

1123.

HRES

HB 969

-

HB

1032

○

123

HB

969

(9)

COMMITTEE REPORT

HOUSE

3/21/80

FURTHER: FINANCE

Date: 3/21/80

Mr. Speaker:

The Committee on RESOURCES has had HB 969

"An Act relating to salmon fisheries enhancement."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

[Signature]

[Signature]

[Signature]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

[Signature]
CHAIRMAN



Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

HEARING NOTIFICATIONS

Re: Salmon Enhancement tax

CALL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
HB 969 969	3/28	3720 3799 747-6850 262-4441 424-7511 2320 6-2820 4100 4163 789-7231 789-7231 3500 3738 6-9400	Rep. Gardiner Rep. Malone Northern S.E. Regional Aquaculture Assoc. Derek Poon to testify Southern S.E. Regional Aquaculture Assoc. Ron Wendte and Welt Laerich to testify Cook Inlet Aqua. Assoc. - Floyd Heimlich to testify Prince William Sound Aqua. Assoc. Revenue Dept. David Ziemer to prepare fiscal note for Donahue, Dep. Commissioner of Taxation to testify United Fishermen of Alaska Dept. of Fish & Game F.R.E.D. Division of F & G Bruce Wing - Fishery Research Biologist Aniak Bay Lab Dick Myren - Aniak Bay Lab Geron Bruce - Gillnetters Assoc. Bob Palmer - Governor's Office Rep. Nels Anderson - to notify Imerpuk Aqua. Assoc. Alaska Trollers Assoc.	3/31

AMENDMENT NO. 1 HB 969

Page 7, line 23

Delete Sec. 8 and replace with the following:

Sec. 8. Sections 5, 6 and 8 of this Act take effect on the publication date of a decision by the Alaska Supreme Court in the appeal of State of Alaska v. Wayne Alex, et al (Supreme Court File No. 5065), if the decision holds that the provisions of AS 16.10.530 do not violate the Alaska Constitution.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99811

March 31, 1980

The Honorable Alvin Osterback
Co-Chairman
House Resources Committee
Room 118 - Capitol Building
Juneau, Alaska 99811

Dear Mr. Osterback:

Re: House Bill No. 969

House Bill No. 969, an act relating to salmon fisheries enhancement, was introduced in the House on March 21, 1980 and was referred to the House Resources and Finance Committees.

For the consideration of the House Resources Committee, I am enclosing studies of Fiscal Notes prepared by Gary Jenkins, Director, Audit Division and Barbara Sorenson, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



E. H. Sorenson
Special Assistant

cc: The Honorable Bill Miles
Co-Chairman
House Resources Committee

The Honorable Doug Meek as
Chairman
House Finance Committee

Joseph J. Brydon
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Vickory Wright
Research Section
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 969
 Title An Act relating to salmon fisheries enhancement.
 Requested by House Resources & Finance Committees Date 3/26/80

II. FISCAL DETAIL

Agency Affected _____ Revenue _____
 Program Category Affected _____ Fiscal Services _____
 BRU, Program, or Subprogram(s) Affected _____ Audit Division _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		72.7	72.7	72.7	72.7	72.7
200 TRAVEL		5.5	5.5	5.5	5.5	5.5
300 CONTRACTUAL		9.5	9.5	9.5	9.5	9.5
400 COMMODITIES		1.4	1.4	1.4	1.4	1.4
500 EQUIPMENT		2.6	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		92.7	89.1	89.1	89.1	89.1

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		92.7	89.1	89.1	89.1	89.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum to R. D. Stevenson dated 3/26/80.

IV. DATE March 26, 1980 PREPARED BY *Ray Jenkins*
 AGENCY Department of Revenue, Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: March 26, 1980

FILE NO.

TELEPHONE NO.

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 969

This bill would establish a salmon enhancement tax at 3 percent of the value of salmon sold to a processor. The processor will be charged with collecting tax at the time of purchase. There is one potential significant enforcement problem in that the legislation does not define how the value of the salmon is to be determined for purposes of the tax. It is recommended that the bill be amended to provide for the determination of value.

It is anticipated that there will be approximately 220 processors to process salmon. Each processor will be required to file a return on a monthly basis. To handle the initial review and processing functions, we will need two permanent full time Tax Examiner positions. To accomplish the audit functions, we will require the addition of one Revenue Auditor position.

The proposed Section 43.76.025(b) provides that the processor collecting the tax shall maintain records reflecting the location of the catch of the fishery resource. However, nowhere else in the proposed law is there any indication of what the processor is to do with this information. Is it intended that the monthly return to the Department of Revenue should account for the catch by location, or is the processor to send some type of report to the Department of Commerce and Economic Development? It is recommended that this subsection be modified to clearly state the intent with regard to this information.

1	POSITION TITLE Tax Examiner I			RANGE/STEP 10 A	BARG. UNIT. G	LOCATION	GOV.	APPROV.	DISAPP.					
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG.						
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:								
	1	2	3											
4	PERSONAL SERVICES: SALARY		17,004		It is anticipated that there will be approximately 220 processors to process salmon and each processor will be required to file a return on a monthly basis. To handle the initial review and processing functions we will need two permanent full time Tax Examiner positions.									
5	BENEFITS		2,528											
6	FICA		1,131											
7	HEALTH INS.		1,524											
8	TOTAL PERSONAL SERVICES		22,187											
9	TRAVEL													
10	CONTRACTUAL		3,160											
11	COMMODITIES		450											
12	EQUIPMENT		1,200											
13	OTHER													
14	TOTAL COST		26,997											
15	CODE	FUNDING SOURCE												
16		FED RCPTS.												
17		GF MATCH												
18		GEN FUND		26,997										
19		I-A RCPTS												
20		PGM RCPTS												
21		OTHER												
21	CONTINUATION													
22	ADDITION	X	FOR B&M USE ONLY											
4A KEY NUMBER				COLUMN NO.										

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

DRU Audit Division

FY 81

13 REQUEST FOR NEW
POSITION

COMPONENT _____

Page 1 of 3

REVISED
DATE _____

1	POSITION TITLE Tax Examiner I			RANGE/STEP 10 A	BARG. UNIT. G	LOCATION	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG.	
3	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
4	PERSONAL SERVICES: SALARY		17,004						
5	BENEFITS		2,528						
6	FICA		1,131						
7	HEALTH INS.		1,524						
8	TOTAL PERSONAL SERVICES			22,187					
9	TRAVEL								
10	CONTRACTUAL			3,160					
11	COMMODITIES			450					
12	EQUIPMENT			1,200					
13	OTHER								
14	TOTAL COST			26,997					
	CODE	FUNDING SOURCE							
15		FED RCPTS.							
16		GF MATCH.							
17		GEN. FUND		26,997					
18		I-A RCPTS.							
19		PGM RCPTS.							
20		OTHER							
21	CONTINUATION								
22	ADDITION		X FOR B&M USE ONLY						
4A KEY NUMBER				COLUMN NO.					

JUSTIFICATION:

It is anticipated that there will be approximately 220 processors to process salmon and each processor will be required to file a return on a monthly basis. To handle the initial review and processing functions we will need two permanent full time Tax Examiner positions.

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 2 of 3

REVISED DATE _____

1	POSITION TITLE Revenue Auditor I			RANGE/STEP 14 A	BARG. UNIT. G	LOCATION	GO/	APPROV	DISAPP.					
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	LEG						
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:								
	1	2	3											
4	PERSONAL SERVICES: SALARY		22,089		It is anticipated that there will be approximately 220 processors to process salmon and each processor will be required to file a return on a monthly basis. To accomplish the audit functions, we will require the addition of one Revenue Auditor I position.									
5	BENEFITS		3,285											
6	FICA		1,469											
7	HEALTH INS.		1,524											
8	TOTAL PERSONAL SERVICES		28,367											
9	TRAVEL		5,500											
10	CONTRACTUAL		3,160											
11	COMMODITIES		450											
12	EQUIPMENT		1,200											
13	OTHER													
14	TOTAL COST		38,677											
	CODE	FUNDING SOURCE												
15		FED RCPTS												
16		GF MATCH												
17		GEN. FUND		38,677										
18		I-A RCPTS												
19		PCM RCPTS												
20		OTHER												
21	CONTINUATION													
22	ADDITION		X		FOR B&M USE ONLY									
4A KEY NUMBER _____				COLUMN NO. _____										

AGENCY Department of Revenue PROGRAM AREA Revenue Collection & Management

ORU Audit Division

FY 81

13 REQUEST FOR NEW
POSITION.

COMPONENT _____

Page 3 of 3

REVISED
DATE _____

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H 4 969
 Title An act relating to salmon fisheries enhancement
 Requested by _____ Date 3-28-80

II. FISCAL DETAIL

Agency Affected _____
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL						

FUNDING (Millions of Dollars)

GENERAL FUND	-0-	approximately 1.5 annually			
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The bill proposes a salmon enhancement tax at 1 percent of the value of salmon sold by a limited entry permit holder to a licensed processor. The tax is to be levied in areas where a qualified regional aquaculture association received approval for such levy by the majority of the qualified permit holders in the area. The tax can be renewed or terminated by the Commissioner of Revenue upon recommendation of the Commissioner of Fisheries and Aquaculture and the regional association.

The above estimate is for those regions and associations only which did levy mandatory assessments until the assessments were declared invalid by the courts. The estimate is based on data obtained from those regional associations, and some catch and value statistics from the Department of Fish and Game. It is assumed that associations will not be admitted until July 1, 1980.

(continued)

IV. DATE 3/28/80 PREPARED BY [Signature]
 AGENCY Revenue
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (Bill/Resolution Number)

ANALYSIS

There are three more regional associations in the State which would qualify for the proposed levy. Potential collections in those areas are not included in the above estimate.

**SOUTHERN SOUTHEAST REGIONAL
AQUACULTURE ASSOCIATION, INC.**

P.O. Box 6916

(907)225-9605

Ketchikan, Alaska 99901

Rep. Alvin Osterback, Co-Chairman
Rep. Bill Miles, Co-Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

March 24, 1980

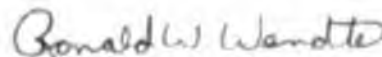
Dear Rep. Osterback and Rep. Miles,

I would like to thank you for the opportunity last Thursday to address the Resources Committee and also, thank you for the extra time you and the Committee took to listen to concerns about HRC 50.

Southern Southeast Regional Aquaculture was pleased to familiarize the Committee with our activities and many accomplishments. The Committee's concern for our fisheries and support for the private non-profit program is appreciated.

It is my understanding that three pieces of legislation were introduced Friday to get at the heart of some of the issues expressed at your hearings. I would urge your Committee's expedited consideration of HB 969, HB 970, and HB 971. I and my staff are available as needed to discuss these bills and the whole program.

Sincerely,



Ronald W. Wendte
Executive Director

cc: House Resource Committee Members
Speaker of the House

RWW/lr

PRIVATE NON PROFIT HATCHERIES

Page 3, line 3 Delete present section, add new section
AS 43.76.015:

Sec. 43.76.015. ELECTION TO APPROVE OR TERMINATE

SALMON ENHANCEMENT TAX. (a) A qualified regional association may conduct an election under this section after the commissioner of commerce and economic development approves:

(1) the form of the notice to be published by qualified regional association;

(2) the form of the ballot to be used in the election;

(3) the registration and voting procedures for the approval or termination of the tax.

(b) The salmon enhancement tax is levied under AS 43.76.010 or AS 43.76.011 on the effective date stated on the ballot when:

(1) the tax is approved by a majority of all of the eligible interim and permanent limited entry holders voting in one single election in each region as established pursuant to AS 16.10.380 and;

(2) the election results are certified by the commissioner of commerce and economic development.

(c) The qualified regional association shall adopt the following procedures for conducting an election under this chapter;

(1) At least one public meeting shall be held not less than 30 days prior to the date the ballots must be postmarked to explain the reason for the proposed tax and

the registration and voting procedure to be used for the voting. Notice of the meeting shall be given by;

(a) mailing the notice to each person eligible to vote and;

(b) posting the notice in at least three public places within the region and;

(c) publishing the notice in at least one newspaper of general circulation in the region at least once per week for two consecutive weeks prior to the meeting.

(2) mail a ballot to each individual interim and permanent limited entry permit holder eligible to vote. The ballots shall be mailed to each eligible voter twice, once not more than 45 days and the second time not less than 15 days prior to the date the ballots must be postmarked to be counted. Procedures shall be adopted so that only one ballot from each eligible voter is counted.

(d) The ballot shall state the following;

(1) whether a tax should be levied under AS 43.76.010 or AS 43.76.011,

(2) the boundaries of the region in which the tax would be levied,

(3) the effective date for the levy of the tax,

(4) the date on which the ballots must be postmarked in order to be counted,

(e) The ballots shall be returned by mail and counted by the commissioner of commerce and economic development or

a person approved by the commissioner.

(f) The interim and permanent limited entry holders eligible to vote are those listed by the commercial fisheries entry commission as the legal owner of the permit 90 days prior to the date set that the ballots must be postmarked to be counted.

(g) An election to terminate a salmon enhancement tax shall be conducted under the same procedural requirement established under this section for an election to approve a salmon enhancement tax.

Page 5, line 13 Delete Sec. 43.76.020, replace with following:

Sec. 43.76.020. TERMINATION OF SALMON ENHANCEMENT TAX.

(a) A salmon enhancement tax levied under AS 43.76.010 or AS 43.76.011 may be terminated by the commissioner of revenue upon majority vote at an election held under Sec. 015 of this section in the region in which the tax is levied.

(b) A salmon enhancement tax shall be terminated by the commissioner of revenue under (a) of this section following an election in a region if:

(1) a petition is presented to the commissioner of commerce and economic development requesting termination of the salmon enhancement tax which is signed by at least 25 percent of the number of persons who were qualified to vote under AS 43.76.015 in the election approving the salmon enhancement tax in the region;

(2) an election is held in accordance with AS 43.76.015; the ballot shall ask the question whether the salmon enhancement tax for the region shall be terminated. The ballot shall be worded so that a "yes" vote is for continuation of the salmon enhancement tax and a "no" vote is for termination of the salmon enhancement tax;

(3) a majority of the people eligible to vote cast a ballot for the termination of the salmon enhancement tax;

(4) the qualified regional association provides notice of the election in accordance with AS 43.76.015 within two months after receiving notice from the commissioner of commerce and economic development that a valid petition under (1) of this subsection has been received.

Page 6, line 20 After AS 43.76.010 add "or AS 43.76.011"

Page 6, line 25 After "reflecting the" add "regional association identified pursuant to AS 16.10.375 in which the fishery resource was caught and shall report to the Department of Revenue by March 1 of each year the total value as defined in AS 43.75.140(7) of each species caught in each regional association area.

Page 6, line 25 After (.) add: "and shall report to the Department of Revenue by March 1 of each year."

Page 6, line 26 Add new section (c):

(c) The tax collected under this chapter shall be deposited in the General Fund. The legislature may make appropriations based on this revenue to the department of commerce and

economic development for the purposes of providing funding for qualified regional associations. The legislature may base an appropriation for a region on the value of fisheries resources caught in that region rather than the value of the fisheries resources sold in that region, where those values differ.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

(907) 465-3685

April 16, 1980

The Honorable Terry Gardiner
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811



Re: Constitutionality of HB 969
Salmon Assessments
Our file J-66-597-80

Dear Representative Gardiner:

You have asked for our comments on HB 969, relating to salmon fisheries enhancement. You requested our analysis both of the constitutionality of the bill as presently drafted, and in relation to Judge Compton's decision holding the old mandatory assessment program unconstitutional.

The present bill differs in every important respect from the mandatory assessment program. Judge Compton held that AS 16.05.530 is unconstitutional for the reasons that it is in fact a tax, and as a tax is improperly dedicated to a specific purpose; that the regional associations are not "service areas", and that the legislature may not delegate to either the associations or a commissioner the power to tax. As discussed in detail below, the present bill imposes a tax but does not dedicate it, makes no attempt to characterize regional aquaculture associations as service areas, and does not (with the suggestions below) improperly delegate the taxing power.

Dedication

Under the mandatory assessment program, an association voted to impose an assessment, the assessment was then collected from all the fishermen in the area by the processors, and returned directly to the regional associations. The disbursement to the associations was made without any act by the legislature. The present bill imposes a tax, to be levied on a regional basis only after certain conditions are met. One of the conditions is a vote by a majority of the limited entry permit holders in the salmon fisheries in the region. Once the tax is imposed, it is collected by the processors and forwarded to the Department of Revenue (for deposit in the general fund). This bill clearly imposes the tax for the purpose of providing a revenue source for funding the aquaculture associations; however, the language of the bill makes it clear that the legislature is making no attempt to bind future legislatures to take that action. While this legislature, if it passes the bill, is expressing an intent to return by appropriation the tax moneys collected, it also recognizes that this expression of intent does not guarantee that the funds will be treated in a like manner in the future. The tax is simply not dedicated.

Earlier drafts of this bill contained additional language under the section entitled "Collection of Tax and Disposition of Proceeds" (43.76.025) which specifically directed that the proceeds from the tax would be deposited

in the general fund. We can see no good reason for deleting this language, and recommend that it be included again.

While the bill as presently drafted certainly implies that the proceeds will be deposited in the general fund, specific language to that effect will strengthen the bill.

Delegation

The bill as drafted raises several delegation issues, none of which, in our opinion, is fatal to the bill (with the suggestions herein).

1. Tax on a condition. It might be argued that the provision allowing each association to vote on whether or not to impose the tax is an improper delegation to the association of the taxing power. However, the legislature here is doing the taxing, leaving only the imposition of the tax subject to the occurrence of some outside condition (i.e., the vote of the association). Legislation of this type is commonly upheld, and is not invalid simply because it is left to a vote of the persons affected to decide whether or not it should be imposed. The analysis of the relevant cases is that the legislature has the power to impose the tax without the consent of those affected, can impose it subject to whatever conditions it chooses, and thus can impose it subject to the condition that a majority of those affected approve it. See, Currin v. Wallace, 306 U.S. 1, 15, 16 (1938), U.S. v. Rock Royal Co-op, 307 U.S. 533, 577, 578 (1938). Similarly, the legislature has the power to limit

the duration of its legislation as it sees fit, and can likewise lift the imposition of the tax subject to a condition, here the vote of the association.

The other two conditions required before the imposition of the tax are in a sense delegated to the commissioner of fish and game: that the region be designated by him for the purpose of salmon production, and that there exist a regional association determined by him to be a qualified regional association. Delegations to executive departments are proper where sufficient standards are established, and in our opinion the standards set out in AS 16.10.375 and 16.10.380 are sufficient to make the delegation proper.

2. Reduction of tax. The bill as presently drafted provides that the tax may be reduced to a percentage less than three percent by several methods. The first two methods are discussed below, as they apply to termination; the third method is upon a majority vote by the association. This is the weakest section of the bill, for by leaving with the association the power to set the rate of the tax, a strong argument can be made that the association has been delegated the power to tax. The problem might be eliminated by including language which sets out precise standards for when an association could reduce the tax, and to what percentage.

but these standards might be difficult to draft.

It is our understanding that the objective of the reduction provision is to allow an association to set the rate at two percent, that is, that only two alternatives are contemplated: two percent or three percent. In fact, the old mandatory assessment section was amended to read that the assessment could be either two percent or three percent. As a practical matter, it is understood that the Cook Inlet Regional Association would choose to participate in a two percent tax, as that was the rate of the assessment in that region. As such, a cleaner method for removing the delegation problem would be to add another section to the bill which imposes a two percent tax, subject to the same conditions required for the three percent tax, and allow an association to elect to impose one tax or the other. Thus, an association can by election fulfill the condition of either the two percent tax or the three percent tax. The provisions for reduction of the tax should then be deleted.

3. Termination of tax. As noted briefly above, the same analysis that permits the imposition of the tax on a condition also permits the termination on a condition. The legislature has the power to enact a tax for a limited duration; it can condition that duration on the occurrence of an outside event. Thus, a vote by an association to terminate the tax is not an improper delegation.

However, the bill as presently drafted provides two additional methods for termination: upon the recommendation of the commissioner of commerce, and upon request of the association board of directors. While the second method might arguably be just as proper as a vote by the entire association, the first is probably an improper delegation to the commissioner of commerce, as there are no standards set out delineating when he should exercise that power. It is our understanding that a redraft of the bill is presently being prepared which eliminates these two provisions, and the bill will be better without them.

Service areas.

HB 969 does not designate regional aquaculture associations as service areas, and none of the problems that Judge Compton found with the mandatory assessment program in that area can arise.

Other problems.

The election procedures set out in proposed sec. 43.-76.015 of the bill call for voting at one of two public meetings or by mail. As written, the procedures are confusing, and we recommend that this section be redrafted.

Finally, * Sec. 8 of the bill has the effect of repealing the tax imposed should the mandatory assessment provision (AS 16.10.530) be held constitutional by the Alaska Supreme Court. The original bill required that the holding be "as applied before July 13, 1979". CS for HB 969 now reads

The Hon. Terry Gardiner

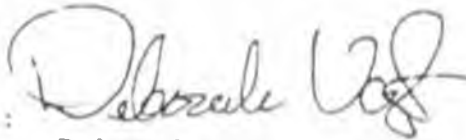
April 16, 1980
Page 7

that the holding be that "AS 16.10.530 does not violate the Constitution". Conceivably, the court might hold that AS 16.10.530 is constitutional, but not as previously applied. Under the committee substitute, then, the tax would be repealed but the old program could not be reinstated, and the association would be left without a source of funds.

Attached is a copy of the bill which incorporates our suggestions, with the exception of those referred to under "Other problems".

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Deborah Vogt
Assistant Attorney General

DV:d1m

Attachment

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALASKA

...

...

...

...

...

...

...

...

...

MAR 31 PM 12 55

ALASKA TELECOM, INC.
PHONE: 686-6442
NOME, AK 99802

TELEGRAM

HB 969

TELEGRAM

STATION, AK 9412

3295 HAINES AV 24-13 9154 PSI

PMS ALVIN GSTERBACK SI HOUSE

POUCH A

JUNEAU 321

MANY FISHERMEN REPORT THEY DO NOT
KNOW OF THE ASSOCIATION.

ED WATKINS

BOY 617

HAINES 24

HB 969

HB

970

(9)

COMMITTEE REPORT

HOUSE

3/21/80

FURTHER: FINANCE

Date: 3/21/80

Mr. Speaker:

The Committee on RESOURCES has had HB 970

"An Act making a special appropriation for regional aquaculture associations, and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN



Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

HEARING NOTIFICATIONS

Re: Approp. to Regional Aquaculture Associations

BILL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
HB 970	3/28	3720 3799 747-6850 262-4441 424-7511 6-2820 4163 9-7231 9-7131 3500 586-9400 225 6618	Rep. Gardiner Rep. Malone Northern S.E. Regional Aquaculture Assoc. Wendy Poon to testify Southern S.E. Regional Aquaculture Assoc. Ron Wendt and Walt Larrick to testify Cook Inlet Aqua. Assoc. - Floyd Heimbuch to testify Prince Wm Sound Aqua. Assoc. United Fishermen of Alaska Dept. of Fish & Game - F.R.E.D. Bruce Wing Dick Myren John Bruce Hillnetters Assoc. Bob Palmer - Governor's Office Alaska Trollers Assoc. S.E. Alaska Seine Boat Owners & Operators	3/31

STATE OF ALASKA
THE LEGISLATURE

DOUGLAS STATE LIBRARY
BUREAU ALASKA
2 1 1980

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1980

SUBJECT: Salmon enhancement tax;
Grants to regional aquaculture associations
CSHB 969 and CSHB 970

TO: House Resources Committee
Attn: Mary Levan, A.A.

FROM: Kenneth E. Vassar
Legislative Counsel *KV*

Enclosed is the committee substitute you requested for House Bill 970. I believe the language added in section 2 of this bill violates that part of Article II, sec. 13 of the state Constitution which provides:

Bills for appropriations shall be confined to appropriations.

I talked with John Sund about this problem, and he suggested that the language in section 2 might be added instead to House Bill 969. Unfortunately, when I talked to him, I had already sent your committee substitute for House Bill 969 back to you; and when I was able to call you about it, the committee had already reported that bill out of committee. Moreover, the committee has also already reported House Bill 970 out with the changes included in section 2.

I would suggest that House Bill 970 should be returned to its original form and the following amendments made to Committee Substitute for House Bill 969:

Page 7, after line 18

Insert the following new material:

* Sec. 6. A regional aquaculture association which receives money from an appropriation after April 1, 1980, shall return to the Department of Commerce and Economic Development, in the form and manner of payment

acceptable to the commissioner of commerce and economic development, the difference between the money received by the regional aquaculture association and the amount of the salmon enhancement tax (AS 43.76.010) collected in the region in which the regional aquaculture association operates if the salmon enhancement tax is repealed before the amount collected in the region equals or exceeds the amount of the money received by the regional aquaculture association. Payments received by the Department of Commerce and Economic Development under this section shall be deposited in the general fund.

Page 7, line 19

Delete "* Sec. 6" and insert "* Sec. 7"

Page 7, line, 21

Delete "* Sec. 7. Sections 1 - 4 and 7" and insert following.

"* Sec. 8. Sections 1 - 4, 6 and 8"

Page 7, line 23

Delete "* Sec. 8. Sections 5, 6 and 8" and insert the following:

"* Sec. 9. Sections 5, 7 and 9"

Finally, there is a significant problem with the title of Committee Substitute for House Bill 969. It does not express the special effective dates of the bill. Therefore, the following change should be made at page 1, line 6:

After "enhancement" add "; and providing for an effective date"

KEV:ljb

Enclosure

AMENDMENT NO. 1 HB 970

Page 1, line 16

Add the following language as a new section and renumber accordingly:

Sec. 2 If AS 13.76.010 (salmon enhancement tax) is repealed before taxes collected pursuant to that section are substantially equivalent to the amounts appropriated in Sec. 1 of this Act, the commissioner of commerce and economic development shall direct that regional aquaculture associations receiving appropriations pursuant to this Act shall offset the difference between taxes collected and appropriations received. Any necessary offset shall be in the manner and form acceptable to the commissioner.

HB

980



fiscal & notif.

Alaska State Legislature House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

HEARING NOTIFICATIONS

Re: Shelf life of eggs and milk

BILL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
HB 980	4/10		Special Agriculture Committee, Rep. Carney, Chairman	4/15
	4/11		Dept. of Nat. Resources - Ag. Div. Nick Carney	4/15
	4/11		Matanuska Maid Dairy - Jack Flint	4/15
	4/11		Sealand (carrier), Lou Riddle	4/15
	4/11		Rep. Brian Rogers	4/15
	?		Lee Fitt - Delta Chicken/egg farmer	4/15
	4/14	789-9500	Juneau Dairies	4/15
	4/14	586-6971	Walmart - n-Pack Grocery	4/15
	4/14	364-3414	Shop-Kite	4/15
	4/14	789-2611	Wise Cottage Foods	4/15
	4/14	789-4159	Valley Health Food Center	4/15

Alaska State Legislature



House of Representatives

COMMITTEE MEMBERS
PAT CARNEY, CHAIRMAN
H. "PAPPY" MOSS
ROBERT BETTISWORTH

EX-OFFICIO MEMBERS
SENATOR JALMAR KERTTULA
DOMONIC CARNEY
DIRECTOR, DIVISION OF AGRICULTURE
W. I. "BOB" PALMER
OFFICE OF THE GOVERNOR
JAMES DREW, PH.D.
DIRECTOR OF ALASKA EXPERIMENT STATIONS

SPECIAL AGRICULTURE COMMITTEE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3727

OUT OF SESSION
SR BOX 3051
WASILLA, ALASKA 99687

April 7, 1980

MEMO TO: Representative Miles and Representative Osterback

FROM: Representative Carney

RE: CS HB 416 and HB 980

CS HB 416 and HB 980 dealing with, respectively, the sale of unpasteurized milk and the shelf life of eggs and milk has been given to Representative Miles for hearing in Resources Committee. Would you be willing to move them to Representative Osterback for Committee hearing, thus allowing the bills to be heard several weeks earlier?

Pat Carney

(9)

COMMITTEE REPORT

HOUSE

3/28/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on RESOURCES has had HB 980

"An Act relating to sales of milk and eggs."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation.
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

CHAIRMAN

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND Session

HOUSE BILL NO. 750

By THE RESOURCES COMMITTEE.
(for the Special Agriculture Committee)

"An Act relating to sales of milk and eggs."

Sales of milk and eggs

Introduced in the House 3/28, 19 80

HISTORY IN THE HOUSE

19 80	Read first time and referred to Committee on Resources										
Mar. 28	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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	Reported correctly engrossed										
	Signed by Speaker										
	Sent to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
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	Read third time and										
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Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Returned to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede: VOTE
	Senate receded from amendment: VOTE
	Senate failed to recede from amendment: VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House: VOTE
	CC adopted by Senate: VOTE
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	by Governor
	Filed with La. Governor
	Chapter No

HB 980

MILK INDUSTRY FOUNDATION

910 SEVENTEENTH STREET, N.W., WASHINGTON, D. C. 20006 (202) 296-4250

JOHN F. SPEER, JR.
EXECUTIVE VICE PRESIDENT

April 18, 1980

Commissioner LeRech
Department of Natural Resources
Juneau, Alaska 99801

Dear Commissioner LeRech:

The Milk Industry Foundation, the national trade association of processors of fluid milk and fluid milk products, in its normal routine of monitoring state legislation is very concerned with Alaska H.B.980 entitled "An Act Relating to Sales of Milk and Eggs".

The fear that we have with enactment of this bill would be the unavailability of fluid milk for the residents of Alaska. It seems almost impossible from a logistics standpoint of view to have milk delivered to all points of the state within 36 hours from the time of processing. Is this possible and if so, how can it be accomplished?

It appears that the legislature is concerned about the freshness of milk and eggs which seem to be the underlined purpose of H.B.980. If so, this proposal does not fit the laws and regulations of 20 of the lower 48 states which require open dating of fluid milk. The program which now exists is that of using a "Sell by" date. This date is more meaningful to the consumer since it indicates a date after which the product should not be sold. For Alaska to require a "...date that processing was completed..." would not indicate to the consumer anytime for keeping the product and therefore would be meaningless.

Lastly, the bill indicates that the product shall not be sold after 10 days from date of processing. Again, most state regulations allow the processor to establish the length of time his products should be allowed in the marketplace. Some processors' products will adhere to the 10 day mandate, while other products may be able to withstand a longer shelf life. Unfortunately, if there is some mishandling, the products would not last the 10 days as provided. Again, what has been gained from mandating 10 days? The milk processing industry has been very concerned about the quality of the products available for consumer purchase. Two weeks ago a meeting was held by technical experts of the industry here in Washington to propose an open dating program that could be adopted by every state. Details of this program are being worked out and will have to be considered by the MIF Board of Directors prior to implementation. We would hope that we could work with you and your associates to develop a meaningful program for the citizens of Alaska.

Commissioner LeRech
Dept. of Natural Resources
Juneau, Alaska 99801
page two

April 18, 1980

We urge you to do whatever you can to see that H.B.980 is not enacted and that a more realistic approach can be taken to achieve what we hope your goal is, i.e., making available to all Alaskans an abundant supply of fluid milk and fluid milk products. Your indication of support would be appreciated.

Sincerely,



Austin T. Rhoads
Administrative Assistant

ATR/saf

cc: The Honorable Alvin Osterback ✓

HB

985

(9)

COMMITTEE REPORT

HOUSE

1/31/80

FURTHER:

Date: 1/31/80

Mr. Speaker:

The Committee on RESOURCES has had HB 985

"An Act relating to the authority of the Board of Game and the Department of Fish and Game over domestic mammals."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

CHAIRMAN



Alaska State Legislature
House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

HEARING NOTIFICATIONS

Re: Reindeer as Domestic Animals

BILL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
HB 985	4/3/80		Rep. Fuller Special Committee on Agriculture Rep. Carney, Chrman Dept. of Fish & Game Alaska Professional Hunters Assoc. Randy Smith	4/10/80

HB
985

record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.
(am § 13 ch 151 SLA 1978)

<p>Effect of amendments. The 1978 amendment added subsection (e). As the rest of the section was not affected by the amendment, it is not set out. Editor's note. — As to legislative intent, see § 1, ch 151, SLA 1978, in the 1978</p>	<p>Temporary and Special Acts and Resolutions in Binder 9. Legislative history report. — For report on ch. 151, SLA 1978 (SB 960), see 1978 House Journal, p. 1154.</p>
--	--

Sec. 16.05.940. Definitions. In this chapter

(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(21) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but for the purposes of this chapter does not include aircraft;

(26) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(am § 12 ch 105 SLA 1977, am §§ 14, 15 ch 151 SLA 1978, am § 1 ch 78 SLA 1979)

HB

1015



Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

HEARING NOTIFICATIONS

Re: *Creating Recovery Entry Permits*

BILL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
HB 1015		6-2820	United Fishermen of Alaska Phil Daniel to testify	4/29
		6-3456	Commercial Fisheries Entry Commission	4/29
		4/27	Dept. of Fish & Game	4/29
<p><i>Meeting canceled - bill not heard</i></p>				

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

FOURTH FLOOR STATE CAPITOL
JUNEAU ALASKA 99801
707-595-3100

MEMORANDUM

April 18, 1980

SUBJECT: Recovery Entry Permits *HB 1015*
(Work Order Number 8488)

TO: House Resources Committee
Attn: Mary Levan, A.A.

FROM: Kenneth E. Vassar *KV*
Legislative Counsel

Enclosed is the bill you requested relating to recovery entry permits. Because there was insufficient time to address certain problems in the bill, you should know that some amendments to existing sections in AS 16.43 should be made since there is a conflict between those sections and some of the provisions of this bill. The particular sections which concern me are AS 16.43.100(a)(9) - (12), 16.43.150(f) and (h), 16.43.170 - 16.43.182, and 16.43.-290 - 16.43.330. There may be other conflicting sections which I have not yet discovered.

KEV:ljb

Enclosure

4/15/80



WORK DRAFT #3

For an Act entitled: "An act relating to the limitation of entry into various fisheries; and providing for an effective date."

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

Section 1. FINDINGS. The legislature finds that:

(1) there may have occurred since 1975 a significant recovery in the biological condition of certain salmon fisheries, and there may have occurred a significant improvement in the market conditions affecting certain salmon fisheries;

(2) these improved conditions may in certain fisheries persist for at least several more fishing seasons;

(3) it is not known whether these improvements are of such sufficient long term duration to allow the issuance of new entry permits under the authority of AS16.42.330;

(4) it is consistent with the objectives of AS16.41 for additional units of gear to be authorized in a fishery if significant improvement has occurred and if that ~~egg~~ recovery is likely to ~~o~~ continue within the foreseeable future;

(5) many individuals currently engaged in commercial fishing as crew persons cannot or have been unable to obtain an entry permit under the procedures of AS16.43.170(b).

Sec. 2. DECLARATION OF POLICY. It is the policy of this state and of this legislature to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of the commercial fisheries in the public interest and without unjust discrimination.

Sec. 3. PURPOSE. The purpose of this act is to provide a means for issuing recovery entry permits where significant improvements in fishery resources and marketing conditions have occurred, such that additional units of gear may be sustained in the fishery.

Sec. 4. AS16.43 is amended by adding new sections to read:

5
ARTICLE 7A. ISSUANCE OF RECOVERY ENTRY PERMITS

Sec. 16.43.340. DETERMINATION THAT A FISHERY HAS RECOVERED. The commission shall designate a fishery as recovered when

- (1) there has been a significant improvement in the biological condition of the fishery; and
- (2) there has been a significant improvement in the marketing conditions affecting the fishery; and
- (3) it appears reasonably likely that the conditions of recovery will continue for the near future.

Sec. 16.43.341. DETERMINATION OF THE NUMBER OF

RECOVERY ENTRY PERMITS TO ISSUE. (a) The number of recovery entry permits to be issued shall be based upon a reasonable balance of the following:

- (1) the degree of recovery evidenced in the fishery;
- (2) those standards set out in sec. 290(1) - (3) of this chapter, both as they apply to entry permit holders and to those who will receive recovery entry permits.

(b) The commission shall consult with the Alaska Department of Fish and Game when determining the number of recovery entry permits to be issued.

(c) The commission shall declare recovery entry permits available for issuance when the number that may be issued in a fishery exceeds 25 or exceeds 10% of the total number of outstanding entry permits for that fishery.

Sec. 16.43.342. APPLICATION FOR RECOVERY ENTRY PERMITS. (a) The commission shall establish the opening and closing dates, places and form of application for entry permits for each fishery. The commission shall may require the submission of specific verified evidence establishing the applicant's qualifications for a recovery entry permit.

(b) When an applicant is unable to establish his qualifications for a recovery entry permit by submitting specific verified evidence required in the application by the commission,

4

he may request and obtain an administrative adjudication of his application according to the procedures established in sec. 110(b) of this chapter. At the hearing he may present alternative evidence of his qualifications for an entry permit.

(c) An applicant shall be assigned to a priority classification based solely upon his qualifications on January 1 of the year the recovery entry permits are declared available for issuance by the commission.

Sec. 16.43.343. ALLOCATION OF RECOVERY ENTRY PERMITS.

(a) The commission shall accept applications for recovery entry permits only from applicants who

(1) harvested the fishery resource commercially in the fishery prior to the date established in sec. 342(c); and

(2) did not qualify for any entry permit under sec. 270 of this chapter; and

(3) do not and have not held an entry permit in ~~the~~ *any* fishery, unless the applicant did so solely as a transferee under sec. 180 of this chapter.

(b) The commission shall adopt regulations establishing qualifications for ranking applicants under this section. The regulations shall define priority classifications of similarly situated applicants based upon a reasonable balance of the following standards:

(1) degree of economic dependence upon the fishery, including but not limited to percentage of income derived from the fishery, reliance on alternative occupations, availability

of alternative occupations, investment in vessels and gear; and

(2) extent of past participation in the fishery, including but not limited to the number of years participation in the fishery, and the consistency of participation during each year.

(c) The commission shall issue recovery entry permits to qualified applicants in the order of their descending priority classifications. If, within the lowest priority classification of qualified applicants to which some entry permits may be issued, there are more applicants than there are entry permits to be ~~egg~~ issued, then the ~~egg~~ allocation of recovery entry permits within that priority classification shall be by lottery.

(d) All other applicants shall be denied.

(e) To qualify for a recovery entry permit by reason of this section, the applicant must demonstrate at the time of permit ~~issu~~ issuance his present ability to engage actively in the fishery.

(f) To qualify for a recovery entry permit by reason of this section, the applicant must demonstrate at the time of permit issuance that he does not and has not held an entry permit in any fishery, unless the applicant did so solely as a transferee under sec. 180 of this chapter.

(g) Interim-use permits shall not be issued to those awaiting a final determination of their qualification for a recovery entry permit.

Sec. 16.43.344. TRANSFER OF RECOVERY ENTRY PERMITS.

(a) Recovery entry permits issued under secs. 340-346 of this chapter may not be transferred pursuant to sec. 170(b) or sec. 180(b) of this chapter.

(b) The commission shall adopt regulations providing for the temporary transfer of recovery entry permits issued under secs. 340-346 of this chapter when illness, disability, required military or governmental service, or other unavoidable hardship prevents the permittee from participating in the fishery.

Sec. 16.43.345. REVERSION OF RECOVERY ENTRY PERMITS.

(a) A recovery entry permit issued under secs. 340-346 of this chapter is a use privilege which may be modified or revoked without compensation.

(b) A recovery entry permit reverts to the commission upon the death of the permittee.

(c) A recovery entry permit reverts to the commission upon the failure of the permittee to actively harvest the fishery resource for a period of two consecutive calendar years. Grounds for a transfer under sec. 344(b) of this chapter does not exempt the permittee from this subsection.

Sec. 16.43.345. EXEMPTION FROM REVERSION REQUIREMENT.

The commission may waive the reversion requirement of sec. 345(c) of this chapter for good cause.

Sec. 5. This Act shall take effect immediately in accordance with AS01.10.070(c).

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND Session

HOUSE BILL NO. 1015

By THE RESOURCES COMMITTEE

"An Act relating to recovery entry permits."

Recovery entry permits

Introduced in the House 4/21, 19 80

HISTORY IN THE HOUSE

19 80	Read first time and referred to Committee on Resources												
Apr. 21	Reported back with recommendation that												
	Read second time and												
	Read third time and												
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CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

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	<table border="0"> <tr> <td colspan="2">Reconsideration</td> </tr> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by President												
	Returned to House												

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede: VOTE
	Senate receded from amendment: VOTE
	Senate failed to recede from amendment: VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House: VOTE
	CC adopted by Senate: VOTE
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	by Governor
	Filed with Lt. Governor
	Chapter No

MEMORANDUM

State of Alaska

TO: Robert J. Simon
Chairman
Commercial Fisheries Entry
Commission

DATE: April 23, 1980

FILE NO:

TELEPHONE NO:

FROM: Derrill L. Johnson *DJ*
Director of Administration

SUBJECT: Fiscal Impact of Proposed
HB 1015 "Recovery Entry
Permits"

You asked that I analyze the fiscal impact of HB 1015. My impression is that the bill would require that all applications still active in any fishery that has achieved "recovery" be finally classified before applications are accepted for "recovery" permits. While several fisheries have not achieved recovery as I understand its meaning in the draft proposal, efficiency and fairness require that all backlog application processing be completed while the research is being conducted to determine where and in what form the recovery concept should be applied. Consequently, I propose that we again ask for legislative support to clean up the backlog as we did in the fiscal analysis of HB 665 (attached).

Beyond that, it is speculative to project the costs of implementation since the number of fisheries, number of permits to be issued, and potential number of applicants is not subject to estimation. I would suggest that we propose instead to receive funding for two research analysts (plus support) to complete the necessary analysis and develop implementation strategies, and ask the Legislature to include legislative intent directing the Commission to propose incremental budget requests to the next Legislature. In addition to the request for \$481.3 to process the backlog, the Commission should request the following fiscal support for HB 1015:

Personal Services

(2) Research Analysts (18A) @ \$2640/mo.	\$ 63,360	
(1) Clerk Typist III (8A) @ \$1393/mo.	16,716	
	<u>80,076</u>	
Benefits @ 30%	24,022	
	<u>104,098</u>	104.1
<u>Travel</u>	\$ 12,000	12.0

For the two Research Analysts and two other staff members to gather economic/social data and for hearings on proposed regulatory changes.

Contractual

310 Phone Charges/Long Distance Installation	\$ 4,060 1,200	
Postage	2,700	
320 Survey forms/Questionnaires/ Central Duplicating Charges	6,000	
330 Space Leasing @ 110/sq.ft./ person plus storage and file space. 440 sq.ft. X \$1.60 X 12 =	8,448	
360 General Leasing: Xerox	3,000	
Data Processing Services		
1 terminal @ 300/mo. plus controller	\$300.00	
2 modems @ \$40/mo.	80.00	
Transaction processing \$228/mo./terminal	228.00	
Network charges	124.00	
Disk Storage \$3.58/meg.- 10 megs =	35.80	
Per Mo. Charge: 787.80		
787.80 X 12 =	9,453	
Maintenance/Data Processing/ Postage Meter/Word Processing	2,000	
390 Staff Development Training in Research Design and Project Management	2,500	
	<u>39,361</u>	39.4

Commodities

General office supplies, paper, ribbons, card stock, envelopes, letterhead, etc.	2,500	2.5
--	-------	-----

Equipment

Purchase one IBM System 6 Word Processing Center:		
(1) 6/452 Info. Processor	15,370	
(1) processing feature	750	
Installation Charge (one time)	1,000	
Office Setup: Purchase		
Executive Desk @ 472.00 (2)	944	
Desk Chairs @ 450.00 (2)	900	
Coat Racks @ 48.00 (1)	96	

Robert J. Simon

(2)

April 23, 1980

Equipment (Cont'd)

File Cabinets -

4-drawer SL	@ 272.00 (3)	816
2-drawer SL	@ 198.00 (2)	396
5-drawer Lot.L	@ 752.00 (1)	752

Bookcase -

3 shelves	@ 168.00 (3)	504
Working Table	@ 95.00 (1)	95
4-tier outbasket	@ 17.00 (3)	51
Wastebaskets	@ 20.00 (3)	60
Intaflex Frms.	@ 6.00 (16)	96
Secretary Desk	@ 662.00 (1)	662
Chair	@ 346.00 (1)	346
Transcriber	@ 537.00 (1)	537
Dictation Units	@ 537.00 (2)	1,074
Typewriter/ Correcting	@1000.00 (1)	1,000
Calculators	@ 259.00 (2)	518

25,967

26.0

TOTAL for Recovery Permit Portion: 184.0
Plus Backlog: 481.3

GRAND TOTAL: 665.3

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1980

SUBJECT: Recovery Entry Permits *HB 1015*
(Work Order Number 8488)

TO: House Resources Committee
Attn: Mary Levan, A.A.

FROM: Kenneth E. Vassar *KV*
Legislative Counsel

Enclosed is the bill you requested relating to recovery entry permits. Because there was insufficient time to address certain problems in the bill, you should know that some amendments to existing sections in AS 16.43 should be made since there is a conflict between those sections and some of the provisions of this bill. The particular sections which concern me are AS 16.43.100(a)(9) - (12), 16.43.150(f) and (h), 16.43.170 - 16.43.182, and 16.43.-290 - 16.43.330. There may be other conflicting sections which I have not yet discovered.

KEV:ljb

Enclosure

H B

1032

AGO 125416

5/8/80 Reported out as CS

(See file on Grid Band Sunset Review)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 1032 - "An Act continuing existence of the Guide Licensing & Control Board and providing for an effective date."
 Title Control Board and providing for an effective date.
 Requested by _____ Date May 14, 1980

II. FISCAL DETAIL
 Agency Affected Public Safety
 Program Category Affected NRMEC
 BRU, Program, or Subprogram(s) Affected Fish & Wildlife Protection Director's Office
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		49.1	52.5	56.2	60.1	64.3
200 TRAVEL		26.1	27.9	29.9	32.0	34.2
300 CONTRACTUAL		4.0	4.3	4.6	4.9	5.2
400 COMMODITIES		4.0	4.3	4.6	4.9	5.2
500 EQUIPMENT		4.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		87.6	89.0	95.3	101.9	108.9

FUNDING (Thousands of Dollars)

GENERAL FUND		87.6	89.0	95.3	101.9	108.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Operational funding for the Guide Licensing and Control Board would be required to include the establishment of two positions, an Administrative Assistant I (range 12) and a Clerk-Typist III (range 8) and associated costs. These two positions would be located in Anchorage under the Director of the Fish & Wildlife Protection Division, and would provide administrative and clerical support to the Board. Travel costs are estimated for five members of the Board plus the Administrative Assistant for three meetings (approximately twelve days each) annually. The costs shown for FY81 also include office equipment for the new positions and an audio recording system to be used to document testimony and Board actions in cases of license suspension, revocation, or denial which are litigated. Dollar amounts shown after FY81 include a 7% inflation factor.

If the Board membership is increased, travel costs will be correspondingly higher than the estimates indicated.

IV. DATE May 14, 1980 PREPARED BY Marcia Lynn Macenzie
 AGENCY Public Safety
 PHONE 465-4340
 Original Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

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IV. DATE May 14, 1980 PREPARED BY Marcia Lynn McKenzie
 AGENCY Public Safety
 PHONE 465-4340
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

1	POSITION TITLE Administrative Assistant I			RANGE/STEP 12/A	BARG. UNIT. G	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: The Department currently does not have sufficient clerical staff to adequately administer the Guide Licensing and Control Board. This position will be responsible for all administrative duties required and would process and issue approximately 1,500 guide licenses annually as well as preparing the Guide Register for public distribution annually and maintaining all Board records. The incumbent will also be required to arrange and attend all Board meetings to provide support as necessary and ensure proper documentation of all Board activities.			
	1	2	3						
4	PERSONAL SERVICES: SALARY		20,652						
5	BENEFITS		3,406						
6	FICA		1,373						
7	HEALTH INS.		1,524						
8	TOTAL PERSONAL SERVICES		26,955						
9	TRAVEL		2,850						
10	CONTRACTUAL		1,000						
11	COMMODITIES		500						
12	EQUIPMENT		1,500						
13	OTHER								
14	TOTAL COST		32,805						
	CODE	FUNDING SOURCE							
15		FED RCPTS							
16		GF MATCH		32.8					
17		GEN FUND							
18		I-A RCPTS							
19		PGM RCPTS							
20		OTHER							
21	CONTINUATION								
22	ADDITION		FOR B&M USE ONLY						
4A KEY NUMBER		_____		COLUMN NO. _____					

AGENCY Public Safety PROGRAM AREA Fish & Wildlife Protection

BRU Director's Office

FY 81

13 REQUEST FOR NEW POSITION

COMPONENT _____

Page 1 of 2

REVISED DATE _____

1	POSITION TITLE Clerk Typist III			RANGE/STEP 8/B	BARG. UNIT. G	LOCATION Anchorage	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PMT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT					
	1			2		3			
4	PERSONAL SERVICES: SALARY			16,740					
5	BENEFITS			2,760					
6	FICA			1,113					
7	HEALTH INS.			1,524					
8	TOTAL PERSONAL SERVICES			22,137					
9	TRAVEL								
10	CONTRACTUAL			500					
11	COMMODITIES			500					
12	EQUIPMENT			1,500					
13	OTHER								
14	TOTAL COST			24,637					
JUSTIFICATION:									
The Department currently does not have sufficient clerical staff to adequately administer the Guide Licensing and Control Board.									
This position would be responsible for all clerical support to the Board, including transcriptions of Board meetings for use in possible hearings and litigations. At present, some of this work is being accomplished by the Director's staff to the detriment of other duties and obligations. Approximately 15,000 financial remuneration statements submitted by guides annually are currently being filed by professional level investigators, decreasing their time available for program operations.									
Some of the functions, in part, are currently being accomplished by the Dept. of Commerce. When the Board is transferred to this Department, however, clerical support will not be transferred. Denial of this position will result in program ineffectiveness, as professional level staff will have to be diverted to clerical work as indicated above.									
	CODE	FUNDING SOURCE							
15		FED RCPTS.							
16		GF MATCH.							
17		GEN FUND			24.6				
18		I-A RCPTS.							
19		PGM RCPTS							
20		OTHER							
21	CONTINUATION								
22	ADDITION			FOR B&M USE ONLY					
14 KEY NUMBER _____ COLUMN NO. _____									

AGENCY Public Safety PROGRAM AREA Fish & Wildlife Protection

BRU Director's Office

FY 81

13 REQUEST FOR NEW POSITION

COMPONENT _____

Page 2 of 2

REVISED DATE _____

--

the board may not act
unless a majority of the
whole membership of the
votes in a like manner
out of the board

action

the board may act only if a

action may only be undertaken
by the affirmative
by a majority of the whole
membership voting in a like
manner

or may

The board may not undertake
action authorized under this chapter
unless a majority of the whole
memberships of the board concurs
in the action.

whenever, an act of the board is required, a majority of the whole membership must ~~it~~ vote ~~to approve~~ in either approval or disapproval of this the action

action which the

The board may not undertake action authorized ~~as required~~ under this ~~section~~ ^{chapter} unless a majority of the whole membership of the board concurs in the action.

act of the board

a majority of the board
must vote in a like
manner to constitute
an act of the board

for

~~the~~

action must be joint

a majority of the whole
membership of the board
must join in any

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Critical sponsor: Resources Committee

1 21 1967

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 1037

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For or for entitled: "An Act relating to guide licensing; continuing the
7 existence of the Guide Licensing and Control Board,
8 amending regulations relating to exclusive guide
9 lic using areas, and amending the law relating to the
10 board's powers and responsibilities; and providing for
11 an effective date."

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

13 Section 1. AS 08.54.010 is created to read:

14 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. There is create
15 in the division of fish and wildlife protection, Department of Public
16 Safety, the Guide Licensing and Control Board consisting of five (5) full
17 members. Three (NO MORE THAN THREE) members of the board shall be master
18 guides or registered guides actively involved in guiding (HAVE A GUIDE
19 LICENSE). The other members shall have a general knowledge of the game
20 resources of the state but may not (1) be engaged in guiding; (2) be
21 associated by local contract with a guide except as a consumer of the
22 services provided by the guide; or (3) have a direct financial interest
23 in a guide business. A minimum of 10 years residence in the state is
24 required for all members of the board.

25 Section 2. AS 08.54.020 is amended to read:

26 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of
27 the board shall be appointed by the Governor and confirmed by the legis-
28 lature for staggered terms of three years or until their successors are
29 appointed. (INITIAL TERMS ARE AS FOLLOWS: THREE MEMBERS FOR ONE YEAR,

Rick - Please Check the wording of the new sections. I particularly wondering about the last line of section 4 - does that wording take care of your intent? I won't turn the new CS in to the Chief Clerk until you let me know. If this version is not satisfactory I'll take it back to Guthrie for a re-write.

Thanks, Mary Levan

TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR THREE YEARS.) A member may be removed at the pleasure of the governor. A person may not be appointed to the board for more than two consecutive terms.

* Sec. 3. AS 09.54.030 is amended to read:

Sec. 09.54.030. CHAIRMAN OF BOARD. The board shall annually elect one of its members as chairman and one of its members as vice-chairman. A person elected as chairman may not serve for more than two consecutive years.

* Sec. 4. AS 09.54 is amended by adding a new section to read:

Sec. 09.54.035. QUORUM. Three members of the board constitute a quorum for the conduct of business. However, regulations may only be adopted ^{with the affirmative vote of} a majority of the full membership of the board. ?

* Sec. 5. AS 09.54 is amended by adding a new section to read:

Sec. 09.54.047. LIMITATION ON AUTHORITY OF BOARD. The board may not limit the number of licensed operating guide allowed to guide in an area of the state or the exclusion of other guides licensed to guide in the guide district in which the area is located.

* Sec. 6. AS 09.54.170(a) is amended to read:

- (a) License fees for engaging in the profession of guide are:
- (1) master guide license, biennial (ANNUAL). . . \$270 (175)
 - (2) registered guide license, biennial (ANNUAL). \$200 (175)
 - (3) class-A assistant guide, biennial (ANNUAL) . \$ 50 (15)
 - (4) assistant guide license, biennial (ANNUAL) . \$ 30 (10)

* Sec. 7. AS 09.54 is amended by adding a new section to read:

Sec. 09.54.182. EXAMINATION. The qualification examination required to be passed by persons seeking a license under AS 09.54.100 and 09.54.110 shall be administered twice a year in both Juneau and Anchorage.

* Sec. 8. AS 09.54.170(a) is amended to read:

1 (1) A master guide, registered guide, class-A assistant guide, or
2 assistant guide [OR TRANSPORTER] license expires on December 31 of the
3 calendar year following the calendar year in which the license was issued
4 [FOLLOWING ISSUANCE].

5 * Sec. 9. AS 02.54.190(b) is amended to read:

6 (b) No license may be issued to a class-A assistant guide or
7 assistant guide who has failed to renew his license for four [THREE]
8 consecutive years unless he again meets the qualifications for initial
9 issuance of the license.

10 * Sec. 10. AS 02.54.200(a) is amended to read:

11 (a) The board shall hold a hearing to determine if disciplinary
12 action is necessary if

13 (1) complaints concerning the licensee have been filed with
14 the board from three or more clients of separate parties within the past
15 five years; or

16 (2) [A LICENSEE HAS BEEN CHARGED WITH A VIOLATION OF FEDERAL
17 OF STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS, OR]

18 (3) a licensee has been convicted of a violation of federal
19 or state sport fish, game or guide statute or regulation.

20 * Sec. 11. AS 02.54.200(c) is amended to read:

21 (c) After a hearing, the board shall revoke, suspend, or deny re-
22 newal of a license if the board finds that the licensee

23 (1) does not meet the qualifications specified by statute or
24 regulation for the class of license held;

25 (2) is incompetent as a master guide, registered guide,
26 class-A assistant guide, or assistant guide;

27 (3) has been convicted of two violations of federal or state
28 sport fish, game or guide statutes or regulations within the past five
29 years.

1 * Sec. 12. AS 05.54.210(a)(1) is amended to read:

2 (1) a master guide, registered guide, class-A assistant
3 guide, or assistant guide (OR TRANSPORTER) to fail to timely report to
4 the Department of Public Safety, division of fish and wildlife protec-
5 tion, and in no event later than 10 days, violations by a client of a
6 state fish, game or guiding statute or regulation;

7 * Sec. 13. AS 05.54.210(a)(2) is amended to read:

8 (2) a master guide, registered guide, class A assistant
9 guide, or assistant guide (OR TRANSPORTER) to aid the commission of a
10 violation of this chapter or of AS 16.05 or a regulation adopted
11 [REPHRASED] under either chapter, or permit the commission of a
12 violation in his right without attempting to prevent it, short of using
13 force, and without reporting it;

14 * Sec. 14. AS 08.54.210(a)(4) is amended to read:

15 (4) a person to advertise as or represent himself to be a
16 licensed master guide, registered guide, class-A assistant guide, or
17 assistant guide (OR TRANSPORTER) without being currently licensed, or to
18 falsely advertise services;

19 * Sec. 15. AS 44.41.020 is amended to read:

20 Sec. 44.41.020. DUTIES OF DEPARTMENT. (a) The Department of
21 Public Safety shall administer functions relative to the protection of
22 life and property.

23 (c) The Department of Public Safety shall administer the Guide
24 Licensing and Control Board established under AS 05.54.010.

25 * Sec. 16. AS 05.54.010(c) is amended by adding a new paragraph to read:

26 (2) Guide Licensing and Control Board (AS 05.54.010) --
27 June 10, 1954.

28 * Sec. 17. The terms of the members of the Guide Licensing and Control
29 Board appointed under AS 05.54.020 terminate on the effective date of this

1 Act. The governor shall appoint members to the board for the following
2 initial terms: one member for one year, two members for two years, and two
3 members for three years.

4 * Sec. 18. 12 AAC 38.051 - 12 AAC 38.053 are amended.

2 Sections
+ .047
EH July 1, 1981

5 * Sec. 19. AS 08.01.010(20); AS 08.03.010(b)(7); AS 08.51.340(a)(2),
6 08.54.120(5), 08.54.110(12), 08.54.142, 08.54.144, 08.54.146, 08.54.170(c),
7 08.54.240(5); and AS 16.05.340(c) are repealed.

8 * Sec. 20. This Act takes effect immediately in accordance with AS 01.10.-
9 070(c).

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

AMENDMENT TO HOUSE BILL 1032

Delete Repeal in Sect 17 of bill

Sec. 4 AS 08.54.040 Powers and duties (a) is amended to read

(8) [ESTABLISH A QUOTA OF LICENSED OPERATING GUIDES WHO MAY OPERATE WITHIN DESIGNATED GEOGRAPHICAL GAME UNITS OR SUBUNITS OF THE STATE AND PROVIDE FOR AN EQUITABLE AND REASONABLE PROCEDURE FOR LIMITING THE NUMBER OF GUIDES TO THAT QUOTA; PREFERENCE SHALL BE GIVEN TO QUALIFIED, AVAILABLE AND WILLING LICENSED GUIDES WHO RESIDE WITHIN THE DESIGNATED GAME UNIT OR SUBUNIT.] the authority of the board does not extend to the creation of exclusive use areas for guides.

Sect 5

New section to read:

AS 08.54.065 Quorum. A majority of the members of the board constitutes a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power. However, a majority of the full board membership is required to carry all motions, regulations and resolutions.