3	37.5	40.9
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	37.2	31.5	34.3	37.5	40.9
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	1	1	1	1	1
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Paul W. Taylor  
Division: Audit Division

Phone: 465-2371  
Date: April 28, 1983

Approved by Commissioner: J. Donohue  
Department: Revenue

Date: 5/2/83

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#### IV. Analysis

This bill rewrites AS 43.80.035 pertaining to the reporting of average wholesale prices of canned salmon. The impact on the operation of the division would be to hire a tax examiner to be responsible for the compiling of this information and to obtain a computer terminal on which to key punch the data for various report forms.

The Department would like to recommend one amendment to the bill, that Sec. 1(d) be amended to show a reporting size for half-pound cans and quarter-pound cans of a forty-eight can case (as opposed to a forty-eight pound case).

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SSHB 381  
 Title: Wholesale Prices for Salmon  
 Sponsor: House Special Comm. on Fisheries  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Develop.  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		5.0				
300 CONTRACTUAL		55.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		60.0				

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

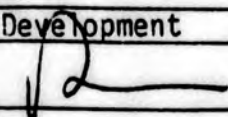
GENERAL FUND		60.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard E. Reynolds Phone: 465-2018  
 Division: Office of Commercial Fisheries Development Date: \_\_\_\_\_  
 Approved by Commissioner: Richard A. Lyon  Date: 5/3/83  
 Department: Commerce & Economic Development

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3/8/83

SSHB 381 - Fiscal Note Analysis

The report requested of the Department of Commerce and Economic Development is an ambitious and complex undertaking. The fiscal note represents an estimate of the value of time and effort necessary to provide a useful level of accuracy and thoroughness. Major expenditures for Contractual Services are indicated, however, as much work as possible will be done in-house by employees of the DCED and CFEC.

PACIFIC SEAFOOD PROCESSOR'S ASSOCIATION

Proposed Amendment to SS HB 381

On page 3, line 29 add a new exception under the "wholesale price" definition to read:

- (c) promotional discounts allowed on sales, not to exceed two percent.

AMENDMENT TO SS HB 381

Page 2, line 6 is amended to read:

(2) 24-pound case of one-half-pound cans (48 cans);

Page 2, line 7 is amended to read:

(3) 12-pound case of one-quarter-pound cans (48 cans);

---

Page 2, line 19 is amended to read:

Sec. 43.80.060. REPORT TO LEGISLATURE. Not later than the 15th

Page 4, line 4 is amended to read:

Commission and the Department of Revenue shall submit to the legislature a report on the possible

Page 4, line 11 is amended to read:

(2) the appropriate methodology and procedures that could be used for