

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2214 SCOMM 87: HOUSE SPECIAL COMMITTEE ON FISHERIES, 1993-94

Sec. 43.75.032. Fisheries business tax credits (Effective until January 1, 1992). (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made, is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year to the A.W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

(1) "cooperative" has the meaning given in AS 10.15.595.

(2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park

may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Sec. 43.75.034. Tax credit report (Repealed effective February 15, 1992). Not later than the 15th legislative day of each regular legislative session the Department of Revenue, in conjunction with the Department of Commerce and Economic Development, shall submit to the legislature a report on the fisheries business tax credit program under AS 43.75.032. The report shall describe the expenditures for which a credit was approved during the previous tax year and, if possible, the increase in employment and processing capacity by the fisheries businesses for which the credit was approved. (§ 2 ch 79 SLA 1986; am § 8 ch 79 SLA 1986)

Sec. 43.75.055. Security for collection of taxes. Each applicant for a license under this chapter shall, in or with the application, state under oath the amount of each of the products which the applicant expects to produce during the license year. The applicant shall further state the extent of lienable real property owned by the applicant in the state against which the tax may be collected and other information with respect to description, location and value of the property which the department prescribes. If the lienable value of the property is equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may issue the license if the applicant provides the department with an appraisal made within the immediately preceding 30 days, a commercial title report, and a deed of trust securing three times the amount of the probable tax and naming the department as beneficiary. If the lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, with interest if not paid before delinquency. However, if the applicant purchases salmon for export from Alaska in the round, the amount of the bond is \$50,000 unless the applicant is the owner of lienable real property in the state of a value of at least \$50,000, and the bond must be conditioned upon payment to the fisherman of the full purchase price for the salmon and the payment of the tax in full when due. The department may waive the bond requirement if the applicant posts other equivalent security as collateral acceptable to the department in the form of intangible property easily converted to cash [COLLATERAL ACCEPTABLE TO THE DEPARTMENT] or prepays the estimated tax. The department may reject intangible property if accepting it as collateral would necessitate additional accounting by the department or require reporting to federal or other state agencies. (§ 4 ch 84 SLA 1967; am § 8 ch 79 SLA 1979)

COMMENT

AS 43.75.055. *The additional language gives express authority for the department's current policy of requiring lienable value to be three times the tax liability, an appraisal within 30 days, a commercial title report, and a deed of trust.*

The changes in the last two sentences would allow intangible property such as stock or bonds to be used as security. The changes would also make it clear that personal property and other forms of collateral are not acceptable.

AS 43.75.070. Responsible Persons. For purposes of this chapter, all officers and directors of the fisheries business, and such other persons controlling the fisheries business, are jointly and severally liable to account for and pay over the tax to the department.

COMMENT

AS 43.75.070. This provision would give the department much needed leverage over the collection of fisheries business taxes. It would allow the department to collect unpaid tax from the responsible individuals of the fisheries business. The penalty provision of AS 43.05.220(d) would apply to responsible persons.

Article 2. Acquiring [TAKING OF] Fisheries Products Which Are Sold Outside Taxing Jurisdiction.

Section

100. Tax imposed on acquiring a [TAKING OF] fishery resource

110. Duty of taxpayer and payment of tax

Sec. 43.75.100. Tax imposed on acquiring a [TAKING OF] fishery resource. (a) A person [TAKING, PURCHASING, OR OTHERWISE] acquiring a fishery resource covered by this chapter which has not been subject to the tax imposed in AS 43.75.015, is subject to the tax levied in AS 43.75.015 on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax. (§ 1 ch 190 SLA 1959; am § 4 ch 79 SLA 1979; am § 8 - 9 ch 117 SLA 1981; am § 4 ch 150 SLA 1990)

COMMENT

AS 43.75.100. Removing this unnecessary language would simplify the law and focus its meaning on the activity that is being taxed.

Sec. 43.75.110. Duty of taxpayer and payment of tax. A person subject to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return shall contain the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner of revenue are the same as those prescribed in AS 43.75.011 — 43.75.050. (§ 2 ch 190 SLA 1959; am § 9 ch 79 SLA 1979)

Article 3. General Provisions.

Section

130. Refund to local governments.

133. Provision of information to municipalities.

137. Additional refund (Effective July 1, 1992).

140. Definitions

Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner of revenue shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) (REPEALED EFFECTIVE JANUARY 1, 1992) Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay

(1) to each city that is located in a borough incorporated after June 16, 1987, the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987, the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4,7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2, ch 80 SLA 1987)

Sec. 43.75.133. Provision of information to municipalities. (a) If the mayor, manager, or administrator of a municipality makes a written request, the department shall furnish the mayor, manager, or administrator of the municipality the names of all fisheries businesses that have filed tax returns under this chapter in which the fisheries business listed the municipality as the location in which the fisheries business processed a fisheries resource subject to the tax imposed under this chapter.

(b) If the mayor, manager, or administrator of a municipality makes a written request, the department shall verify that, as to a tax levied and collected by the municipality that is based on the value of fisheries resource processed in or transported to or within the municipality, the value of the fisheries resources reported by a fisheries business to the municipality and the value of the fisheries resources reported by the fisheries business to the department under this chapter are substantially the same. If the values are not substantially the same, the department shall permit the mayor, manager, or administrator of the municipality to inspect tax returns filed by the fisheries business with the department under this chapter, or shall furnish to the municipal officer a copy of the tax returns, if the department determines that the municipality provides adequate safeguards for the confidentiality of the returns and that the returns will be used by the municipality only for purposes of collection of its tax levied and collected on fisheries resources. In this subsection, the value of the fisheries resources reported by the fisheries business to the department and the value reported to the municipality are substantially the same if the values are equal or the variance between them does not exceed one percent of the greater value. (§ 1 ch 128 SLA 1988)

Sec. 43.75.137. Additional Refund (Effective July 1, 1992). To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080(e) that approval of the office of management and budget is required, and amount equal to 50 percent of the tax revenue that is collected under this chapter from floating fisheries businesses and is not subject to division with a municipality under AS 43.75.130 shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Regional Affairs for dispersal to eligible municipalities under AS 29.60.450. (§ 2 ch 195 SLA 1990).

Sec. 43.75.140. Definitions. In this chapter

(1) (REPEALED EFFECTIVE JANUARY 1, 1992) "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the Commissioner of Commerce and Economic Development;

(2) "department" means the Department of Revenue;

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the Commissioner of Fish and Game under AS 16.05.050(11);

(4) "fisheries business" means a person who;

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

(b) engages in processing fisheries resources for another person for a fee or other compensation; or

(c) buys fisheries resources prior to processing for resale or for transport out of the taxing jurisdiction of the state.

(5) "fishery resource" means finfish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, ~~roe and pollock; the term does not include such resources in package form for distribution and sale to consumers.~~

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) (REPEALED EFFECTIVE JANUARY 1, 1992) "product diversity" means the processing of non-traditional fish or other seafood species or products;

(8) (REPEALED EFFECTIVE JANUARY 1, 1992) "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

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

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

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

[(10) "TAKING" MEANS PURSUING, FISHING, CAPTURING, OR HARVESTING A FISHERIES RESOURCE IN ANY MANNER;] Repealed

(11) "value" means the full market value consideration for the fisheries resource at the instant the resource becomes subject to the tax under this chapter. The department may use confidential Alaska Department of Fish and Game statewide statistics of prices paid by region for fisheries resources, as adjusted to eliminate high and low prices and as further adjusted to take into account deferred payments such as bonus, to establish a presumption for market value. The data upon which the presumption is made is confidential and may not be disclosed. The presumption of the department shall only be overcome with clear and convincing proof of the full market value of the fisheries resources that were processed [ACTUAL PRICE PAID FOR THE FISHERIES RESOURCE BY THE FISHERIES BUSINESS, INCLUDING INDIRECT CONSIDERATION SUCH AS FUEL, SUPPLIES, OR GEAR, WHETHER PAID AT THE TIME OF PURCHASE OF THE FISHERIES RESOURCE OR TENDERED AS A DEFERRED OR DELAYED PAYMENT, EXCEPT THAT "VALUE" MEANS THE MARKET VALUE OF THE FISHERY RESOURCE IF THE TAKING OF THE FISHERY RESOURCE IS DONE IN COMPANY-OWNED OR COMPANY-SUBSIDIZED BOATS OPERATED BY EMPLOYEES OF THE FISHERIES BUSINESS OR IN BOATS WHICH ARE OPERATED UNDER LEASE OR OTHER ARRANGEMENT]. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

(12) "lienable real property" means the excess of current appraised value over all (a) recorded liens and encumbrances shown on a title report made within 15 days of the date of the license application and (b) unrecorded liens and encumbrances known by the owner of the real property.

(13) "process", "processes" and "processing" means any activity which modifies the physical condition of a fisheries resource, including butchering, freezing, salting, cooking, canning, dehydrating, or smoking. Processing does not include decapitating shrimp and gutting, gilling, sliming, washing or icing a fisheries resource solely for the purpose of maintaining the quality of the fresh resource until the resources can be delivered to a processing facility. The activities aboard a fishing vessel by a person with an exclusion from the tax under AS 43.75.017 are not considered processing. For purposes of fisheries resources that do not traditionally require processing in the industry, such as scallops and oysters, processing is deemed to occur at the last unloading of the fisheries resources from (a) the vessel from which caught, (b) a tender vessel, or (c) another vessel owned, leased, arranged or provided by the purchaser, and the processor is deemed to be the first fisheries business acquiring the fisheries resource from the person who harvested the fisheries resource, or the person who harvested the fisheries resource if he sells or transports the fisheries resource outside the taxing jurisdiction of the state.

(14) "processing fisheries resources for sale" means the series of processing activities which are performed by a person in preparing the fisheries resources for a subsequent sale to other than individual consumers, regardless whether the person owns the fisheries resources and regardless whether the person is the seller in the subsequent sale of the fisheries resources;

(15) "market value consideration" means the highest price a willing buyer would pay and a willing seller would accept, both being fully informed and neither under any compulsion to buy or sell, and the property being exposed for a reasonable period of time. The market value may be different from the price a property can actually be sold for at a given time. Market value shall not be less than all amounts paid or incurred by the fisheries business to acquire, deliver, and preserve the resources prior to processing and includes, but is not limited to, the actual price paid to fishermen at the time of purchase for the resources and to preserve the resources and as deferred payments or bonuses, all indirect consideration provided to the fishermen such as fuel, supplies, gear or credits, and transportation and other costs to deliver the resources to the processing facilities.

COMMENT

AS 43.75.290 (4). The definition of "fisheries business" is made in three parts. The first defines a regular processor. The second defines a custom processor. The third defines a buyer. The purpose is to require all three to be licensed.

AS 43.75.290 (5). The definition of "fisheries resource" is expanded to include roe and exclude resource in package form for distribution and sale to consumers. This would tie in with a landing tax provision.

AS 43.75.290 (10). Subsection (10) defining "taking" is repealed as unnecessary.

AS 43.75.290 (11). During the course of field audits the division became aware of the need for clarification of the definition of taxable "value". The current definition of taxable value is "the actual price paid for the fisheries resource by the fisheries business, including indirect consideration..." This definition has been interpreted by a portion of the industry to mean ex-vessel value. The current definition is unworkable and unauditable because the point of taxation (processing) and the point of valuation (ex-vessel) are not the same.

Audits have disclosed taxpayers who have subtracted imputed costs, such as tendering costs, from the price paid to the fishermen to arrive at an "ex-vessel" or taxable value. For example, certain processors will pay more for fish that the fishermen have brought to the dock than for fish picked up on the fishing grounds by a company-owned tender. The price difference is considered by the processor to be for tendering and not attributable to taxable value (the actual price paid for the resource). These imputed tendering costs are virtually unauditable as the fishermen are paid a lump amount and the processor is left to determine what portion of that amount represents taxable value and what portion represents tendering.

Other examples of imputed costs are premiums for refrigerated seawater systems, spotting fees, management fees, and unloading fees. All of these items have been subtracted from the total paid by the fisheries business for the resource and are not reported as taxable value.

The division's review of "ex-vessel" prices as reported to the Commercial Fisheries Entry Commission (CFEC) shows that reported prices vary widely for the same resource, harvested by the same gear type in the same area. While the division recognizes that quality is a factor in a true price, the variances seen lead it to believe the ex-vessel prices as reported to CFEC are not a reliable measure of value.

The new language would allow the department to use the average price per pound reported to the Department of Revenue to derive a taxable value per audit for non-arms length transactions. The taxpayer would bear the burden of proof that the value proposed by the department is incorrect.

The new definition would also make it clear that value is market value in all cases and includes "added" value. Value would be determined generally at the processor's facilities at the point of processing. In determining this value, the department is given authority to use ADF&G statistics to establish a presumption of value. The taxpayer cannot attack the presumption but must instead establish a market value for the resources.

Furthermore, this section would define taxable value as all values and costs incurred by the processor up to and just before the point the resource is processed. This would make the taxable event (processing) and the point of taxable valuation the same.

Expanding the definition of value would result in additional estimated revenue of \$3,750,000.

AS 43.75.290 (12). A new subsection (12) is added to define "lienable real property". The definition would provide express authority for current department practices.

AS 43.75.290 (13), (14) & (15). Additional definitions are added for "processing", "processing fisheries resources for sale", and "market value consideration". These are all key elements and will clarify the intent behind the changes.

Chapter 77. Landing Tax Act.

Section

10. Landing Tax

20. Filing Return and Payment of Tax

30. Credit for Taxes Paid Other States

40. Definitions

AS 43.77.010. Landing Tax. A person owning fisheries resources not subject to AS 43.75 that are brought into the jurisdiction of the state shall pay a landing tax on the market value of the fisheries resources.

AS 43.77.020. Filing Return and Payment of Tax. (a) A person subject to the tax shall file a return stating the value of fisheries resources brought into the state and such other information as the department prescribes by regulation.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year and the tax shall be paid with the return.

(c) The department shall adopt regulations for the implementation of this chapter, including the granting of a reasonable extension of time for the filing.

AS 43.77.030. Credit For Taxes Paid Other States. A credit not to exceed the liability for the tax on each fisheries resource shall be granted for taxes equivalent to those imposed under AS 43.75 and AS 43.76 that are paid to other states in which the resources were either caught, processed, or first landed.

AS 43.77.040. Definitions.

(a) "fishery resource" means finfish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, roe and pollock; the term does not include such resources in package form for distribution and sale to consumers.

(b) "value" means the full market value consideration for the fisheries resource at the instant the resource becomes subject to the tax under this chapter. The department may use confidential Department of Fish and Game statewide statistics of prices paid for fisheries resources to establish a presumption for market value. The presumption of the department shall only be overcome with clear and convincing proof of the full market value of the fisheries resources.

COMMENT

AS 43.77. A landing tax would capture significant tax revenues. The division suspects that most of the tax leakage reported to auditors is really related to fisheries resources that are caught and processed outside Alaska's three mile limit. A portion of those resources are actively managed by the state but no tax revenues are realized.

The current structure of the fisheries business tax taxes only those resources harvested and/or processed inside Alaska's three mile limit. This has not been effective in generating revenue from floating crab and groundfish catcher/processors. The objective of the landing tax would be to tax that part of the offshore fishing and processing activity that impacts Alaska's fishing communities and which is not at present being taxed under AS 43.75. The landing tax would apply to processed resources brought into Alaska's taxing jurisdiction. The landing tax would not apply to resources processed in Alaska that are currently taxed under the existing provisions of AS 43.75.

The Landing Tax could work using the following definitions and concepts:

1. **Taxable Event.** The first possession or landing (off-loading) of processed resource in Alaska.
2. **Taxpayer.** The owner of the processed resource at time of landing.
3. **Tax Base.** Value of fisheries resource at the point of landing in Alaska, as evidenced by shipmate's receipts, bills of sales, sales invoices, insurance value declarations, export documents, etc.
4. **Point of landing.** Fish are "landed" when they are placed on a tender, freighter, or other mode of transport for hire in the territorial waters of Alaska or when they are brought to land, which includes wharves, piers, or other such extensions.
5. **Rate of Tax.** For discussion purposes, this study uses the highest current tax rate of 5% as the proposed landing tax rate.
6. **Licensing and Reporting.** The taxpayer would be required to obtain a Fisheries Business License. The taxpayer would report and pay tax on a monthly or quarterly basis.
7. **Estimated revenues.** The actual revenues received would depend upon the value base used and the tax rate applied. Because processed product values are not available, DOR's estimate of landing tax revenue uses unprocessed value and the fisheries business tax rates. Tables 22 and 23 depict estimated landing tax revenue for crab and groundfish.

A landing tax would primarily affect resource harvested and processed in the EEZ which includes approximately 18% of total crab harvest (Table 12) and 59% of the total groundfish harvest (Table 16). DOR does not believe that the landing tax would generate significant additional revenues from salmon, herring and halibut because the majority of these resources are harvested and/or processed within Alaska's taxing jurisdiction.

An estimate for crab was prepared on the assumption that all unreported crab value would be captured in a landing tax. Total value was calculated by sorting ADF&G harvest pounds by species and multiplying those pounds by the department's species average price per pound. This estimate is conservative because the value base reflects unprocessed value, not processed value as envisioned by a landing tax. The estimated revenue arising from a landing tax would be \$3.0 million per year, as calculated per Table 22.

Table 22
Estimated Revenue from Landing Tax - Crab
(Millions of Dollars)

Crab	1988		1989		1990		3 Yr Avg	
	Value	% of Total	Value	% of Total	Value	% of Total	Value	% of Total
DOR Total Value	\$231.7	100%	\$269.5	100%	\$351.4	100%	\$284.2	100%
DOR Rep'd Value	181.6	78%	213.7	80%	274.6	78%	223.3	79%
Value Not Taxed	\$ 50.1	22%	\$ 55.8	20%	\$ 76.8	22%	\$ 60.9	21%
Average value not currently taxed							\$ 60.9	
Landing tax at 5%							\$ 3.0	

An estimate for groundfish has been prepared using value published by Pacific Fisheries Information Network (Pac-FIN), a joint Federal and State data collection and management program. Using the three year average of values for total groundfish harvested and landed in the Alaska region and assuming that all value of groundfish not reported to DOR in those years would fall under landing tax, the estimated revenue arising from a landing tax would be \$11.2 million per year, as calculated per Table 23.

Table 23
Estimated Revenue from Landing Tax - Groundfish
(Millions of Dollars)

Groundfish	1988		1989		1990		3 Yr Avg	
	Value	% of Total	Value	% of Total	Value	% of Total	Value	% of Total
Pac-FIN								
Total Value	\$245.2	100%	\$338.3	100%	\$446.6	100%	\$343.3	100%
DOR Rep'd Value	105.6	47%	118.2	35%	132.1	30%	121.5	35%
Value Not Taxed	\$139.6	53%	\$220.2	65%	\$314.5	70%	\$224.8	65%
Average value not currently taxed							\$224.8	
Landing tax at 5%							\$ 11.2	

The total crab and groundfish revenues expected from a landing tax would be \$14.2 million. This estimate would vary depending on tax rate and underlying market values.

This publication was released by the Alaska Department of Revenue, produced at a cost of \$2.59 per copy, including printing at the state's Central Duplication Facilities in Juneau, Alaska and binding at REACH Ready Mail. Its purpose is to provide the public with the results of its study of Alaska's fisheries tax laws and recommendations for improvement.

Drawings of fish species courtesy of the Alaska Department of Fish and Game.

Alaska State Legislature

Representative Carl E. Moses



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May 20, 1993

Dorothy Anderson
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Dear Ms. Anderson:

Thank you for sending me your public opinion message concerning HB 264, the offshore fishery landing tax. As you probably heard, HB 264 passed the Legislature on the final day, and is now awaiting the Governor's signature.

As approved by the legislature, HB 264 does include a credit for the taxes that would be owed by the Community Development Quota (CDQ) groups. That credit could be used for donations to such groups as the Bering Sea Commercial Fisheries Development Foundation.

A proposal to expand the tax credit was discussed, but it was decided that it should be pursued in separate legislation which Senator Jacko and I will both be working on.

Again, thank you for your interest in this important piece of legislation.

Sincerely,

A handwritten signature in cursive script that reads "Carl E. Moses".

Representative Carl Moses

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE
COLD BAY • DUTCH HARBOR • EGEGIK • EKWOK • FALST PASS • IVANOF BAY • KING COVE • KING SALMON • KOLIGANEK • LEVELOCK • NAKNEK
NELSON LAGOON • NEW STUYAHOK • NIKOLSKI • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT HEIDEN • PORT MOLLER • SAND POINT
SHFMYA • SQUAW HARBOR • SOUTH NAKNEK • ST. GEORGE ISLAND • ST. PAUL ISLAND • UGASHIK • UNALASKA • UNGA

Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
FISH AND GAME
PUBLIC SAFETY

SESSION:
CAPITOL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4451
FAX: (907) 465-3445

INTERIM:
P.O. BOX 109
UNALASKA, ALASKA 99685
PHONE: (907) 581-1234
FAX: (907) 581-2875

May 20, 1993

Greta Goto
Box 233
Dillingham, AK 99576

Dear Ms. Goto:

Thank you for sending me your public opinion message concerning HB 264, the offshore fishery landing tax. As you probably heard, HB 264 passed the Legislature on the final day, and is now awaiting the Governor's signature.

As approved by the legislature, HB 264 does include a credit for the taxes that would be owed by the Community Development Quota (CDQ) groups. That credit could be used for donations to such groups as the Bering Sea Commercial Fisheries Development Foundation.

A proposal to expand the tax credit was discussed, but it was decided that it should be pursued in separate legislation which Senator Jacko and I will both be working on.

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Representative Carl Moses

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Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
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SESSION:
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INTERIM:
P.O. BOX 109
UNALASKA, ALASKA 99685
PHONE: (907) 581-1234
FAX: (907) 581-2875

May 20, 1993

Norman Anderson
Box 112
Naknek, AK 99633

Dear Mr. Anderson:

Thank you for sending me your public opinion message concerning HB 264, the offshore fishery landing tax. As you probably heard, HB 264 passed the Legislature on the final day, and is now awaiting the Governor's signature.

As approved by the legislature, HB 264 does include a credit for the taxes that would be owed by the Community Development Quota (CDQ) groups. That credit could be used for donations to such groups as the Bering Sea Commercial Fisheries Development Foundation.

A proposal to expand the tax credit was discussed, but it was decided that it should be pursued in separate legislation which Senator Jacko and I will both be working on.

Again, thank you for your interest in this important piece of legislation.

Sincerely,

A handwritten signature of Carl E. Moses, with a small "ma" written above the "M".

Representative Carl Moses

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE
COLD BAY • DUTCH HARBOR • EGEGIK • EKWOK • FALSE PASS • IVANOF BAY • KING COVE • KING SALMON • KOLIGANEK • LEVELOCK • NAKNEK
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Public Opinion Message

Only those single messages delivered by the signing individual to the Legislative Information Office by phone or fax, hand-delivered or written at the Legislative Information Office will be accepted for transmission via electronic mail as a Public Opinion Message. We require the following information to be held confidential: (1) name address and phone number of sender, (2) who the POM should be addressed to, (3) the text of the POM (50 words or less), and (3) when possible, the bill number referenced in the POM. Your message may be directed to any individual or combination of the following members of the Legislature.

Delegations	
☐	Anchorage Delegation (*)
☐	Fairbanks Delegation (+)
☐	Met-Su Delegation (^)
☐	Bush Caucus (#)

Senate	
☐	Adams#
☐	Lincoln#
☐	Donley*
☐	Little
☐	Duncan#
☐	Miller+
☐	Ellis*
☐	Pearce*
☐	Frank+
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☐	Salo*
☐	Kelly*
☐	Sharp+
☐	Kertula^
☐	Taylor
☐	Leman*
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☐	Barnes*	Hoffman#
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☐	Carney^	Larson^
☐	Sanders*	
☐	Davidson#	Mackie#
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☐	Davis+	MacLean#
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☐	Davis, B.*	Martin*
☐	Teohay*	
☐	Davis, G.	Menard^
☐	Ulmer	
☐	Finkelstein*	Mosses
☐	Vezey+	
☐	Foster#	Mulder*
☐	Williams	
☐	Green*	Navarre
☐	Willie*	
☐	Gruesendorff#	Nichols#
☐		
☐	Harley*	Nordlund*
☐		

Committees	
Indicate H for House or S for Senate.	
☐	Community & Regional Affairs
☐	Finance
☐	Health, Education & Social
☐	Judiciary
☐	Labor & Commerce
☐	Resources
☐	Rules
☐	State Affairs
☐	Transportation

Mr., Mrs., Mrs., Dr. Etc.

Name	Norman N. Anderson UIR B.B.E.D.C.	Phone	246-9210-4423
Address	Box 112		
City	Natchez Ala 36053	Zip	36033

Subject: H.B. 264			
1. SIR	2. I	3. wish	4. to
5. Go	6. on	7. Record	8. Supporting
9. this	10. Bill	11. on	12. behalf
13. of	14. B.B.E.D.C.	15. I	16. feel
17. it	18. would	19. benefit	20. our
21. Group	22. B.I.A.	23. the	24. future
25.	26.	27.	28.
29.	30.	31.	32.
33.	34.	35.	36.
37.	38.	39.	40.
41.	42.	43.	44.
45.	46.	47.	48.
49.	50.		

Support ☒	Oppose ☐	Amend ☐	Done ☐
Signature: <i>Norman N. Anderson</i>			

01/10/93

answered 5/2/93

APR 27 1993

Mr. Bob Norton 276-8823
8360 Pioneer

Anchorage AK 99504
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N SB 76 OPPOSES 60

PLEASE DEFEAT THE SENATE BILL TO MODIFY GAMING LAWS. THIS BILL WOULD RESULT IN LESS MONEY TO NONPROFITS, NOT MORE. NONPROFITS WOULD BE IN A BIDDING WAR FOR PULL TAB OUTLETS. BAR OWNERS WILL BUY WITH THE PERMIT HOLDERS OFFERING THE BEST PRICE FOR A SERIES.

Mr. William Pignone 257-0248
3711 Resurrection Dr.

Anchorage AK 99504
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N SB 76 SUPPORTS 40

I SUPPORT THE PASSAGE OF SB 76 AND I URGE SPEAKER BARNES AND ALL MEMBERS TO VOTE IN FAVOR OF IT.

Mr. Gerald Koerner 488-4393
Box 66881

North Pole AK 99705
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N SB 60 OPPOSES EDUCATION 60

(ALSO SB 7.) I AM IN OPPOSITION TO THE BOND ISSUE. I THINK WE NEED TO ANALYZE WAGES AND CONTRACT COST. AS A ACCOUNTANT AND TAX PREPARER THERE ARE LARGE DIFFERENCES IN PRIVATE SECTOR VS. SCHOOL DISTRICT CONTRACTS AND WAGES. AS ACCOUNTANT I AUDIT A PRIVATE SCHOOLS BOOKS AND FIND THEIR QUALITY OF EDUCATION EXCEEDS PUBLIC SCHOOL/SAT TESTS, AND COST PER STUDENT IS LESS THAN \$2000.00.

Mrs. Greta Goto 842-4480
Box 233

*answered
5-20-93*

Dillingham AK 99576
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N ~~SB 264~~ AMEND 01

WE REQUEST SUPPORT FOR THE AMENDMENTS TO HOUSE BILL 264 WHICH ALLOW FOR TAX CREDITS. THANK YOU FOR YOUR POSITIVE SUPPORT.

TBV

4/30

Mrs. Greta Goto 842-4480
Box 233

Dillingham AK 99576
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N HB 264 AMEND 41
WE REQUEST SUPPORT FOR THE AMENDMENTS TO HOUSE BILL 264 WHICH ALLOW FOR TAX CREDITS.
THANK YOU FOR YOUR POSITIVE SUPPORT.

Mrs. Susan Fischetti 694-7944
10336 Stewart Dr.

Eagle River AK 99577
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N SB 76 SUPPORTS 40
PLEASE SUPPORT SB 76 THIS SESSION. ALASKA NEEDS TO HAVE MORE CONTROL OVER GAMBLING PRACTICES.

Mrs. Dorothy Anderson 842-2366
Box 234

answered
5-20-93

Dillingham AK 99576
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N HB 264 AMEND 41
WE REQUEST SUPPORT FOR THE AMENDMENTS TO HOUSE BILL 264 WHICH ALLOW FOR TAX CREDITS.
THANK YOU FOR YOUR POSITIVE SUPPORT.

Mrs. Dorothy Anderson 842-2366
Box 234

Dillingham AK 99576
Date POM Sent Constituency Bill Number Response Subject Distribution
04/29/93 N HB 264 AMEND 01
WE REQUEST SUPPORT FOR THE AMENDMENTS TO HOUSE BILL 264 WHICH ALLOW FOR TAX CREDITS.
THANK YOU FOR YOUR POSITIVE SUPPORT.

**DEPARTMENT OF REVENUE
SECTIONAL ANALYSIS
CS FOR HOUSE BILL NO. 264 (FIN)**

**An Act Levying and Providing for the Collection of and Disposition of the Proceeds of A
Fishery Resource Landing Tax and Providing For An Effective Date.**

Section 1 adds a new chapter in AS 43 to implement a landing tax. The landing tax is both designed and intended to be a compensatory tax to complement the fisheries business tax under AS 43.75. The landing tax is intended to compensate the state for the burdens that the EEZ catcher/processor fleet imposes upon the state and local communities, as well as for the benefits the EEZ catcher/processor fleet receives from the state and local communities.

The state has various research, management and enforcement responsibilities in connection with the offshore fisheries, and the EEZ catcher/processor fleet has a significant presence in the state including transferring the processed product, taking on and disembarking crew, taking on fuel and supplies, discharging waste, and seeking sheltered waters. The state and local communities are impacted through the additional burdens placed upon educational systems, road maintenance, public safety, airports, docks, hospitals, and other social programs.

Fisheries businesses in the state pay for these benefits and burdens through the fisheries business tax and the landing tax is a substantially equivalent levy designed to impose a comparable burden on interstate commerce. In a real sense, the EEZ catcher processors are conducting fisheries businesses in the state to no less a degree than in-state operators. The landing tax is not a fee on the fisheries resources simply moving through the state, it is instead a quid pro quo for the services and benefits conferred upon the processed resources whereby they pay their own way. The landing tax thus achieves an equality of treatment between local and interstate commerce conducting fisheries businesses in the state.

The landing tax imposed under AS 43.77.010 will apply to processed fishery resources that are not subject to AS 43.75 (the Fisheries Business Tax provisions). A fisheries resource that is subject to tax under AS 43.75 is not subject to the landing tax in AS 43.77.

The Fisheries Business Tax in AS 43.75 applies to fishery resources that are either caught or processed in Alaska. Therefore, the landing tax provisions will apply to fishery resources that are both caught and processed outside the jurisdiction of Alaska and thereafter brought into the state and first landed in this state.

The landing tax will apply to processed resources that are first landed in the state of Alaska rather than in another state or foreign country. The landing tax does not apply if the processed resources are first landed in another state or foreign country. A first landing outside the jurisdiction of a state or foreign country, such as in United States jurisdictional waters, is not a landing in a state or foreign country and does not prevent the Alaska landing tax from applying. The tax rate is 3.3% of the value of the processed fishery resources at the place of the landing.

AS 43.77.020 provides that a person subject to the tax must file a return reporting the value of the resources landed that are subject to the tax and the point of landing, as well as such other information as may be required by the department in regulations. The return is to be made on a calendar year basis and is due before April 1 of the following year, as is the case with the Fisheries Business tax return. An extension of time to file may be granted by the department but the tax remains due and payable before April 1. The tax due and payable as shown on the return will be a "net" tax after reduction for tax credits authorized under AS 43.77.030 (other taxes paid) and AS 43.77.040 (approved contributions).

AS 43.77.030 provides a credit against the landing tax on a fishery resource for processing and salmon enhancement type taxes paid to another jurisdiction in which the fishery resource was caught, processed, or sold. The credit is only available for those taxes that are equivalent in nature to AS 43.75 and AS 43.76. Sales taxes, import or export fees or taxes, income taxes, and similar taxes and fees are not equivalent to AS 43.75 and AS 43.76 and would not qualify for the credit. The credit provision is intended to avoid certain constitutional challenges to the tax, although few, if any, resources that are first landed in Alaska will be subject to a tax in another jurisdiction that is equivalent in nature to AS 43.75 and AS 43.76.

AS 43.77.040 allows a credit for certain contributions by taxpayers that harvest fishery resources under a community development quota ("CDQ"). The credit is limited to 45.45% of the tax that is specifically attributable to the resources harvested under the CDQ. The contributions that qualify for the credit must be made to an Alaska nonprofit corporation and the nonprofit corporation must use the funds for certain specified purposes. The recipient of the funds from the nonprofit must use the grant in Alaska for one of the specified purposes, such as receiving training in the state for employment in the seafood industry.

A taxpayer must apply to the department to obtain the credit. The Department,

in consultation with the Department of Community and Regional Affairs, must approve or disapprove the application within 60 days. The credit is available in the calendar year of the contribution against the tax liability under AS 43.77 for that calendar year. The credit will be taken by a taxpayer on the return that is filed in the succeeding calendar year. Therefore, the credit is shown on the return as a reduction in the tax liability for that year - the credit is not a rebate provision. The department shall revoke a tax credit and recover erroneously granted credits if it is later determined the contribution does not qualify for the credit or the taxpayer is in arrears in the payment of any tax under AS 43.

AS 43.77.050 provides that the tax paid on the levy of .3% of the value of the fishery resource is to be deposited into the general fund in an account for the use of the Alaska Seafood Marketing Institute ("ASMI") upon appropriation by the legislature.

After payment of the ASMI portion of the tax, the remainder of the tax collected is paid into a separate account in the general fund for appropriation by the legislature for revenue sharing with municipalities. However, the amount that may be appropriated for revenue sharing is reduced by the amount of the tax credits authorized under AS 43.77.040. This reduction is merely an accounting entry to achieve the legislative intent that the tax credits granted under AS 43.77.040 reduce dollar for dollar the amount of revenue shared to municipalities. The revenue retained by the state in the general fund is therefore not impacted by the contribution credit provision as the cost of the credit is borne by the municipalities.

AS 43.77.060 contains the revenue sharing provisions. The maximum amount available for sharing with municipalities and cities is 50% of the tax collected on 3% of the value of the fisheries resources. The .3% of the 3.3% tax that is deposited under AS 43.77.050 into a separate account for appropriation to ASMI is not available for revenue sharing. These revenue sharing provisions generally mirror the revenue sharing provisions in AS 43.75.130 and AS 43.75.137 that apply to the Fisheries Business Tax. However, tax credits granted under AS 43.77.040 reduce dollar for dollar the revenue shared back to municipalities.

AS 43.77.070 gives the department the authority to adopt regulations to interpret and implement the landing tax provisions.

AS 43.77.200 contains definitions. A taxable fishery resource for purposes of this chapter is necessarily a fishery resource that has been processed. An

unprocessed fishery resource in the state, if otherwise taxable, would be subject to AS 43.75.

Landing is defined as the act of unloading or transferring a fishery resource. A taxable landing can take place over water or on land. For instance, a factory ship might catch and process fishery resources on the high seas outside the Alaska 3 mile limit, transfer the processed resources to a second vessel on the high seas, and the second vessel might enter the 3 mile jurisdiction of Alaska and transfer the product to a third vessel. The Fisheries Business Tax under AS 43.75 would not apply because the fishery resources were both caught and processed outside the state. However, the landing tax would apply at the point the second vessel transferred the product to the third vessel. There has been no previous landing in any other state or foreign country so the first landing of the processed resources is in Alaska. The owner of the fishery resources aboard the second vessel at the moment of unloading or transfer is liable for the landing tax.

The valuation of the fishery resources for purposes of computing the tax is the statewide average price paid for the fishery resource in that tax year as reported by the Department of Fish and Game. The statewide average price paid for the fishery resource is an average value for unprocessed fisheries resources as reported on fish tickets. The values reflected on the fish tickets are generally ex vessel values, or the value of the resource at the vessel after harvesting.

The use of the statewide average price paid will accomplish two results. First, it will simplify the determination of the tax value and, second, it will roughly approximate the value that would otherwise have been applicable under the Fisheries Business Tax provisions.

While the value for purposes of the landing tax, as a result of the use of a statewide average unprocessed price as a base, may be lower than the actual value as determined by a similar taxpayer under AS 43.75, the landing tax will not generally result in a higher tax burden than that incurred under AS 43.75. That is because the statewide average price paid is based on unprocessed product and therefore does not include the value added from the act of processing, packaging, or transportation. The value added to fishery resources from processing is not generally included in taxable value under AS 43.75, and CSHB 264 thereby achieves an equality in the tax burden.

Section 2 amends AS 29.60.450(b) to provide for apportionment and allocation

Department of Revenue
CS For House Bill No. 264 (FIN)
April 27, 1993

of landing tax shared revenues by the Department of Community and Regional Affairs to eligible municipalities.

Section 3 amends AS 29.60.450(f) to provide that "fishery resource landing tax production value" has the meaning given the term "value" under the landing tax provisions in AS 43.77.

Section 4 provides that the Act takes effect on January 1, 1994 and applies to fishery resources that are first landed in the state on that date.

The Department of Revenue strongly supports CS for House Bill No. 264.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

May 3, 1993

Honorable George Jacko
Alaska State Legislature
State Capitol, Rm 125
Juneau, AK 99801-1182

Dear Senator Jacko:

Brice Edgmon of your staff requested a letter regarding the Department of Revenue's position on HB 264 relating to a fisheries landing tax.

A fish tax study conducted by the Department of Revenue with Department of Fish & Game assistance recommended legislation establishing a landing tax. The tax rate recommended in that study was 5% of the value of the landed, processed product.

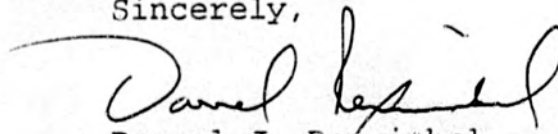
The Department of Revenue working with the Governor's Office drafted legislation that Representative Moses introduced under sponsorship of the House Rules Committee. With the same definitions for the tax base, the legislation proposed a 3.3% tax rate with .3% of that amount available for appropriation to the Alaska Seafood Marketing Institute. That is the legislation that is currently being considered by the Senate Finance Committee.

The current version of the legislation, CSHB 264 (FIN), contains several amendments adopted by the House Finance Committee. One of those amendments allows landing tax credits for CDQ's that make donations to allowable non-profit organizations for certain purposes including training, education and capital improvements related to fisheries in the State of Alaska. There are provisions of this tax credit proposal that eliminate the State of Alaska's liability and call for the tax credit amount to be paid out of the shared tax amount. The total liability is estimated to be between \$150,000 and \$250,000 for the tax credits. The administration agreed to this tax credit. We are opposed to any other tax credit provisions at this time.

The General Fund revenue estimate is \$4,300,00 with a like amount available before tax credits for sharing with municipalities. ASMI stands to receive up to \$860,000 for marketing.

The Department is available if you have other questions concerning this legislation and supports its passage.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Darrel J. Rexwinkel', with a stylized flourish at the end.

Darrel J. Rexwinkel
Commissioner

cc: Kris Lethin, Office of the Governor
Representative Carl Moses

93-085

Carl L. Rosier, Commissioner

Public Communications
P.O. Box 25526
Juneau, Alaska 99802-5526
(907) 465-4112



Alaska Department of Fish & Game

NEWS

Testimony on House Bill 264 before the House Special Fisheries Committee

Carl L. Rosier
Commissioner
Alaska Department of Fish and Game
April 5, 1993

I am pleased to see HB 264 introduced. This is an idea whose time has come. With the departure of the foreign fleets from within the 200 mile limit, or Exclusive Economic Zone (EEZ) the offshore factory trawl industry is fully Americanized. A large fleet of approximately 60 plus modern vessels, mostly based in the state of Washington, operates within the EEZ off the coast of Alaska. This fishery has been extremely profitable and rapid capital investment has occurred.

This fleet harvests a bycatch of crab, halibut, herring and salmon while targeting on other species. These species are important to Alaska's resident fishermen and processors, and their coastal communities. The incidental harvest of these species by the factory trawlers has an economic impact on Alaskans by the removal through bycatch of resources that would otherwise be harvested and processed by residents of coastal Alaska.

This fleet avails itself of Alaskan docks and harbors, communications and transportation systems, as well as medical services when needed.

This fleet pays virtually no taxes to the state for either the services it receives or its impact on coastal, Alaskan communities. HB 264 proposes a modest, 3% tax on product landed in Alaska for shipment to market

elsewhere. The revenue from this tax could help pay for the services used by the factory trawlers and mitigate for some of the economic impact they have on Alaska's coastal communities.

It is also no secret that management and enforcement in the offshore fisheries are underfunded. The revenue from this landing tax would provide a necessary addition to the funding of these functions.

However, I am concerned about the budgeting process we are witnessing in the State Senate this year. If the approach to funding natural resource management being proposed in that body prevails, then the benefits offered by the additional revenue from HB 264 will be significantly reduced. If Alaska is to maintain or increase its revenues, jobs, and resident income from fish and wildlife resources, then it has to be willing to put its money into the management of these resources.

I recognize the fiscal situation the state is facing as oil revenue declines. While fish and wildlife resources will never offer the tax revenue that oil does, these resources do offer abundant employment and income producing opportunities for Alaskans. The facts show that the users have been willing to pay a fair share of the cost of managing and protecting these resources. The prudent thing is to build the renewable resource base of the state now, so that when oil revenue declines, these renewable sources of employment and income will be strong. This cannot be done with the cuts to natural resource management being proposed in the Senate.

In closing, I want to thank the House leadership for the approach they have taken on the budget this year. While the department has taken reductions, it has been done in a thoughtful, responsible fashion. I have especially appreciated the dialogue between the House budget writers and the department.

House bill 264 will help provide the management, research, and enforcement that must be done if fisheries resources are to continue their productivity on a sustained yield basis. I want to thank Representative

Moses and the House Rules Committee for the introduction of this bill. I fully support passage of it before the session adjourns.

Jack,

Please draft a blank CS for HB 264, working off of the R version of Finance Committee CS HB 264. Incorporate the changes indicated on that draft, as well as these changes. This is needed for a subcommittee meeting on Sunday at 11 a.m., so if I could get it as soon as possible, it would be appreciated.

On p. 6, lines 11-16, replace definition of value with

"value" means the unprocessed value of the fishery resource and shall be based on the statewide average price paid for such species in the year as reported to the Department of Fish and Game pursuant to AS 16.05.690.

On p. 5, line 17, add:

(f) A municipality may adopt an ordinance directing the department to waive all of the municipality's refund under this section. The waiver is effective on January 1 of the calendar year following the year in which the ordinance is approved, and the amount is available as an additional credit to the taxpayer under AS 43.77.040.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

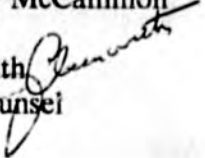
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 24, 1993

SUBJECT: Draft CSHB 264 (), "U" version
(Work Order No. 8-LS0941\U)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: Jack Chenoweth 
Legislative Counsel

I have followed much, but not all, of the language you provided. I've also had to add provisions to cover the sharing of revenues to municipalities.

In AS 43.77.040, you'll see that I've split the credit into two paragraphs, (a)(1) and (a)(2), then separately stated the substantive requirements bearing on each of the two elements of the credit in the next following subsections (b) and (c).

In AS 43.77.040(c) of the earlier draft--AS 43.77.040(e) of this one--I did not substitute "shall not allow." The phrase "shall not" is not properly used in bill drafting, and I retained reference to "approve" for that is in fact what the commissioner of revenue must do on credit applications submitted--either "approve" or "disapprove" them. "May not approve an application for a credit" is a correct statement of the prohibition imposed on the commissioner under the circumstances indicated.

The new subsection (f) becomes AS 43.77.060(e) in this draft, leaving the applicable definition in the last subsection. In (e), you'll note that I went beyond your instructions to try to provide authority to a municipality to revoke its waiver decision and to give guidance to the handling of revenue sharing in the event a city, but not the borough of which it is a part, or a borough, but not its constituent cities, waives payment.

Your change in the definition of "value" negates the necessity of providing a definition of "market value." "Market value" is omitted, and the definition of "value" revised in line with your instructions.

Representative Carl Moses
April 24, 1993
Page 2

JBC:lmb
93-136.lmb

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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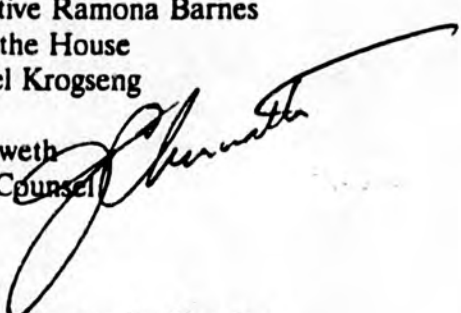
MEMORANDUM

March 31, 1993

SUBJECT: Potential constitutional questions in House Bill 264 (Work Order No. 8-LS0941\E)

TO: Representative Ramona Barnes
Speaker of the House
ATTN: Mel Krogseng

FROM: Jack Chenoweth
Legislative Counsel



House Bill 264 imposes a fishery resource landing tax.

A fishery resource land tax involving fish harvested outside the state but brought into or landed in the jurisdiction may raise questions under the United States Constitution's commerce clause, clause 3, section 8 of article I; a question under the federal due process provision of the Fourteenth Amendment; a potential "supremacy clause" question under clause 2 of article VI of the United States Constitution; and a possible claim under applicable provisions of the federal constitution involving federal regulation of foreign commerce.

I

The most serious constitutional question is probably the one relating to scrutiny under the United States Constitution's commerce clause--clause 3, section 8 of article I. Historically, that clause has served as a significant check on state efforts to expose business activities to multiple tax liability and to unique forms of regulatory action.

A state tax is not per se invalid because it imposes a burden on interstate commerce. States may require goods and services in interstate commerce that enter the taxing jurisdiction to contribute to the jurisdiction's treasury.

The approach generally invoked in commerce clause analysis has involved consideration of the links that exist between the taxpayer and the taxing jurisdiction, on the

one hand, versus the burden that the tax would impose on interstate commerce. The approach generally adopted in recent cases derives from the United States Supreme Court's disposition of Complete Auto Transit v. Brady, 430 U.S. 274, 51 L.Ed.2d 326, 97 S.Ct. 1076 (1977), in which the court identified the factors or elements that needed to be considered in evaluating the effects of a state- or locally-imposed tax on goods or services in interstate commerce: (1) does the activity that is subject to tax have a substantial nexus with the taxing state; (2) does it discriminate against interstate commerce; (3) does it fairly relate to services claimed to be provided within or by the taxing state; and (4) is the tax fairly apportioned. As a general rule, a tax on interstate commerce will be sustained if the court can find that the state has a sufficient connection to the business activity that is to be taxed; that, as between instate and interstate commerce, the tax is imposed equitably; and that the tax imposed fairly relates to the state's nexus--its contact or connection--to the business activity that is the subject of the tax. If all of these factors are properly addressed, the tax should survive a commerce clause challenge.

However, in a decision that would seem to be important for this state's efforts to tax resources brought in from outside the limits of the state's jurisdiction, under the Complete Auto Transit test, the court has struck down a first-use tax on federal outer continental shelf natural gas imposed by Louisiana. Maryland v. Louisiana, 451 U.S. 725, 68 L.Ed.2d 576, 101 S.Ct. 2114 (1981). The tax had been imposed on the "first use" of any natural gas imported into the state of Louisiana which had not been previously subjected to taxation by another state or by the United States. Most OCS-produced gas was piped ashore for processing, chiefly the removal of liquid hydrocarbons. Conceding that Louisiana has an interest in protecting natural resources within its jurisdiction, the court nonetheless rejected the state's contention that the levy was a proper compensatory tax. It found that there was no evidence of justification for the levy and collection of the tax in order to equalize tax treatment of natural gas in interstate and local commerce, and declared that the state does not have an interest in being compensated for the severance or removal of resources from adjacent federally owned lands of the outer continental shelf.

II

The levy imposed by HB 264 may prompt a due process objection under the 14th Amendment. However, to the extent the commerce clause test is met, satisfaction of that test should also answer the usual concerns that attend due process objections.

III

The state's taxation of goods and services in interstate commerce also offers grounds for a potential "supremacy clause" challenge. Generally, under that clause, a state statute is void to the extent it conflicts with a federal statute. The courts are prepared to find evidence of conflict if compliance with the state law stands as an

obstacle to the accomplishment of the objectives of Congress. While there has been much Congressional interest in fisheries at least since initial passage of the Magnuson Act, I don't know of any particular federal statutory or regulatory provision that would bar or otherwise present an asserted obstacle to a proposed state levy of the kind you have briefly described. Still, in any legislative review of the proposed measure, the point deserves consideration.

IV

Finally, to the extent that the fisheries products leave a state dock or airport bound for another nation, the proposed levy may be construed to violate the implied limitation or prohibition on Congressional authority to regulate foreign commerce. My hunch, however, is that federal authority as to goods and services in foreign commerce would not provide a basis for challenge of a tax statute independent of that provided by the interstate commerce clause.

JBC:pl
93-261.plm

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL APR 7 1993

WALTER J. HICKEL, GOVERNOR

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JUNEAU, ALASKA 99811-0300
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April 6, 1993

The Honorable Carl Moses, Chairman
House Special Committee on Fisheries
Alaska House of Representatives
Room 204
State Capitol
Juneau, Alaska 99811-1182

RE: HB 264 - relating to
a fisheries landing tax

Dear Representative Moses:

We have reviewed the memorandum from Legislative Affairs attorney Jack Chenoweth to House Speaker Ramona Barnes as requested at the hearing on HB 264 on April 5. This memo explores the possible constitutional bases for challenge of the legislation.

We agree with the memo's identification of constitutional issues and the discussion of the two important commerce clause cases cited. Applying the holdings of *Complete Auto Body v. Brady*, 430 U.S. 274 (1977) to the taxing scheme envisioned by HB 264, we believe the tax can be defended. First, the activity has a substantial nexus with Alaska and fairly relates to services provided or available. The vessels used to transport the fisheries resources either use or have the availability of use of Alaska port facilities, refueling capabilities, navigational aids, safety and rescue availability, as well as others. Second, the tax would be fairly apportioned; there would be no discrimination in favor of residents.

We believe *Maryland v. Louisiana*, 451 U.S. 725 (1981) can be distinguished. In that case, Louisiana only taxed natural gas that would go into interstate commerce after merely passing through Louisiana; residents were given substantial protection from the impact of the tax. These are the chief failures of the Louisiana scheme. In addition, Louisiana asserted that the tax was linked to severance taxes, however, the Court rejected this argument as the gas subject to the tax came exclusively from outside Louisiana's

The Honorable Carl Moses, Chairman
House Special Committee on Fisheries

April 6, 1993
Page 2

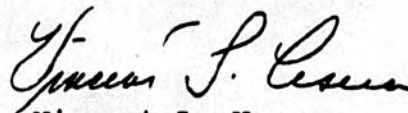
jurisdiction. House Bill 264 would establish a tax on landings within the State of Alaska. It is clearly not a severance tax.

Once again, we are not making a definitive determination of constitutionality and agree that the legislation may be subject to challenge. We do continue to believe that the landing tax is defensible.

If you wish to discuss this, please do not hesitate to contact me; my number is 465-2398.

CHARLES E. COLE
ATTORNEY GENERAL

By:



Vincent L. Usera
Assistant Attorney General

cc: Jack Chenoweth
D. Behr

AMERICAN FACTORY
TRAWLER ASSOCIATION

Fax Cover Sheet

TO Molly McGinnis FAX NO. (907) 465-3445
OF AK Legislature
FROM Joe Polun
DATE 4/12/93 TOTAL NUMBER OF PAGES (including cover) 5
MESSAGE/COMMENTS _____

Please provide each Fisheries Committee member
a copy of this paper before tonight's hearing -

Thanks,

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 264

Page 2, following line 11:

Insert a new section to read:

"Sec. 43.77.035. CREDIT FOR APPROVED CONTRIBUTIONS. (a) A taxpayer who harvests a fishery resource under the provisions of a community development quota may claim as a credit against not more than 50 percent of the tax due under this chapter the taxpayer's contributions made during the tax year to a nonprofit corporation incorporated under the laws of the state that are used by the recipient for one or more of the following purposes:

(1) scholarships for study in the disciplines of fisheries management, fisheries business administration, or another related course or discipline;

(2) training for employment in the seafood industry;

(3) making contributions of capital, in the form of loans or grants, to construct or improve

(A) transportation facilities such as airports and docks that are used for the unloading, transferring, or shipment of fisheries products; or

(B) facilities at which fisheries products are canned, frozen, or otherwise processed for inventory, including floating facilities that are documented under the laws of the United States as defined in 46 U.S.C. App. 801;

(4) awarding grants for research projects relating to fisheries.

(b) A taxpayer who makes a contribution that qualifies for the credit authorized by (a) of this section and who claims a credit for the contribution must apply to obtain the credit. The taxpayer shall apply in the manner provided by the department by regulation, and shall provide to the commissioner all information relating to the contribution that may be required by the department. Upon receipt of

a complete application, the department shall approve or disapprove the application for the credit within 60 days.

(c) The department may not approve a tax credit under this section if (1) the department determines that the contribution does not qualify under (a) of this section; or (2) the taxpayer claiming the credit is in arrears in the payment of the tax levied by this chapter. For purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(d) A contribution allowed as a credit under this section may not be claimed as a credit under another provision of this title."

Page 4, following line 9:

Insert a new subsection to read:

"(e) In this section, "tax revenue collected" does not include amounts credited against taxes under AS 43.77.035."

Page 4, line 13, after "(1)":

Insert "'community development quota" has the meaning given that term in a regulation adopted by the Office of the Governor, under authority granted by art. III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the North Pacific Fishery Management Council to set aside fisheries resources for community development purposes in western Alaska;

(2)"

Renumber the following paragraphs accordingly.

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Juneau, Alaska 99801-2405

MEMORANDUM

February 22, 1993

SUBJECT: State taxation of interstate commerce: Proposal to levy and collect a tax on fisheries resources caught outside the state but brought into the state for introduction into the stream of interstate commerce (Work Order No. 8-LS0684)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: Jack Chenoweth
Legislative Counsel

Your recent contact with Legislative Counsel George Utermohle advised of a potential measure proposing to impose a tax on the landing of fisheries resources caught outside the state--presumably from waters above the outer continental shelf beyond the three-mile state boundary--but brought into the state's jurisdiction--across a dock or harbor facility, or through an airport--for purposes of eventual transport outside the state, i.e. introduction into interstate commerce. You have asked the office to summarize potential legal issues that may arise out of that legislation.

I

Since the proposed measure apparently would address state taxation and state regulation of interstate commerce, it necessarily invites scrutiny under the United States Constitution's commerce clause--clause 3, section 8 of article I.^{1/} Historically, that clause has served as a significant check on state efforts to expose business activities to multiple tax liability and to unique forms of regulatory action.

At the outset, I should note that a state tax is not per se invalid because it imposes a burden on interstate commerce. States may require goods and services in interstate commerce that enter the taxing jurisdiction to contribute to the jurisdiction's treasury.

^{1/} The provision declares that "[t]he Congress shall have power . . . to regulate commerce with foreign nations, and among the several states"

The approach generally invoked in commerce clause analysis has involved consideration of the links that exist between the taxpayer and the taxing jurisdiction, on the one hand, versus the burden that the tax would impose on interstate commerce. The approach generally adopted in recent cases derives from the United States Supreme Court's disposition of Complete Auto Transit v. Brady, 430 U.S. 274, 51 L.Ed.2d 326, 97 S.Ct. 1076 (1977), in which the court identified the factors or elements that needed to be considered in evaluating the effects of a state- or locally-imposed tax on goods or services in interstate commerce: (1) does the activity that is subject to tax have a substantial nexus with the taxing state; (2) does it discriminate against interstate commerce; (3) does it fairly relate to services claimed to be provided within or by the taxing state; and (4) is the tax fairly apportioned. As a general rule, a tax on interstate commerce will be sustained if the court can find that the state has a sufficient connection to the business activity that is to be taxed; that, as between instate and interstate commerce, the tax is imposed equitably; and that the tax imposed fairly relates to the state's nexus--its contact or connection--to the business activity that is the subject of the tax.^{2/} If all of these factors are properly addressed, the tax should survive a commerce clause challenge.^{3/}

In a decision that would seem to be important for this state's efforts to tax resources brought in from outside the limits of the state's jurisdiction, under the Complete Auto Transit test, the court has struck down a first-use tax on federal outer continental

^{2/} Establishing nexus is probably the critical element of three. It can be tricky. There are precedents that may be cited to support the conclusion that **delivery of product within a state--International Harvester Co. v. Department of the Treasury, 322 U.S. 340, 88 L.Ed. 1313, 64 S.Ct. 1019 (1944) (sales of Indiana goods to an out-of-state buyer, who took possession of the goods for transport out of the state sufficient to justify payment of the Indiana gross receipts tax), State Tax Commission of Utah v. Pacific States Cast Iron Pipe Co., 372 U.S. 605, 10 L.Ed.2d 8, 83 S.Ct. 925 (1963) (sales of Utah-made goods manufactured to meet specifications of out-of-state jobs and required to be shipped out of state, when title passes and delivery is made at seller's place of business in state with transfer by purchaser, who receives a credit for freight charges incurred, subject to Utah state sales tax)--and that transfer of possession to a purchaser of a product within a state--McGoldrick v. Berwind-White Coal Mining Co., 309 U.S. 33, 84 L.Ed. 565, 60 S.Ct. 388 (1940) (negotiation of contract for sale of coal and delivery of coal within New York City meant that transfer of possession occurred within the city and made the transaction subject to the city's sales tax) are each sufficient to establish the required nexus.**

^{3/} Any debate in this area may prompt discussion or analysis as to whether a state levy violates the so-called "dormant" Commerce Clause--that is, whether the state action, while not actually contrary to an expressed or exercised Act of the Congress, nevertheless threatens the values the Commerce Clause was intended to serve. The analytical mechanism is, of course, the test first laid down in Complete Auto Transit cited earlier.

shelf natural gas ^{4/} imposed by Louisiana. Maryland v. Louisiana, 451 U.S. 725, 68 L.Ed.2d 576, 101 S.Ct. 2114 (1981). Conceding that Louisiana has an interest in protecting natural resources within its jurisdiction, the court nonetheless rejected the state's contention that the levy was a proper compensatory tax. ^{5/} It found that there was no evidence of justification for the levy and collection of the tax in order to equalize tax treatment of natural gas in interstate and local commerce, and declared that the state does not have an interest in being compensated for the severance or removal of resources from adjacent federally owned lands of the outer continental shelf.

II

The levy that you describe in this forthcoming measure may prompt a due process objection under the 14th Amendment. Still, to the extent the commerce clause test is met, satisfaction of that test should also answer the usual concerns that attend due process objections. ^{6/}

III

State taxation of goods and services in interstate commerce also offers grounds for a potential "supremacy clause" ^{7/} challenge. Generally, under that clause, a state

^{4/} The tax was imposed on the "first use" of any natural gas imported into the state of Louisiana which had not been previously subjected to taxation by another state or by the United States. Most OCS-produced gas was piped ashore for processing, chiefly the removal of liquid hydrocarbons.

^{5/} A "compensatory tax," as I understand, is a state imposed levy on a substantially equivalent good or service that is itself already taxed in order to assure uniform treatment of goods and materials within the jurisdiction. A use tax imposed as a complement to a locally-imposed sales tax is an obvious example.

^{6/} What you have described is a tax measure. Courts traditionally are deferential to state revenue raising efforts if a due process objection is interposed. Generally, in the consideration of the tax under a due process analysis, the courts will look for evidence of (1) a minimal connection between the interstate activity that is the subject of the tax and the taxing state, and (2) a rational relationship between the income attributed to the jurisdiction levying the tax and the "intrastate" elements of the enterprise that are the subject of the jurisdiction's levy. Trinova Corp. v. Michigan Dept. of the Treasury, 498 U.S. --, 112 L.Ed.2d 884, 111 S.Ct. 818 (1991). These factors appear as included elements within federal commerce clause analysis.

^{7/} Under the "supremacy clause," article VI, clause 2 of the United States Constitution,

(continued...)

statute is void to the extent it conflicts with a federal statute. The courts are prepared to find evidence of conflict if compliance with the state law stands as an obstacle to the accomplishment of the objectives of Congress. While there has been much Congressional interest in fisheries at least since initial passage of the Magnuson Act, I don't know of any particular federal statutory or regulatory provision that would bar or otherwise present an asserted obstacle to a proposed state levy of the kind you have briefly described. Still, in any legislative review of the proposed measure, the point deserves consideration.

IV

Finally, to round out this memo, though I am not familiar with the specifics of the tax that the administration may have under consideration, to the extent that the fisheries products leave a state dock or airport bound for another nation, the proposed levy may be construed to violate the implied limitation or prohibition on Congressional authority to regulate foreign commerce.^{8/} My hunch, however, is that federal authority as to goods and services in foreign commerce would not provide a basis for challenge of a tax statute independent of that provided by the interstate commerce clause.

JBC:pl
93-116.plm

2/ (...continued)

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

^{8/} Under article I, sec. 8, the Congress is authorized to exercise power with respect to the regulation of foreign commerce, while article I, sec. 10, constrains the states from imposing any "duty of tonnage" without Congressional consent.

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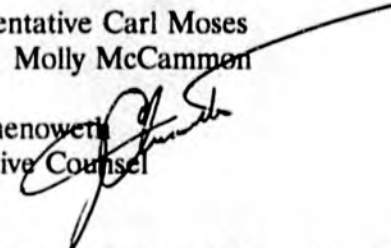
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 21, 1993

SUBJECT: Revised amendment relating to tax credit to CSHB 264 (FSH)
(Work Order No. 8LS-0941\J.13)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: Jack Chenoweth 
Legislative Counsel

I've have tried to make the revisions substantially as you have directed.

I have inserted "in this state" in the lead-in to AS 43.77.035 and it should accomplish what I think you are trying to accomplish with this caution. In proposed AS 43.77.-035(a)(4), the addition makes reference to research projects related to "Alaska fisheries." Do you mean only research undertaken from in-state activities or would research on Alaska fisheries undertaken by, say, the University of Washington in Seattle also qualify? I assumed you meant the former, but thought I'd better check.

Your indicated revision of subsections (b) and (c) results in a "tentative" approval or disapproval, but you make no provision for "final" approval and I have not a clue as to what is intended to turn on the distinction between "tentative" and "final" approval. Is there to be no provision for "final" approval? If not, why not? If there is to be, what process do you contemplate? Under what circumstances does a "tentative" approval become "final"?

As to the remaining changes: I did not contact the Department of Revenue. With my drafting caseload at this time of the session, I depend upon staff like yourself to make those contacts and provide the information. To save time, I tried my hand at the matter a second time. If this is not satisfactory, have Revenue prepare a response that we may consider.

JBC:pl
93-318.plm

DRAFT**TO ACHIEVE INTENT OF WORKING DRAFT**

Section 43.77.035. CREDIT FOR APPROVED CONTRIBUTIONS. (A) A taxpayer who harvests a fishery resource under the provisions of a community development quota may claim as a credit against not more than 45.45% [50%] of the tax due under this chapter

* Section 43.77.040. SEPARATE ACCOUNTING. (a) An amount of tax paid equal to [THE TAX COLLECTED ON THE LEVY OF] 3/10 of one percent of the value of the fishery resource [UNDER AS 43.77.010, CALCULATED WITHOUT REFERENCE TO A REDUCTION FOR THE REVENUE THAT IS NOT COLLECTED DUE TO TAX CREDITS APPROVED BY THE COMMISSIONER UNDER AS 43.77.035,] shall be paid into a separate account in the general fund. The annual ~~estimated~~ balance in the account may be appropriated by the legislature to the Alaska Seafood Marketing Institute.

(b) After payment of the amount determined under (a) of this section, the balance of the tax collected under this chapter shall be paid into a separate account in the general fund. The annual [ESTIMATED] balance in the account, less all tax credits approved by the commissioner under AS 43.77.035, may be appropriated by the legislature for revenue sharing under AS 43.77.050 ~~and for other public purposes.~~

Hypothetical

	<u>Ex. One</u>	<u>Ex. Two</u>
Value of fishery resources	\$10,000	\$10,000
Tax Rate	3.3%	3.3%
Tax before credits	330	330
Credit Claimed (45.45% maximum and 10%)	150	30
Tax due shown on return and paid by taxpayer	\$180	300
Amount to ASMI under AS 43.77.040(a)	\$ 30	\$ 30
Amount remaining in general fund	\$150	\$270
Reduction for tax credits per AS 43.77.040(b)	\$150	\$ 30
Amount available for revenue sharing	\$ 0	\$240
50% to municipalities under AS 43.77.040	\$ 0	\$120
Amount retained by General Fund	\$150	\$150

Note: If a taxpayer pays only a part of the tax, ASMI always gets all of its share before the state general fund and the municipalities.

Post-It™ brand fax transmittal memo 7571		# of pages > 1
To <i>Molly McCammon</i>	From <i>Carl Meyer</i>	
Co.	Co.	
Dept.	Phone # <i>2343</i>	
Fax # <i>3445</i>	Fax #	

Post-It™ brand fax transmittal memo 7671

of pages > 1

To	Molly McCamen	From	Carl Meyer
Co.		Co.	
Dept.		Phone #	2343
Fax #	3445	Fax #	

4/21/94 Changes to Working Draft on CSHB 264 by Legislative Counsel

Section 43.77.040. SEPARATE ACCOUNTING. (a) An amount equal to the tax collected on the levy of 3/10 of one percent of the value of the fishery resource under AS 43.77.010, calculated without reference to a reduction for the revenue that is not collected due to tax credits approved by the Commissioner under AS 43.77.035, shall be paid into a separate account in the general fund. The annual estimated balance in the account may be appropriated by the legislature to the Alaska Seafood Marketing Institute.

(b) After payment of the amount determined under (a) of this section, the balance of the tax collected under this chapter shall be paid into a separate account in the general fund. The annual estimated balance in the account, less all tax credits approved by the commissioner under AS 43.77.035, may be appropriated by the legislature for revenue sharing under AS 43.77.050 ~~and for other public purposes.~~

Hypothetical

\$10,000 landing tax value for fishery resources
3.3% tax rate

\$330 tax before credit (\$300 is 3%
\$30 is ASMI .3%)

<\$165> maximum credit allowed by 43.77.035

\$165 tax due shown on return: paid by TP

<\$30> to ASMI under 43.77.040(a)

General Fund
reduced by \$15 because state
pays for 50%
of the ASMI
contribution

\$135 remaining for General Fund acct. of
the tax actually collected.

<165> acct. reduced by all tax credits
as provided in 43.77.040(L)

<\$30> deficit for revenue sharing

Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
FISH AND GAME
PUBLIC SAFETY

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SPONSOR STATEMENT FOR FINANCE COMMITTEE SUBSTITUTE FOR HB 264 FISHERY RESOURCE LANDING TAX

House Bill 264 would establish a new tax on fisheries resources that are caught and processed in the Exclusive Economic Zone (those waters under U.S. jurisdiction that are directly off Alaska) but are then landed within Alaska's jurisdiction. These processed resources are currently not subject to any Alaska state tax.

The offshore factory trawl fleet operating within the EEZ has been extremely profitable. It is now fully Americanized, with most vessels based in the state of Washington. The trawl fleet that would be subject to this tax primarily targets groundfish, with incidental catches of crab, halibut, herring and salmon - all species important to Alaska's resident fishermen and processors, and their coastal communities. Alaska provides significant benefits and services to the offshore fleet, and incurs additional fishery management and enforcement costs as well. Coupled with the impact the operations have on local Alaska communities, the tax is one way to compensate the state for these services.

House Bill 264 would impose a modest tax of 3.3% of the value of the processed resource which is landed in Alaska for shipment to market elsewhere. ASMI would receive the .3% portion of the tax collected. The new landing tax would place the offshore fleet on the same level as the onshore fleet in terms of state taxation.

The Finance Committee CS for HB 264 would authorize a very narrow tax credit that would be limited to the tax on the value of the fishery resource harvested under a community development quota program. The potential value of this tax credit is about \$290,000, a

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COLD BAY • DUTCH HARBOR • EGEIK • EKWOK • FALSE PASS • IVANOF BAY • KING COVE • KING SALMON • KOLIGANEK • LEVELOCK • NAKNEK
NELSON LAGOON • NEW STUYAHOK • NIKOLSKI • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT HEIDEN • PORT MOLLER • SAND POINT
SHEMYA • SQUAW HARBOR • SOUTH NAKNEK • ST. GEORGE ISLAND • ST. PAUL ISLAND • UGASHIK • UNALASKA • UNGA

very small portion of the Department of Revenue's estimated total tax of \$8.6 million generated by this legislation . The tax credit would only be allowed if the equivalent amount of funds was given to a nonprofit corporation for use in Alaska fisheries development, training and employment, and any credit would first be approved by the Department of Revenue, in consultation with the Department of Community and Regional Affairs. The credit would only apply to the municipal share of the tax.

The Finance Committee Substitute also changed the definition of "value" used in computing the tax. This change was requested by the fishing industry to give more clarification and certainty in how the tax would be determined.

The original legislation had given the taxpayer a credit for equivalent taxes paid in other "states." The Finance Committee extended that credit to taxes equivalent "in nature" paid in other "jurisdictions," which could also include foreign countries. The Department of Revenue does not believe this change will have significant effect on the revenues generated.

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 264

Page 2, following line 11:

Insert a new section to read:

"Sec. 43.77.035. CREDIT FOR APPROVED CONTRIBUTIONS. (a) A taxpayer who holds a community development quota may claim as a credit against not more than 50 percent of the tax due under this chapter the taxpayer's contributions made during the tax year to a nonprofit corporation incorporated under the laws of the state that are used by the recipient for one or more of the following purposes:

- (1) scholarships for study in the disciplines of fisheries management, fisheries business administration, or another related course or discipline;
- (2) training for employment in the seafood industry;
- (3) making contributions of capital, in the form of loans or grants, to construct or improve facilities at which fisheries products ^{transported} ~~are canned, frozen, or otherwise~~ processed for inventory, including floating facilities that are documented under the laws of the United States as defined in 46 U.S.C. App. 801 ^{and} ~~and operated~~ ^{in waters of the state};
- (4) awarding grants for research projects relating to fisheries.

(b) A taxpayer who makes a contribution that qualifies for the credit authorized by (a) of this section and who claims a credit for the contribution must apply to obtain the credit. The taxpayer shall apply in the manner provided by the department by regulation, and shall provide to the commissioner all information relating to the contribution that may be required by the department. Upon receipt of a complete application, the department shall approve or disapprove the application for the credit within 60 days.

(c) The department may not approve a tax credit under this section if (1) the department determines that the contribution does not qualify under (a) of this section:

or (2) the taxpayer claiming the credit is in arrears in the payment of the tax levied by this chapter. For purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(d) A contribution allowed as a credit under this section may not be claimed as a credit under another provision of this title."

Page 4, following line 9:

Insert a new subsection to read:

"(e) In this section, "tax revenue collected" does not include amounts credited against taxes under AS 43.77.035."

under community share.

Page 4, line 13, after "(1)":

Insert ""community development quota" has the meaning given that term in a regulation adopted by the Office of the Governor, under authority granted by art. III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the North Pacific Fisheries Management Council to set aside fisheries resources for community development purposes in western Alaska;

(2)"

Renumber the following paragraphs accordingly.

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DRAFT

PROPOSED AMENDMENT TO HB 264 "AN ACT PROVIDING FOR A FISHERY RESOURCE LANDING TAX; AND PROVIDING FOR AN EFFECTIVE DATE."

Add a new section to read:

(a) A taxpayer who is harvesting a fishery resource under the provisions of a community development quota program authorized by the Secretary of the U.S. Department of Commerce is entitled to a credit of not more than 50 percent of the fishery resource landing tax liability under AS 43.77.010 for contributions made during the tax year to a non-profit foundation incorporated under the laws of the State of Alaska for one or more of the following purposes:

- (1) providing scholarships for the study of fisheries management, fisheries business, or other fisheries-related course of instruction;
- (2) providing training for employment in the seafood industry;
- (3) providing grants, loans, or capital contribution for fisheries infrastructure projects; or
- (4) providing grants for fisheries research projects.

(b) A tax credit under this section may be approved only for the purposes listed in (a) of this section.

(c) A tax credit under this section shall be deducted from the amount of the tax revenue collected that is available for appropriation by the legislature for revenue sharing under AS 43.77.050.

(d) The department may not approve a tax credit under this section if the taxpayer claiming the credit is in arrears in the payment of a fishery resource landing tax under AS 43.77.010; for the purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative appeal.

(e) The department shall prepare an application form for a credit under this section.

(f) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

can this be limited to CDO groups in the above section (a) ? or does everyone have to be eligible?

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 8, 1993

SUBJECT: Draft amendment to House Bill 264 (Work Order
No. 8LS-0264\E.1)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: Jack Chenoweth
Legislative Counsel

I've redrafted the language into a form that more nearly approximates the language used in other tax credits.

This amendment is tentatively designated AS 43.77.035 for ease of drafting. If this amendment is adopted, I will insert it into the proper place in the bill, but likely will renumber it (to AS 43.77.040) and renumber other codified bill sections accordingly.

Some drafting notes:

I tried to pin down the eligible contribution list a little. However, I hate to use "infrastructure" because it is so vague. The reference in (a)(3) draws from another fisheries tax statute. If it doesn't accord with your expectations, feel free to edit it.

The double dipping credit matter is addressed in proposed AS 43.77.035(d).

I expanded the "arrearages" reference to pick up judicial (as well as administrative) appeals.

To give some "life" to the reference to "community development quota," I am forced to rely on a temporary regulation adopted in the office of the governor.

JBC:gc
93-230.glc

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

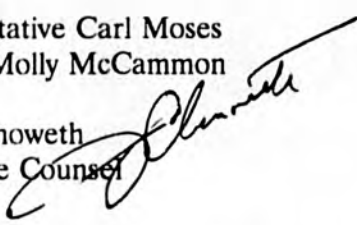
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 8, 1993

SUBJECT: Suggested tax credit amendment to HB 264 (Work Order No. 8-LS0941\E)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: Jack Chenoweth
Legislative Counsel 

My view is that the amendment is decidedly **not** OK as drafted. For openers --

Is it clear to you that "For one or more of the following purposes," set out in the last line of the lead-in of subsection (a), refers to the taxpayer's contributions or the activities of the nonprofit foundation? My first guess is that the bill is speaking to taxpayer contributions to foundations that do these things. Then I read (b) and I'm persuaded that, well, no, a taxpayer's direct contributions for one of these four purposes is what is intended. Or maybe both . . .

Why only a "nonprofit foundation"? Must the recipient of the contribution have the status of a foundation? Why?

The purposes for which the credit contribution claim may be filed--(a)(1) - (4) of the draft--seem rather "loose." Who decides, in the end, whether the foundation is doing at least one of these things in so responsible a manner as to warrant allowance of a tax credit?

How is (c) intended to operate? If a taxpayer in the city in which I am mayor opts to make a gargantuan contribution to a qualifying charitable foundation and claim the credit, is my city's revenue sharing payment reduced proportionally? Should it be?

Why does the taxpayer need to go through the dance of applying for credit? We don't require that of credit claimers for other taxes. Most other credits that I'm familiar with provide that the taxpayer should just take it and wait for an audit

Representative Carl Moses

April 8, 1993

Page 2

challenge. However, as loose as this proposal is, perhaps an advance application approach makes better sense.

How does this proposed credit square with others already on the books for other state taxes? Believe me, there are a slug of 'em. Should we not worry about double dipping credit claims? Were we wrong to do so in the past?

Finally, why do you propose to limit this credit claim to those submitted by "CDQ groups"? Do you have a fair and reasonable basis by which to make that distinction? If you don't, then down the line there lurks a possible equal protection challenge.

JBC:mi
93-065.mai

*Reed should have a basis.
& why others.*

limit credit to this chapter.

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JUSTIFICATION: The western Alaska Community Development Quota program was initiated by the State of Alaska, western Alaska residents, and the North Pacific Fishery Management Council for the purpose of creating a fishing economy in one of the nation's most economically-depressed areas. To create these economies, six community groups have formed along the Bering Sea coastline. While each group has chosen a somewhat different method of obtaining this goal, the basic components are the same: training residents to work in the seafood industry; obtaining education in the various aspects of fisheries and fisheries business; building the infrastructure for the communities to become active members of the fishing industry; basic research into fisheries; and setting up seafood businesses.

The first four categories of the activities listed are in the nature of governmental, as opposed to business, functions. For those communities with ports, income from the landing tax will be available to carry out these governmental functions. However, those community groups without established ports will not be able to receive funds from the landing tax for these purposes and will have to use their limited investment capital on programs and projects which cannot sustain themselves financially. This amendment will provide a source of funding for these governmental programs to these "port-less" communities.

The amendment is written narrowly in order to limit its application and impact on the general fund and the established ports. First, the tax credit can only be used for a limited set of activities that can be considered "governmental functions" rather than to "private, business functions." Second, the tax credit will be counted against the amount of money available for appropriation by the Legislature for revenue sharing with communities, not against the general fund. And third, the tax credit is limited to 50% of the value of fish harvested by the community development quota fisheries, which at the present time is only 7.5% of the Bering Sea pollock quota. [The tax credit would be limited to 50% of the 3% landing tax or 1.5% of the value of 7.5% of Bering Sea pollock quota.] While this is an extremely small portion of the revenue sharing with communities, it will be an important source of funding for small communities seeking to establish a fishing economy, but presently without the skills and infrastructure to succeed.

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April 9, 1993

Representative Carl Moses
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Representative Moses:

On behalf of the Coastal Villages Fishing Cooperative, I would like to provide these comments to the House Special Committee on Fisheries concerning HB 264 "An Act Providing for a Fishery Resource Landing Tax; and Providing for an Effective Date."

The Coastal Villages Fishing Cooperative agrees with the need for the State of Alaska to obtain revenues from fishing activities which occur in the EEZ off Alaska. We agree that the State puts a significant effort into managing these resources and that the State is an important staging area for offshore activities. We also recognize that there are legal questions raised by the imposition of this tax as outlined in the memorandum from Legislative Counsel Jack Chenoweth to House Speaker Barnes.

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- 1

Given the potential infirmities with the legislation, Coastal Villages would be able to strongly support this legislation with the adoption of one amendment, which I have enclosed with this letter. This amendment would allow fishing companies participating in community development quota fisheries to deposit 50% of their tax liability into a foundation that would serve four specific "governmental" purposes, similar to the purposes landing ports will make of their share of the tax revenue. These purposes are (1) training residents to work in the seafood industry, (2) obtaining education in the various aspects of fisheries and fisheries business, (3) building the infrastructure for the communities to become active members of the fishing industry, and (4) conducting basic research into fisheries.

The Coastal Villages Fishing Cooperative understands the justification for providing revenue sharing to communities with ports where landings actually occur. However, the Cooperative also believes that there is significant justification for providing a small portion of the revenue to communities without ports, as would be allowable through the attached amendment.

- * The purpose of the Community Development Quota program is to establish fishing economies in economically-depressed Bering Sea coastal communities. By providing a source of funding for what are in essence "governmental" functions [education, training, infrastructure, and

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research], the State will help ensure that successful fishing economies are created.

- * Fisheries infrastructure development in more Alaskan coastal communities will cause more fishery resources to be landed in Alaska providing more revenue to the State.
- * With declining State revenues, funds for scholarships, training, and infrastructure development will be less available in the future to coastal communities which do not receive revenue sharing from the landing tax. Providing this source of funding will in small measure compensate for the upcoming budget reductions.
- * The Community Development Quota fisheries will be providing revenues to the general fund equal to the amount provided by any other offshore fishing activity.
- * The Community Development Quota fisheries are not now contributing to the State through a fisheries business tax [Coastal Villages Fishing Cooperative is contributing to the State through the Alaska Corporate Income Tax.] All of the funds are now available for regional fisheries investment. Paying our fair share to the State through the landing tax is appropriate; however, the tax credit amendment will be beneficial by funding those "governmental" functions that are as necessary as business investment for long term program success.

For each of these reasons, the Coastal Villages Fishing Cooperative requests that HB 264 be amended and the bill be passed out of committee to its next committee of referral.

Thank you for your consideration of our views.

Very truly yours,

Norman A. Cohen
Executive Director

cc: Commissioner Fuhs
Commissioner Rosier
Commissioner Rexwinkel
Clem Tillion
CDQ groups
Rep. MacLean
Rep. Hoffman

STATE OF ALASKA

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

WALTER J. HICKEL, GOVERNOR

BOX 110505
JUNEAU, ALASKA 99811-0505
PHONE: (907) 465-2962

APR 1 1993

MEMORANDUM

TO: Molly McCammon, Legislative Aide
Office of Representative Carl Moses

FROM: Diane Barrans, ^{DB} Programs Coordinator
Alaska Commission on Postsecondary Education

SUBJECT: A.W. "Winn" Brindle Memorial Scholarship Tax Credit

DATE: April 2, 1993

In follow-up to our telephone conversation of earlier today, Commission staff is requesting that the following language be added as an amendment to HB 264 (Providing for a fishery resource landing tax):

AS 43.75.032 be amended to read:

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year or during the period in which the taxpayer may file the return and pay the tax for the tax year to the A.W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1993 (1987) tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

The purpose of this amendment would be to allow fisheries businesses additional time to calculate their tax liabilities and to allot donations accordingly.

Thank you for your attention to this matter. Please let me know if I can be of further assistance in this process.

Post-It™ brand fax transmittal memo 7671		# of pages 1	
To	Molly McCammon	From	Diane Barrans
Co.	Rep. Moses	Co.	
Dept.	Rules Comm	Phone	465-16743
Fax	465- ~~4445~~ 3445	Fax	465-3293

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

February 3, 1987

MEMORANDUM

TO: Representative Peter Goll

ATTN: Linda Bowthorpe

FROM: Ginny Fay *GF*
Legislative Analyst

RE: Summary of the History of the Raw Fish Tax
Research Request 87.115

You requested that we write a one-page summary of the history of the raw fish tax, AS 43.75.010-140. The law provides for a tax on raw fish purchases by canneries, cold storages, and other processors. Attached is the summary beginning with 1978. In order to condense the history to one page, information on legislation introduced but not passed is not included.

I hope this information is useful. If you have additional questions, please do not hesitate to contact this agency.

GF

Attachment

ALASKA STATE LEGISLATURE

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3891
Fax: (907) 463-3331

February 9, 1990

MEMORANDUM

TO: Senator Fred F. Zharoff
ATTN: Karl Ohls
FROM: Ginny Fay *GF*
Legislative Analyst
RE: Local Raw Fish Taxes in Alaska
Research Request 90.158

You requested information on local raw fish taxes in Alaska. You asked this agency to obtain information on: 1) the identity of communities that levy a local raw fish tax; 2) the form of these taxes; and 3) the tax rates and amounts collected. This information is summarized in the accompanying table, which lists the communities that levy a local raw fish tax, each community's tax rate, and available information on tax collections for FY 87 - FY 90. It should be noted that FY 90 tax revenues are estimates. Attached are copies of local raw fish tax ordinances that provide more detailed information on these taxes.

Background

As you know, Alaska has a state commercial fishing tax--the fisheries business tax (AS 43.75.015-140)--that is shared with communities based on the level of fishing activity occurring in the community.¹ In addition to revenues from this shared state tax, some communities in Alaska levy a local sales tax on raw fish. In Alaska, incorporated municipalities may devise their own taxation policies within fairly broad limits set by the Alaska Municipal Code (Title 29 of the Alaska Statutes). Municipalities may choose the types, rates, and exemptions to local taxes, thereby fashioning a tax policy that suits local preferences and conditions. Home rule, and first and second-class cities have the power to levy local sales taxes.

¹The state fisheries business tax rate is 4.5 percent of the value of salmon canned at shore-based canning facilities, a three percent tax on the value of all other fish canned by shore-based facilities, and a five percent tax on the value of fishery resources processed by floating processors. Developing fisheries are taxed at lower rates.

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 463-3351

July 3, 1991

MEMORANDUM

TO: Representative Fran Ulmer
FROM: Tom Chester *TC*
Legislative Analyst
RE: Local Fish Taxes
Research Request 91.312

You asked us to update the local sales/use taxes on raw fish sales in Alaska as reported previously by this agency in Legislative Research Memorandum 90.158 (attached) because it provides some useful background information on fish taxes.

Local Sales and Use Taxes on Raw Fish Sales in Alaska Tax Rates and Collections (in Millions of Dollars)

Community/Borough	City or Borough Classification	Tax Rate	Fiscal Year Tax Collections				
			FY87	FY88	FY89	FY90	FY91(est)
Aleutians East Borough	Second	2.0%(1)		2.10	2.00	2.80	
Akutan	Second	0.5		0.20	0.20	0.19	
Atka(2)	Second	0.5					0.00
Bristol Bay Borough	Second	3.0	1.10	1.40	2.62	2.88	
King Cove	First	2.0	0.52	0.83	0.74	0.77	
Lake and Peninsula	Home Rule	2.0					0.60
Sand Point(3)	First	2.0	0.31	0.43	0.56	0.48	0.61
Togiak(4)	Second	2.0		0.05	0.04		
Unalaska	First	2.0	0.42	0.70	2.40	2.00	2.70

Notes

1. The Aleutians East Borough raw fish tax rate is 2.0%; however each year 0.5% is forgiven. The effective rate of 1.5% has been in effect since April 1988.
2. Atka has yet to collect any taxes (per city administrator).
3. Taxes are a combination of fish and sales tax.
4. Current taxes not yet available (07/03/91).

Source: Finance directors and city administrators, personal communications, June and July 1991.

I hope this information is useful. If you would like additional information, please do not hesitate to call.

Attachment

QUESTIONS FOR REVENUE:

- Why is the tax on **processed** fish, as opposed to **raw**?
- How did you come up with the percentage of the tax?
- How will the weight and value of the resource for purposes of assessing the tax be determined?

QUESTIONS FOR LAW

- Do you believe this bill is constitutional, and if so, why?
- What are the kinds of legal questions that could be raised?
- What would be the downsides legally from going ahead with this legislation?

"An Act providing for a fishery resource landing tax, and providing for an effective date."

* Section 1. AS 43 is amended by adding a new chapter to read:

CHAPTER 77. LANDING TAX ACT.

Sec. 43.77.010. LANDING TAX. A person owning a fishery resource that is not subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in, this state is liable for and shall pay a landing tax on the value of the fishery resource. The amount of the tax is 3.3 percent of the value of the fishery resource at the place of the landing.

Sec. 43.77.020. FILING RETURN AND PAYMENT OF TAX. (a) A person subject to the tax under this chapter shall file a return stating the value of fishery resources landed in the state, the point of landing of the resources, and any other information the department prescribes by regulation.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year, and the tax shall be paid with the return.

(c) The department may, under regulations adopted by the department, grant a reasonable extension of time for the filing. A grant of an extension of time for filing does not extend the time for payment of the tax.

Sec. 43.77.030. CREDIT FOR TAXES PAID OTHER STATES. A credit, not to exceed the taxpayer's liability for the tax under this chapter on a fishery resource, shall be granted the taxpayer for taxes equivalent to those imposed under AS 43.75

and AS 43.76 that are paid to another state in which the fishery resource was either caught or processed.

Sec. 43.77.040. REVENUE SHARING. The tax collection on three tenths of one percent of the value of the fishery resource under AS 43.77.010 shall be paid into an account in the general fund for the use of the Alaska Seafood Marketing Institute.

Sec. 43.77.050. REFUNDS TO LOCAL GOVERNMENTS. Fifty percent of the tax revenue collected from the tax levied under this chapter that is not earmarked for use by the Alaska Seafood Marketing Institute shall be refunded to boroughs and cities in the manner provided for in AS 43.75.130. Additional refunds shall be made in the manner provided for in AS 43.75.137.

Sec. 43.77.800. REGULATIONS. The department shall adopt regulations to implement and interpret this chapter.

Sec. 43.77.900. DEFINITIONS. In this chapter

(1) "fishery resource" means processed finfish, shellfish, and fish by-products, including salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(2) "landing" means the act of unloading or transferring a fishery resource;

(3) "market value" means the highest price a willing buyer would pay and a willing seller would accept for a fishery resource if both are fully informed and neither is under any compulsion to buy or sell, as determined by the department under regulations adopted to make value

determinations.

(4) "process"

(A) means any activity that modifies the physical condition of the resource, including butchering, freezing, salting, cooking, canning, dehydrating, or smoking;

(B) does not include decapitating shrimp, or gutting, gilling, sliming, washing, or icing a resource solely for the purpose of maintaining the quality of the fresh resource;

(5) "value" means the lesser of (1) the market value of the fishery resource at the time and place the resource becomes subject to the tax under this chapter, or (2) the statewide average price paid in the year for the fisheries resource as reported to, and the results compiled and released by the Department of Fish and Game.

* Sec. 2. This act takes effect on January 1, 1994.

Alaska Department of Revenue
Income and Excise Audit Division
FISH LANDING TAX ANALYSIS

	<u>Value</u>	<u>Projected Revenue</u>
<i>Landing Tax at 3.3%</i>		
Fish Tax (3%)	\$285,700,000	\$8,600,000
ASMI (.3%)	\$285,700,000	<u>860,000</u>
Total Landing Tax		<u>\$9,460,000</u>

Source: 1991 Fish Tax Study (Department of Revenue - May 1992)

landtax
PED.3/11/93



P.O. Box Y, State Capitol
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(907) 465-3991

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

August 5, 1988

MEMORANDUM

TO: Representative Peter Goll

ATTN: Linda Bowthorpe

FROM: Brad Pierce *[Signature]*
Legislative Analyst

RE: Fisheries Business Tax Legislation During the 15th Legislature
Research Request 89.024

You requested this agency to provide information on fisheries business tax (commonly referred to as the "raw fish tax") legislation introduced during the 15th legislature. You asked that we discuss the implications of this legislation for coastal communities.

Ten bills relating to the fisheries business tax were introduced during the 1987/88 legislature. Those that passed were **SB 162**, which affects the distribution of fish tax revenues to cities in newly incorporated boroughs, and **HB 486**, which allows the Department of Revenue (DOR) to share confidential fish tax information with municipalities for the purpose of verifying taxes levied and collected. Brief summaries of proposed fish tax legislation, compiled by Rena Bukovich, aide to Representative Herrmann, and copies of the various bills introduced are included in Attachment A.

A major thrust of fisheries business tax legislation in the 15th legislature was to establish a formula to provide municipalities affected by the fishing industry with a portion of raw fish tax receipts collected from floating processors. The primary vehicle was **HB 314**, which is discussed in detail in this memorandum. This bill would have established an experimental project--the Department of Community and Regional Affairs (DCRA) Offshore Fisheries Business Tax Revenue Sharing Pilot Project--in state law. Attachment B contains a DCRA position paper on **HB 314** and an accompanying fiscal note.

The Offshore Fisheries Business Tax Revenue Sharing Pilot Project

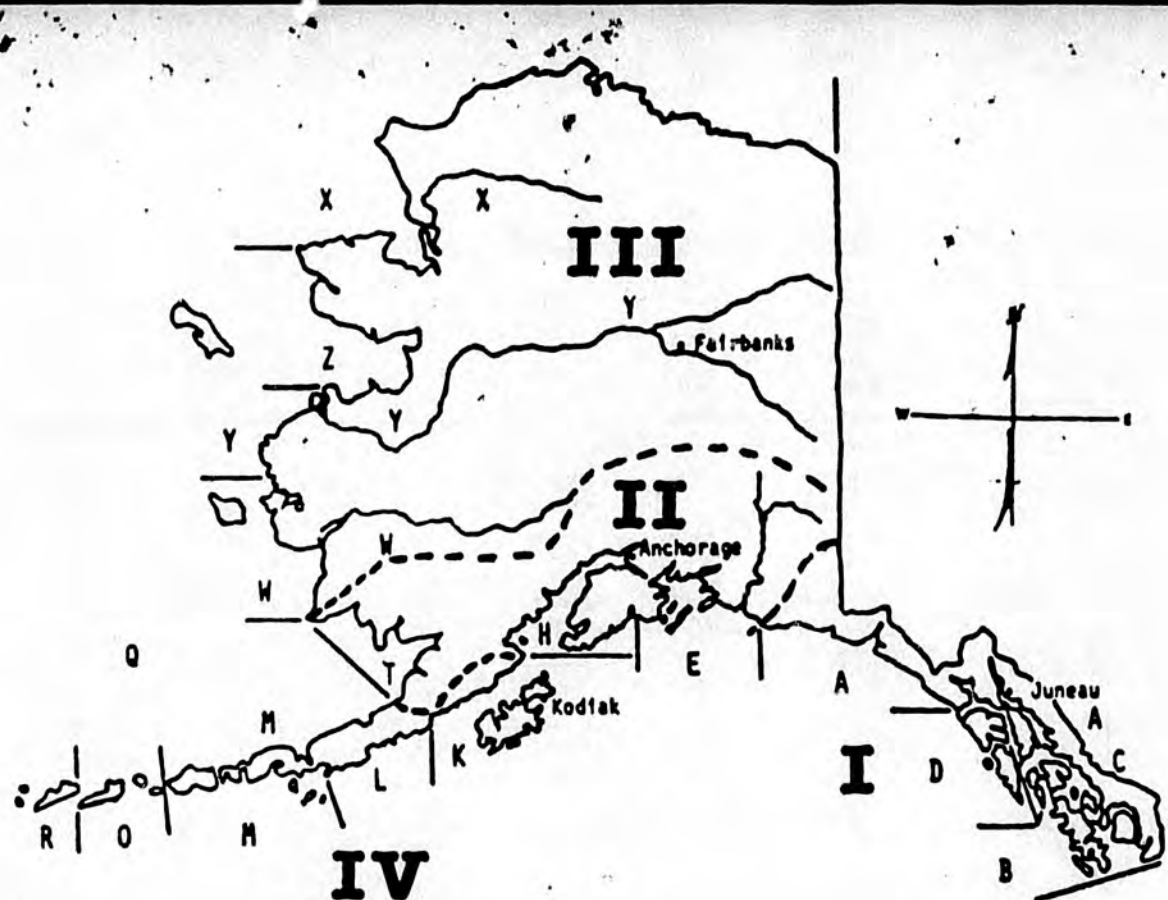
This program was funded by the legislature (for up to \$500,000) in Chapter 98, SLA 1985. The intent of the program was to mitigate the substantial but transient effects of offshore fish processors on coastal communities. The program allocated (to affected municipalities) a portion of fisheries business taxes paid by floating processors operating outside municipal boundaries. The funds had previously been deposited in the state general fund.¹ Regulations establishing the Offshore Fisheries Business Tax Revenue Sharing Pilot Project are contained in 19 AAC 33.005 - .070 and are included in Attachment C.

The amount determined by the Department of Revenue to be available for disbursement in 1987 was \$451,200. Coastal municipalities were required to apply to the DCRA, Division of Municipal and Regional Assistance for their allocation. Area allocations were based on the proportion of total statewide weight of commercial species processed offshore in each management area. Figure 1 is a map of Alaska commercial fisheries management areas. The amount allocated to each municipality within each area was determined by a formula which disbursed 50 percent of the management area allocation equally among eligible municipalities and 50 percent on the basis of population increases due to offshore processing during the fishing season.

Two major problems with this approach soon became apparent. First was the limited ability to compensate communities for effects that occurred across management area boundaries. Second, it became obvious that there was no way for municipalities to accurately judge the increase in population experienced as a result of offshore processing. The solutions envisioned by the DCRA were (1) to allow the department to combine management areas if requested by the appropriate municipalities or if the department determined a significant cross-boundary effect occurred, and (2) to revise the population-based distribution to reflect the proportion of the total management area population contained in the net population of the municipality.²

¹Jim Plasman, Deputy Director, DCRA, Division of Municipal and Regional Assistance, "Offshore Fisheries Mitigation: A Pilot Project to Mitigate Impacts from the Offshore Fish Processing Industry," DCRA Bulletin.

²Net population of a municipality means that where a city and borough exist, the city's population would be subtracted from that of the borough to determine the borough's population-based allocation.



ALASKA COMMERCIAL FISHERIES REGIONS AND AREAS

REGION I: SOUTHEASTERN: Dixon Entrance to Cape Suckling

Areas: A. Juneau & Yakutat
B. Ketchikan
C. Petersburg
D. Sitka

REGION II: CENTRAL: State Third Judicial Division Northern Boundary to Cape Suckling to Cape Douglas to Cape Menchikov to Cape Newenham

Areas: E. Prince William Sound
H. Cook Inlet
T. Bristol Bay (salmon and herring catch; all fish and shellfish product)

REGION III: ARCTIC-YUKON-KUSKOKWIM (AYK): North of State Third Judicial Division Northern Boundary which ends at the west at Cape Newenham including Nunivak, St. Matthew, and St. Lawrence Islands

Areas: W. Kuskokwim
X. Kotzebue
Y. Yukon
Z. Norton Sound

REGION IV: WESTERN: Cape Douglas to Unimak Pass to Cape Newenham including Kodiak and Aleutian Islands

Areas: K. Kodiak
L. Chignik
M. Alaska Peninsula
O. Dutch Harbor
Q. Bering Sea
R. Adak & W. Aleutians
T. Bristol Bay (fish other than salmon and herring catch; and shellfish catch)

House Bill 314

Identical bills were introduced to place the pilot project into state law; Representatives Herrmann and Cato introduced HB 314 and Senator Zharoff introduced SB 454. As the bills moved through their respective committees, some changes were made, with CS for 2d Sponsor Substitute for HB 314 emerging as the final vehicle. This bill addressed the problems with the pilot project by incorporating the DCRA solutions cited above. Another change was that the basic area distributions were to be made according to value of the catch processed offshore as opposed to the weight of the catch. The cost of administering the program was estimated to be \$29,100 in FY 89.

In committee testimony on the bill, the DCRA took something of an ambivalent position, while DOR flatly opposed the bill on the grounds that it whittled away at the state's general fund revenue base.³ In a DCRA position paper on HB 314 (see Attachment B), Marty Rutheford, Director, Municipal and Regional Assistance Division, conveyed the department's concern that the bill might reduce the incentive for unincorporated coastal regions of the state to become boroughs, stating:

The opportunity to increase local revenues is often a principal motivating factor in any proposal to form a new borough. State shared business fisheries taxes are particularly important to prospective new boroughs since they do not represent an increase in the tax burden by the proposed borough. Under present law, state business fisheries taxes may be shared with a municipal government only to the extent that fish processing activities occur within the boundaries of that municipal government. In unincorporated portions of the state, where the potential for state shared fisheries tax revenues is significant, the prospect of those funds may be a substantial incentive to form a borough. However under this bill it would not be necessary to form a borough in order to share in the business fisheries taxes collected outside the boundaries of a municipality. Under full funding projections for this program, that incentive would be seriously eroded.

³Steve Kettel, Director, DOR, Income and Excise Tax Division, personal communication, August 1988.

Ms. Rutheford went on to say that the department generally supported efforts to strengthen local governments, which the bill did by providing funds for mitigating offshore processing impacts. According to legislative staff who followed this bill, uncertainty about the ability of the legislature to produce a balanced budget probably prevented the bill from passing.⁴ Other problems mentioned by executive and legislative staff were the complexity of the formula used by DCRA and the fact that certain communities are used as transportation and supply hubs by floating processors and thus experience significant impacts, while others who received a distribution under the pilot program do not experience actual impacts. As with any formula-based revenue distribution program, many revisions of the formula and permutations of the area groupings were examined before an acceptable version was produced.

Table 1 shows both the 1987 offshore fisheries tax distribution under the DCRA pilot program and projections of distributions based on applying the formula contained in HB 314 to a DOR estimate of \$4.5 million, which is half of anticipated unshared revenue from floating processors.

Incidental Fisheries Business Tax Legislation

Other relevant bills introduced during the fifteenth legislature primarily addressed local or regional issues. HB 330 was aimed at reducing the immediate impact of municipal revenue loss due to sharing fish tax revenues with newly formed borough governments. This was a concern within the new Aleutians East Borough. SB 317 provided a local option for a borough to return fish tax receipts to a city if the borough did not experience fishery related impacts. This was a concern of the city of Kenai and the Kenai Peninsula Borough.

⁴Personal communication with Carl Olds, aide to Senator Zharoff and Rena Bukovitch, aide to Representative Herrmann, August 1988.

TABLE 1
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
REGION I: SOUTHEAST		
AREA A - JUNEAU - YAKUTAT		
Angoon	\$1,458.66	\$20,871.86
Haines		
Haines, Borough of		
Juneau, City & Borough		
Skagway	4,375.97	21,840.05
Yakutat		
Area A - TOTAL	\$5,834.63	\$42,711.91
AREA B - KETCHIKAN		
Craig	\$4,310.54	\$24,257.32
Hydaburg		
Kasaan		
Ketchikan	10,656.56	70,724.00
Ketchikan, Borough of	2,186.70	52,405.34
Klawock	2,526.51	21,218.10
Metlakatla		
Saxman	2,186.70	18,973.95
Area B - TOTAL	\$21,867.01	\$187,578.71
AREA C - PETERSBURG/WRANGELL		
Kake	\$0.00	\$0.00
Kupreanof		
Petersburg		
Wrangell		
Area C - TOTAL	\$0.00	\$0.00
AREA D - SITKA		
Hoonah	\$0.00	\$0.00
Pelican	1,060.48	18,140.41
Port Alexander		
Sitka, Borough of	3,229.98	69,486.51
Tenakee Springs	1,646.73	17,576.17
Area D - TOTAL	\$5,937.19	\$105,203.09
REGION I - TOTAL	\$33,638.83	\$335,493.71

TABLE 1 (Continued)
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
AREA E - PRINCE WILLIAM SOUND		
Valdez	12,751.46	69,656.37
Whittier		
Area E - TOTAL	\$12,751.46	\$69,656.37
AREA H - COOK INLET		
Anchorage, Municipality of	\$0.00	\$0.00
Anderson		
Homer		
Houston		
Kachemak		
Kenai Peninsula Borough	2,193.94	178,813.59
Kenai		
Matanuska-Susitna Borough		
Palmer		
Seldovia		
Seward		
Soldotna		
Wasilla		
Area H - TOTAL	\$2,193.94	\$178,813.59
AREA T - BRISTOL BAY		
Aleknagik	\$0.00	\$0.00
Bristol Bay Borough	24,329.34	215,140.90
Clark's Point	25,078.40	118,248.18
Dillingham	37,353.32	286,895.21
Ekwok		
Manokotak		
New Stuyahok		
Newhalen		
Nondalton		
Togiak	74,528.43	162,423.45
Area T - Total	\$161,289.49	\$782,707.74
REGION II - TOTAL	\$176,234.89	\$248,469.96

TABLE 1 (Continued)
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
AREA W - KUSKOKWIM		
Akiachuk	\$0.00	\$0.00
Akiak		
Aniak		
Atmautluak		
Bethel		
Chefornak		
Chuathbaluk		
Eek		
Goodnews Bay		
Kasigluk		
Kwethluk		
Lower Kalskag		
Mekoryuk		
Napakiak		
Napaskiak		
Newtok		
Nightmute		
Nikolai		
Nunapitchuk (Akolmiut)		
Platinum		
Quinhagak	2,615.54	47,438.37
Toksook Bay	3,644.96	43,860.11
Tuluksak		
Tununak		
Upper Kalskag		
Area W - TOTAL	\$6,260.50	\$91,298.48
AREA X - KOTZEBUE		
Ambler	\$0.00	\$0.00
Anaktuvuk Pass		
Atkasuk		
Barrow		
Buckland		
Deering		
Kaktovik		
Kiana		
Kotzebue		
Noorvik		
North Slope Borough		
Northwest Arctic Borough		
Nuiqsut		
Point Hope		
Selawik		
Shishmaref		
Shungnak		
Wainwright		
Area X - TOTAL	\$0.00	\$0.00

TABLE 1 (Continued)
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
AREA Y - YUKON		
Alakanuk	\$0.00	\$0.00
Chevak		
Emmonak	8,954.24	56,752.40
Fortuna Ledge (Marshall)		
Holy Cross		
Hooper Bay		
Kotlik		
Mountain Village		
Pilot Station		
Russian Mission		
Saint Mary's		
Scammon Bay		
Sheldon Point		
Area Y - TOTAL	\$8,954.24	\$56,752.40
AREA Z - NORTON SOUND		
Brevig Mission	\$0.00	\$0.00
Elim		
Golovin	2,843.50	30,125.87
Koyuk	2,113.56	33,651.51
Nome		
Saint Michael		
Shaktoolik		
Stebbins		
Teller		
Unalakleet	7,528.20	64,435.15
Wales		
White Mountain		
Area Z - TOTAL	\$12,485.26	\$128,212.53
REGION III - TOTAL	\$27,700.00	\$276,263.41

TABLE 1 (Continued)
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
REGION IV: WESTERN		
AREA K - KODIAK		
Akhiok	\$0.00	\$0.00
Kodiak	3,926.71	654,208.95
Kodiak Island Borough	7,633.62	604,908.37
Larsen Bay	1,745.20	129,230.98
Old Harbor		
Ouzinkie	1,745.20	130,695.35
Port Lions	2,401.29	135,413.89
Area K - TOTAL	\$17,452.02	\$1,654,457.54
AREA L - CHIGNIK		
Chignik	\$2,277.98	\$122,478.59
Area L - TOTAL	\$2,277.98	\$122,478.59
AREA M - ALASKA PENINSULA		
Cold Bay	\$0.00	\$0.00
King Cove	9,730.37	156,647.31
Port Heiden	5,582.25	119,387.13
Sand Point	10,775.98	184,144.99
Area M - TOTAL	\$26,088.60	\$460,179.43
AREA R & D - ALEUTIANS		
Akutan	\$0.00	\$0.00
Unalaska/Dutch Harbor	50,166.59	268,102.42
Area R & D - TOTAL	\$50,166.59	\$268,102.42

TABLE 1 (Continued)
OFFSHORE FISHERIES TAX REFUNDS

Commercial Fish Regions & Area Communities	Pilot Project Total Allocation \$	House Bill 314 Total Allocation \$
AREA Q - BERING SEA		
Saint Paul	\$25,311.58	\$160,145.53
Saint George	75,934.75	127,603.90
Area Q - TOTAL	\$101,246.33	\$287,749.43
REGION IV TOTAL	\$197,231.52	\$3,575,675.15
TOTAL FUNDING(\$\$)	\$434,805.24	\$4,435,902.23

NOTE: House Bill 314 Area T - Bristol Bay - Total included in
Region IV - Total.

Source: Department of Community and Regional Affairs, Division of Municipal
and Regulation Assistance.

* * *

HB 408 would have imposed a 5 percent fisheries business tax on processors which are currently not taxed but which transport fish through Alaska waters. SB 433 provided a five year extension of the fisheries business tax credit (up to 50 percent of tax liability) for capital expenditures for shore-based processing facilities or for floating processors with a home port in Alaska. None of these incidental bills passed.

* * *

I hope I have provided enough information for your purposes. Jim Plasman, Deputy Director, DCRA, Division of Municipal and Regional Assistance, has prepared a draft report to the legislature on the Offshore Fisheries Business Tax Revenue Sharing Pilot Project which should be completed before the next session. I would recommend him as the most knowledgeable person on the program. Unfortunately, he is on leave and will not return until August 15. Please call if we can be of further assistance.

Attachments

ATTACHMENT A
Summaries of Fish Tax Bills Relating to
Fisheries Business Tax Introduced in the 15th Legislature

SUMMARY OF FISH TAX BILLS

4/1/88

HOUSE BILLS

HB 226	Local Government Refunds (Herrmann)	(H) Finance
HB 314	Allocating Fish Business Tax (Herrmann)	(H) Resource
HB 330	Fish Tax Municipal Refunds (Navarre)	(H) C&RA
HB 408	Fish Business Tax (Davidson)	(H) Resource
HB 486	Share Fish Tax Information (Herrmann)	(H) Finance
HJR 63	Federal Fish Tax (Herrmann)	(S) Resource

SENATE BILLS

SB 162	Local Government Refunds (Zharoff)	SLA 1987
SB 317	Municipal Refunds (Fischer)	(H) Resource
SB 385	Share Fish Tax Information (Zharoff)	(S) Finance
SB 433	Fish Business Tax Credit (Zharoff)	(S) L&C
SB 454	Allocating Fish Business Tax (Zharoff)	(S) Resource
SB 494	Salmon Enhancement Tax (Resource Comm)	(S) Resource
SJR 67	Federal Fish Tax (Hensley)	(S) Resource

IDENTICAL OR SIMILAR (H) & (S) BILLS

HB 226 & SB 162	Local Government Refunds
HB 314 & SB 454	Allocating Fishery Business Tax
HB 486 & SB 385	Share Fish Tax Information
HB 330 & SB 317	Municipal Refunds
HJR 63 & SJR 67	Federal Fish Tax

NO SIMILAR OR IDENTICAL BILLS

HB 408	Fish Business Tax
SB 433	Fish Business Tax Credits
SB 494	Salmon Enhancement Tax

HB 226 & SB 162 LOCAL GOVERNMENT REFUNDS

SB 162 was passed into law last year and affects cities in newly incorporated boroughs. After a borough is formed the cities are required to share half of their fish tax revenues with the new borough. SB 162 provides for a phase-in of the payments from the city to the borough over a 4 year period.

HB 314 & SB 454 ALLOCATING FISHERIES BUSINESS TAX

This legislation would share 50% of tax revenue collected from offshore processors with coastal communities which demonstrate an impact from offshore processing. Off-shore tax revenue has previously gone directly to the state general fund and has not been distributed to communities in the same manner as on-shore fisheries taxes. These bills would not change the current tax rates and it will not increase taxes collected.

HB 486 & SB 385 SHARING FISH TAX INFORMATION

This legislation would establish a mechanism for the Department of Revenue to share confidential fish tax information with municipalities for the purpose of verifying fish tax levied or collected. There are no provisions in current law to share confidential information with local governments and many city officials are concerned that fish catch information is under reported or not reported at all.

HB 330 & SB 317 FISH TAX MUNICIPAL REFUNDS

HB 330 would change current law requiring cities in newly incorporated boroughs to share one half of their fish tax revenues with the new borough. Under HB 330, boroughs would no longer receive 25% (or 1/2) of the fisheries tax collected in cities located within the borough, the cities would keep it all.

The original Senate bill was similar but was rewritten to include a provision to make it a local option for a borough to return money to the city, instead of letting the city keep their full 50%. The amended CS would not change the existing shared taxes formula in the statutes.

HJR 63 & SJR 67 FEDERAL FISH TAX

These resolutions urge the U.S. Congress to enact a 3¢ raw fish tax on fish taken from United States water between the 3 mile and 200 mile limits, and use a portion of the tax to fund a domestic on-board observer program. The tax revenue could also provide a continuous source of funding to enable increased U.S. Coast Guard enforcement of fishing activities in U.S. water.

HB 408 FISHERIES BUSINESS TAX

HB 408 would implement the Fisheries Business Tax on resources processed outside the current taxing jurisdiction and transported into Alaskan waters. A 5% tax, or the balance of a 5% tax, would be levied on processors which have not paid a tax to another established taxing authority. This legislation to tax floating processors would result in Alaskan shore-based processors to compete more equitably with competitors who currently pay no tax and it is estimated that state revenues would increase by at least \$40 million dollars.

SB 433 FISH BUSINESS TAX CREDITS

This bill would extend the fisheries business tax credit to off-shore processors. A fisheries business that has its home port in the state would be entitled to a credit of up to 50% of the state business tax for capital expenditures. The tax credit would be allowed for a period of 5 years.

This bill would also extend the 50% tax credit for shore-based fisheries businesses for 5 years.

SB 494 SALMON ENHANCEMENT TAX

This bill would levy a salmon enhancement tax on limited entry permit holders. The tax would be 1% of the value of the salmon that the person removes from the state or transfers to a buyer in the state. The tax could only be collected if a qualified regional association approves the tax and if approved by a majority of the eligible interim-use permit and entry permit holders in the region.

05/15/87 (H)	1453	PASSED Y31 NR A1
05/15/87 (H)	1453	MILLER NOTICE OF RECONSIDERATION
05/16/87 (H)	1546	RECONSIDERATION NOT TAKEN UP
05/16/87 (H)	1546	TRANSMITTED TO (S)
05/17/87 (S)	1532	READ THE FIRST TIME - REFERRAL(S)
05/17/87 (S)	1532	HES THEN LABOR & COMMERCE & FINANCE

HB 225

"An Act relating to citations for vehicle and traffic offenses."

PRIME SPONSOR: JUDICIARY COMMITTEE BY REQ

CURRENT STATUS: (H) FIN

DATE	PAGE	ACTION
03/27/87 (H)	657	READ THE FIRST TIME - REFERRAL(S)
03/27/87 (H)	657	C&RA, JUDICIARY, FINANCE
04/30/87 (H)	1047	CRA RPT SDP
04/30/87 (H)	1047	ZERO FISCAL NOTE/ANALYSIS 4/30/87
05/13/87 (H)	1367	JUD RPT CS(JUD) NEW TITLE 7DP
05/13/87 (H)	1367	REFERRED TO FINANCE

HB 226

"An Act relating to fisheries business tax refunds to local government; and providing for an effective date."

PRIME SPONSOR: HERRMANN BY REQ

CURRENT STATUS: (H) F&H

DATE	PAGE	ACTION
03/27/87 (H)	657	READ THE FIRST TIME - REFERRAL(S)
03/27/87 (H)	658	C&RA, RESOURCES, FINANCE
04/10/87 (H)	800	CRA RPT SDP
04/10/87 (H)	800	3 ZERO FISCAL NOTES PUBLISHED 4/10/87
04/30/87 (H)	1047	RES RPT CS(RES) 7DP 2NR
04/30/87 (H)	1047	REFERRED TO FINANCE

HB 227

"An Act relating to joint insurance arrangements."

PRIME SPONSOR: TAYLOR

CURRENT STATUS: (H) CRA

DATE	PAGE	ACTION
03/30/87 (H)	674	READ THE FIRST TIME - REFERRAL(S)
03/30/87 (H)	674	C&RA, THEN LABOR & COMMERCE, JUDICIARY

HB 228

CSSSHB 228(HESS) AM S

"An Act relating to regulation of the practice of dentistry; and providing an effective date."

PRIME SPONSOR: MENARD

CO-SPONSORS: GRUENBERG, BOUCHER

CURRENT STATUS: CHAPTER 63 SLA 87

DATE	PAGE	ACTION
03/30/87 (H)	674	READ THE FIRST TIME - REFERRAL(S)
03/30/87 (H)	674	HES, FINANCE
04/01/87 (H)	717	CO-SPONSOR ADDED: BOUCHER
04/08/87 (H)	770	SPONSOR SUBSTITUTE INTRODUCED
04/08/87 (H)	770	HES, FINANCE
04/27/87 (H)	994	HES RPT CS(HESS) 6DP
04/27/87 (H)	994	FISCAL NOTE PUBLISHED 4/27/87
05/08/87 (H)	1244	FIN RPT CS(HESS) 8DP 2NR
05/08/87 (H)	1258	RULES TO CALENDAR 5/8/87
05/08/87 (H)	1258	READ THE SECOND TIME
05/08/87 (H)	1259	HES CS ADOPTED UNAN CONSENT
05/08/87 (H)	1259	ADVANCED TO THIRD READING UNAN CONSENT
05/08/87 (H)	1259	READ THE THIRD TIME CSSSHB 228(HESS)
05/08/87 (H)	1259	PASSED Y33 M- X1 A6
05/08/87 (H)	1259	EFFECTIVE DATE SAME AS PASSAGE
05/08/87 (H)	1267	TRANSMITTED TO (S)
05/08/87 (S)	1270	READ THE FIRST TIME - REFERRAL(S)
05/08/87 (S)	1270	HES & FINANCE
05/11/87 (S)	1337	HES RPT SDP W/AMENDMENT
05/12/87 (S)	1347	CORRECTED AMENDMENT TO HES REPORT
05/15/87 (S)	1458	FIN RPT 6DP W/HES AMENDMENT
05/15/87 (S)	1481	RULES TO CALENDAR
05/16/87 (S)	1515	READ THE SECOND TIME
05/16/87 (S)	1515	AM NO 1 ADOPTED UNAN CONSENT
05/16/87 (S)	1515	ADVANCED TO THIRD READING UNAN CONSENT
05/16/87 (S)	1515	READ THE THIRD TIME CSSSHB 228(HESS) AM S
05/16/87 (S)	1515	PASSED Y16 M- A4
05/16/87 (S)	1515	EFFECTIVE DATE SAME AS PASSAGE
05/16/87 (S)	1524	TRANSMITTED TO (H) AS AMENDED
05/16/87 (H)	1532	HELD UNDER UNFINISHED BUSINESS
05/18/87 (H)	1646	CONCUR AM OF (S) Y36 M- A4
05/18/87 (H)	1646	EFFECTIVE DATE SAME AS PASSAGE
05/20/87 (H)	1723	2:38 PM 5/20/87 TRANSMITTED TO GOVERNOR
06/12/87 (H)	1754	SIGNED INTO LAW CHAPTER 63 SLA 87
06/12/87 (H)	1754	EFFECTIVE DATES OF LAW SEE CHAPTER

HB 229

"An Act relating to homicide by abuse."

PRIME SPONSOR: HUDSON

CO-SPONSORS: ULMER, LARSON, MENARD, HOFFMAN, GOLL, ELLIS, DAVIDSON, GRUENBERG, HANLEY, COLLINS

CURRENT STATUS: (H) JUD

ATTACHMENT B
DCRA Position Paper on SSSHB 314 and Fiscal Note

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 21, 1988

- ☐ P.O. BOX 8
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POSITION PAPER

RE: Second Sponsor Substitute House Bill 314

SPONSOR: Representative Herrmann

Program Effects of Bill:

This bill establishes a formula based program for the distribution of a portion of raw fish tax revenues from floating processors to municipalities affected by the fishing industry.

Comments:

This formula is based on a pilot project conducted by this department pursuant to intent language in the FY 1986 operating budget appropriations bill to set up a program for mitigation of effects on municipalities from offshore fish processors. The approach of the formula is to make allocations based on the following factors:

- the location of the impacted municipality within fisheries management areas of the state;
- the relative proportion of commercial fisheries production from floating processors within the area to statewide production; and
- the population of the municipality.

The pilot project utilized commercial fisheries management areas, on the theory that the magnitude of production within those areas would most accurately reflect the magnitude of effects on municipalities. However, a problem that arose in use of the areas was the inability to compensate for effects across management area boundaries. The pilot project also utilized population increases (within the municipality) due to the offshore fish processing industry, rather than municipal population, on the assumption that such an increase was a better indicator of impact than the resident population. However, in practice, it was virtually impossible for municipalities to estimate this population increase with any degree of accuracy. The formula, by requiring a municipality to show "substantial effects" in order to participate in the program, and by allocating funds on the basis of the management

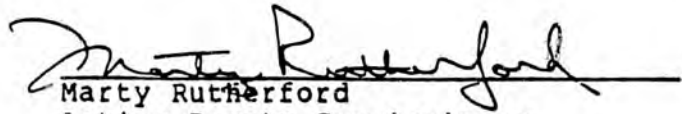
regions, establishes a reasonable relationship between impacts and funding level under the program. While the definition of "effect" is set out in the bill, there are no criteria for the determination of when such an effect would amount to a "substantial" one, leaving it to the department's discretion to determine.

The department is concerned that this bill would reduce the incentive for unincorporated coastal regions of the state to form boroughs.

The opportunity to increase local revenues is often a principal motivating factor in any proposal to form a new borough. State shared business fisheries taxes are particularly important to prospective new boroughs since they do not represent an increase in the tax burden by the proposed borough.

Under present law, state business fisheries taxes may be shared with a municipal government only to the extent that fish processing activities occur within the boundaries of that municipal government. In unincorporated regions of the state, where the potential for state shared fisheries tax revenues is significant, the prospect of these funds may be a substantial incentive to form a borough. However, under this bill it would not be necessary to form a borough in order to share in business fisheries taxes collected outside the boundaries of a municipality. Under full funding projections for this program, that incentive would seriously be eroded.

It could further be argued that the state already provides a mechanism to support local governments through the various "foundation" programs (state revenue sharing, municipal assistance, and education), as well as various shared tax programs. However, this program may be justified on the basis that it targets specific concerns of the state that are not addressed by other programs. This department is generally supportive of efforts to strengthen local governments, which this program would accomplish by providing funds for the mitigation of negative impacts from the off-shore fish processing industry. However, in view of the current revenue situation, the department is concerned about implementation of this legislation.


Marty Rutherford
Acting Deputy Commissioner