

28

HRES

SB

32

1128

SB

132

(95) (18)

# COMMITTEE REPORT HOUSE

FURTHER:

April 9, 1979

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on RESOURCES has had CSSB 132 (Rules)

"An Act relating to fisheries taxes; eff. 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 151-2  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendations
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

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**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

\_\_\_\_\_ - No Rec.

\_\_\_\_\_

\_\_\_\_\_ - Duff (tax)

\_\_\_\_\_ (DEEP SIX)

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**CHAIRMAN**

H. RESOURCES 1979-80

4/10/79

Teleconference hearing

~~4/12/79~~

Hearing

4/26/79

Adopted CS

Vote of 5 to 4 to  
not pass it out

4/27/79

Recinded action of  
4/26

h



CSSB132

**Trans-Pacific International Industries, Inc.**



**Deep Sea, Inc.  
Fishermen's Metal Products  
Trans-Pacific Seafoods, Inc.  
Penguin, Inc.**

**MELVAN E. MORRIS, JR.**

**GENERAL MANAGER**

**3410 16TH WEST SEATTLE, WASH. 98110  
(206) 284-4563**

*Went to Costco - 10/1.*



*Washington State Senate*

FROM THE OFFICE OF

COMMITTEE ON WAYS & MEANS  
OLYMPIA, WASHINGTON 98504



FIRST CLASS MAIL

Info on Fish  
Washington Tax  
State



FIRST CLASS MAIL

Representative Alvin Osterback  
House Natural Resource Committee  
Pouch V  
Juneau, Alaska 99811



April 5, 1979

Representative Alvin Osterback  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Sir:

I have researched your question on fish privilege fee and landing taxes and I believe that RCW 75.32.033(2) answers your question. For your convenience, I have enclosed a copy of the entire chapter of Washington law, including RCW 75.32.033, that deals with privilege fees. No major changes to these laws are now being considered by the Washington Legislature. Please contact me if I can be of any further service in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Brian Edle".

Brian Edle  
Research Analyst

BE:gs9/4

Enclosure

SUBSTITUTE SENATE BILL NO. 2383

State of Washington  
46th Regular Session

By Committee on Natural Resources  
(originally sponsored by  
Senators Neuschwander, Bausch  
and Odegaard)

Read first time February 22, 1979, and passed to second reading.

1 AN ACT Relating to revenue; amending section 78.32.030, chapter  
2 12, Laws of 1955 as last amended by section 20, chapter  
3 327, Laws of 1977 ex. sess. and RCW 75.32.030; and  
4 amending section 75.32.080, chapter 12, Laws of 1955 as  
5 amended by section 27, chapter 327, Laws of 1977 ex.  
6 sess. and RCW 75.32.080.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 Section 1. Section 75.32.030, chapter 12, Laws of 1955  
9 as last amended by section 20, chapter 327, Laws of 1977 ex.  
10 sess. and RCW 75.32.030 are each amended to read as follows:

11 Canners, curers, freezers, wholesalers and retail  
12 dealers of food fish and shellfish, other than oysters, and  
13 manufacturers of food fish and shellfish byproducts, other than  
14 oyster byproducts, but not including any person with respect to  
15 the growing, processing or dealing in any manner with food fish  
16 which are raised from eggs or fry, and are under the physical  
17 control of the grower at all times until being sold or  
18 harvested, (1) shall pay a privilege fee equal to five percent  
19 of the primary market value on all fresh or frozen chinook,  
20 coho, and chum salmon, or parts thereof, which they receive,  
21 handle, deal in, or deal with as original receiver in the state;  
22 (2) shall pay a privilege fee equal to three percent of the  
23 primary market value on all fresh or frozen pink and sockeye  
24 salmon, or parts thereof, which they receive, handle, deal in,  
25 or deal with as original receiver in the state; and (3) shall  
26 pay a privilege fee equal to two percent of the primary market  
27 value on all other fresh or frozen food fish and shellfish, or  
28 parts thereof, except oysters, which they receive, handle, deal  
29 in or deal with, as original receiver in the state: PROVIDED,  
30 The any person or sales agency selling fresh or frozen food

1 fish or shellfish, or parts thereof, to purchasers of food fish  
2 or shellfish residing outside the state of Washington, which had  
3 been previously landed in the state, shall be responsible for  
4 and shall pay the privilege fees herein provided.

5 Sec. 2. Section 75.32.080, chapter 12, Laws of 1955 as  
6 amended by section 27, chapter 327, Laws of 1977 ex. sess. and  
7 RCW 75.32.080 are each amended to read as follows:

8 The fish sales tax provided for herein shall be deducted  
9 from the payments made by the original receiver to the person  
10 selling the food fish or shellfish to the original receiver, and  
11 the original receiver shall collect the taxes and remit them to  
12 the director.

13 "Original receiver" means the person first receiving,  
14 handling, dealing in, or dealing with the fresh or frozen food  
15 fish or shellfish within the jurisdiction of the state of  
16 Washington as a canner, curer, freezer, retail dealer, wholesale  
17 dealer, byproducts manufacturer, or branch plant. A person  
18 furnishing such services who has no ownership or interest in the  
19 fresh or frozen food fish or shellfish, other than a lien for  
20 services furnished, shall not be classified as an "original  
21 receiver". and the person shall not be subject to the fish sales  
22 taxes or privilege fee taxes after the effective date of this  
23 1970 act.

State of Washington  
16th Regular Session

By Committee on Natural Resources  
(originally sponsored by  
Senators Newschwander, Rausch  
and Odegaard)

Read first time February 22, 1979, and passed to second reading.

1 AN ACT Relating to revenue; amending section 75.32.050, chapter  
2 12, Laws of 1955 as last amended by section 20, chapter  
3 327, Laws of 1977 ex. sess. and RCW 75.32.030; and  
4 amending section 75.32.080, chapter 12, Laws of 1955 as  
5 amended by section 27, chapter 327, Laws of 1977 ex.  
6 sess. and RCW 75.32.080.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 Section 1. Section 75.32.030, chapter 12, Laws of 1955  
9 as last amended by section 20, chapter 327, Laws of 1977 ex.  
10 sess. and RCW 75.32.030 are each amended to read as follows:

11 Cannery, carery, freezer, wholesale dealers and retail  
12 dealers of food fish and shellfish, other than oysters, and  
13 manufacturers of food fish and shellfish byproducts, other than  
14 oyster byproducts, but not including any person with respect to  
15 the growing, processing or dealing in any manner with food fish  
16 which are raised from eggs or fry, and are under the physical  
17 control of the grower at all times until being sold or  
18 harvested, (1) shall pay a privilege fee equal to five percent  
19 of the primary market value on all fresh or frozen chinook,  
20 coho, and chum salmon, or parts thereof, which they receive,  
21 handle, deal in, or deal with as original receiver in the state;  
22 (2) shall pay a privilege fee equal to three percent of the  
23 primary market value on all fresh or frozen pink and sockeye  
24 salmon, or parts thereof, which they receive, handle, deal in,  
25 or deal with as original receiver in the state; and (3) shall  
26 pay a privilege fee equal to two percent of the primary market  
27 value on all other fresh or frozen food fish and shellfish, or  
28 parts thereof, except oysters, which they receive, handle, deal  
29 in or deal with, as original receiver in the state: PROVIDED,  
30 That any person or sales agency selling fresh or frozen food

licenses by issuing such licenses only to those boats whose owners can prove by means of good and sufficient documentary evidence that the boat was licensed pursuant to RCW 75.28.095 between January 1, 1974, and January 1, 1977. No charter boat shall be entitled to more than one charter boat license.

Such boats shall be entitled to receive and renew the charter boat license for each year during the period from May 28, 1977 through December 31, 1980. A charter boat license for which no application is made to the department or which is not renewed in any year automatically expires and shall not be renewed further.

Nothing herein shall be construed to be contrary to the provisions of Title 75 RCW or any rule promulgated thereunder. All such charter boat licenses shall be transferable. [1977 1st ex.s. c 106 § 2.]

**RCW 75.30.030 Charter boats under construction or purchased between April 16, 1976 and May 28, 1977.** In addition to the charter boat licenses issued pursuant to RCW 75.30.020, the department shall issue a charter boat license to any charter boat which was under construction or purchased in good faith between April 16, 1976, and May 28, 1977. [1977 1st ex.s. c 106 § 3.]

**RCW 75.30.040 Duty of department to evaluate and recommend phase II approach.** On and after May 28, 1977, the department, in cooperation with representatives of the charter boat industry, shall continually evaluate the provisions of RCW 75.30.010, 75.30.020, and 75.30.030 and recommend to the legislature prior to January 1, 1980, a phase II approach to regulate gear entry into this state's charter boat fishery. [1977 1st ex.s. c 106 § 4.]

**RCW 75.30.050 Advisory board of review.** The director shall appoint a three member advisory board of review to hear cases as provided in RCW 75.30.060. The members of such review board shall be nominated by the charter boat fishing industry, shall serve without pay, and shall serve at the discretion of the director of

the department of fisheries. The members of such review board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The director may promulgate rules concerning the operation of such review boards in accordance with chapter 34.04 RCW. [1977 1st ex.s. c 106 § 5.]

**RCW 75.30.060 Hearings.** Any person aggrieved by a decision of the department made pursuant to the terms of this chapter may voluntarily request that a board of review be impaneled to hear such person's case.

The board of review may make such other recommendations and determinations as are consistent with the terms of this chapter.

Hearings before review boards shall be informal, the rules of evidence shall not be applicable to the proceedings, and the records shall be kept thereof as provided by chapter 34.04 RCW. After the presentation of a case each review board shall inform the director and the initiating party in writing concerning whether or not the review board recommends that the charter boat license be issued and the reason for such recommendation. Upon receipt of the review board's findings the director may order such relief as the director deems appropriate under the circumstances.

Nothing in this section shall be construed: (1) To impair an aggrieved person's right to proceed under chapter 34.04 RCW; or (2) to impose any liability on members of a review board for their action pursuant to this section. [1977 1st ex.s. c 106 § 6.]

### Chapter 75.32 RCW

#### PRIVILEGE FEES AND FISH SALES TAXES

##### Sections

75.32.001	"Primary market value" defined.
75.32.003	"Food fish and shellfish" includes junks.
75.32.020	Privilege fees and fish sales taxes required.

- 75.32.030 Cannery, processors, dealers—Privilege fees.
- 75.32.033 Credits against privilege fees owed under RCW 75.32.030.
- 75.32.035 Rules as to proof required for credits claimed under RCW 75.32.033.
- 75.32.051 Oyster cannery, processors, dealers—Privilege fee.
- 75.32.055 Fish sales tax—Imposed—Rates—Exemptions.
- 75.32.065 Payment of privilege fees and fish sales tax—Food fish or shellfish handled by original receivers—Sales to nonresident purchasers.
- 75.32.080 Collection of fish sales tax by original receiver—“Original receiver” defined.
- 75.32.090 When privilege fees and fish sales tax due and payable—Returns.
- 75.32.101 Delinquent payments—Penalties—Interest—Lien—Date of filing governed by postmark.
- 75.32.110 Director may make rules, etc., to insure payment of fees and taxes.
- 75.32.115 Audits—Rules and procedures.
- 75.32.120 Penalty for violations.
- 75.32.130 Director may require bond after wilful violation—License revocation for failure.

**RCW 75.32.001** “Primary market value” defined. “Primary market value” as used in this chapter means the ex-vessel price paid by the purchasers of food fish and shellfish to the seller at the point where ownership or title to the food fish or shellfish passes. [1965 ex.s. c 71 § 1.]

**RCW 75.32.003** “Food fish and shellfish” include parts. As used in this chapter, the terms food fish and shellfish also include parts of food fish and shellfish. [1977 1st ex.s. c 327 § 25.]

**Severability—Effective date—1977 1st ex.s. c 327:** See notes following RCW 75.18.100.

**RCW 75.32.020** Privilege fees and fish sales taxes required. In addition to all other taxes, licenses or fees

provided by law there shall be paid to the state of Washington by those engaged in the fishing industry in this state the privilege fees and fish sales taxes as provided for in this chapter. [1977 1st ex.s. c 327 § 19; 1955 c 12 § 75.32.020. Prior: 1949 c 107 § 1, part; Rem. Supp. 1949 § 5780-60, part.]

**Severability—Effective date—1977 1st ex.s. c 327:** See notes following RCW 75.18.100.

**RCW 75.32.030** Cannery, processors, dealers—Privilege fees. Cannery, curers, freezers, wholesale dealers and retail dealers of food fish and shellfish, other than oysters, and manufacturers of food fish and shellfish byproducts, other than oyster byproducts, (1) shall pay a privilege fee equal to five percent of the primary market value on all fresh or frozen chinook, coho, and chum salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; (2) shall pay a privilege fee equal to three percent of the primary market value on all fresh or frozen pink and sockeye salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; and (3) shall pay a privilege fee equal to two percent of the primary market value on all other fresh or frozen food fish and shellfish, or parts thereof, except oysters, which they receive, handle, deal in or deal with, as original receiver in the state: *Provided*, That any person or sales agency selling fresh or frozen food fish or shellfish, or parts thereof, to purchasers of food fish or shellfish residing outside the state of Washington which had been previously landed in the state, shall be responsible for and shall pay the privilege fees herein provided. [1977 1st ex.s. c 327 § 20; 1963 ex.s. c 10 § 1; 1955 c 212 § 12; 1955 c 12 § 75.32.030. Prior: 1953 c 207 § 6; 1951 c 271 § 34; 1949 c 107 § 1(1); Rem. Supp. 1949 § 5780-60(1).]

**Severability—Effective date—1977 1st ex.s. c 327:** See notes following RCW 75.18.100.

**RCW 75.32.033 Credits against privilege fees owed under RCW 75.32.030.** The following amounts may be credited against the amount of privilege fees owed under RCW 75.32.030 by a canner, curer, dealer, freezer, or manufacturer:

(1) In respect to each transaction in which the fish sales tax is collected pursuant to RCW 75.32.080, as now or hereafter amended, and a privilege fee is owed, the amount of the sales tax collected shall be credited against such privilege fee.

(2) Any sales tax, catch tax, landing tax, or other tax or fee on food fish or shellfish, or parts thereof, purchased by an original receiver, as defined in RCW 75.32.080, as now or hereafter amended, in another state and imposed on the receiver by such state shall be credited against the amount of privilege fees owed in respect to such food fish or shellfish, or parts thereof. [1977 1st ex.s. c 327 § 23.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.035 Rules as to proof required for credits claimed under RCW 75.32.033.** The director shall adopt rules specifying the proof required for credits claimed under RCW 75.32.033 and the manner in which the credits shall be taken. [1977 1st ex.s. c 327 § 24.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.051 Oyster canners, processors, dealers—Privilege fee.** Cannery, curers, freezers, wholesale dealers and retail dealers of oysters, and manufacturers of oyster byproducts, shall pay a privilege fee equal to one cent per gallon or bushel on Pacific oysters, and six and one-half cents per gallon or bushel on Olympia oysters, New Washington oysters, or Kumamoto oysters which they receive, handle, deal in, or deal with as original receiver in this state: *Provided*, That any person or sales agency selling fresh or

frozen oysters, or parts thereof, previously taken in the state to purchasers of food fish or shellfish residing outside the state of Washington, shall be responsible for and shall pay the privilege taxes herein provided. [1977 1st ex.s. c 327 § 21; 1955 c 212 § 13.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.055 Fish sales tax—Imposed—Rates—Exemptions.** (1) Except as provided in subsection (2) of this section, there is hereby imposed a fish sales tax on the privilege of selling food fish or shellfish, or parts thereof, to an original receiver as defined in RCW 75.32.080, as now or hereafter amended. The tax shall be as follows:

(a) Two and one-half percent of the primary market value on all fresh or frozen chinook, coho, and chum salmon, or parts thereof;

(b) One and one-half percent of the primary market value on all fresh or frozen pink and sockeye salmon, or parts thereof;

(c) One percent of the primary market value on all other fresh or frozen food fish and shellfish, or parts thereof.

(2) The sales tax prescribed in this section shall not apply to sales of shellfish, or parts thereof, taken from a licensed oyster or clam farm or to sales of food fish or shellfish, or parts thereof, taken from a licensed fish farm. [1977 1st ex.s. c 327 § 22.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.065 Payment of privilege fees and fish sales tax—Food fish or shellfish handled by original receivers—Sales to nonresident purchasers.** (1) The privilege fees and fish sales taxes provided for in this chapter shall be paid on all fresh or frozen food fish or shellfish handled by the original receivers regardless of where the fish or shellfish were caught: *Provided*, That no fee or tax shall be paid on frozen food fish or frozen

shellfish or on food fish or shellfish which has been packaged for retail sales and that has been previously landed in another state, territory, or country.

(2) Any person or sales agency selling fresh or frozen food fish or shellfish previously landed in this state to purchasers of food fish or shellfish residing outside this state shall be responsible for and shall pay the privilege fees and fish sales taxes. [1977 1st ex.s. c 327 § 26.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.080 Collection of fish sales tax by original receiver—**"Original receiver" defined. The fish sales tax provided for herein shall be deducted from the payments made by the original receiver to the person selling the food fish or shellfish to the original receiver, and the original receiver shall collect the taxes and remit them to the director.

"Original receiver" means the person first receiving, handling, dealing in, or dealing with the fresh or frozen food fish or shellfish within the jurisdiction of the state of Washington as a canner, curer, freezer, retail dealer, wholesale dealer, byproducts manufacturer, or branch plant. [1977 1st ex.s. c 327 § 27; 1955 c 12 § 75.32.080. Prior: 1953 c 207 § 8; 1951 c 271 § 36; 1949 c 107 § 1(5), part; Rem. Supp. 1949 § 5780-60(5), part.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.090 When privilege fees and fish sales taxes due and payable—**Return. The privilege fees and fish sales taxes herein provided for are due and payable in quarterly installments, and the fees and taxes accruing during each quarterly period shall become due on the first day of the month immediately following the end of the quarterly period, and shall be paid on or before the last day of that month. The following shall constitute the quarterly periods to be utilized:

- (1) January, February, March;
- (2) April, May, June;
- (3) July, August, September;
- (4) October, November, December.

On or before the day payment is required as provided above, the person paying the privilege fees and fish sales taxes to the department shall prepare a return under oath upon such forms and setting forth such information as the director may require, and transmit the same to the director together with a remittance for the fees and taxes which are due. Any person that is subject at any time of the year to the privilege fee provisions set forth in this chapter shall file a return each quarter of the year showing whether or not any fees or taxes are due. [1977 1st ex.s. c 327 § 28; 1967 c 193 § 1; 1963 ex.s. c 9 § 1; 1955 c 12 § 75.32.090. Prior: 1949 c 107 § 2; Rem. Supp. 1949 § 5780-61.]

**Severability—Effective date—**1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**RCW 75.32.101 Delinquent payments—Penalties—Interest—Lien—**Date of filing governed by postmark. In the event payment of fees and taxes provided for under this chapter is not received by the fifteenth day of the month in which the fees and taxes become due, the fees and taxes shall become delinquent and the schedule of penalties stated below shall be invoked. A return or remittance which is transmitted to the director by United States mail shall be deemed "received" on the date shown by the post office cancellation mark stamped upon the envelope containing it. The following shall be the schedule of penalties to be assessed for delinquent payments of such fees and taxes:

(1) Sixteen through thirty days after due date—Add ten percent of total fees and taxes due but not less than one dollar.

(2) Thirty-one through sixty days after due date—Add twenty percent of total fees and taxes due but not less than two dollars.

## 75.32.101

(3) Sixty-one through ninety days after due date—Add twenty-five percent of total fees and taxes due but not less than three dollars.

(4) Ninety-one days or more after due date—Add twenty-five percent of total fees and taxes due (but not less than three dollars) plus eight percent interest per annum computed on the sum of the total fees and taxes due and the percentage penalty.

The delinquent fees and taxes together with the applicable penalties and accrued interest thereon shall constitute a first lien upon the cannery, packing plant, buildings, scows, boats, vehicles and other equipment used by the person or business owing the fees and taxes in the taking, handling, dealing in, dealing with, or processing of food fish or shellfish [1977 1st ex.s. c 327 § 29; 1963 ex.s. c 9 § 2.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

RCW 75.32.110 Director may make rules, etc., to insure payment of fees and taxes. The director shall have the authority to promulgate such rules, regulations, and orders, and to require such reports as in his judgment shall be necessary to insure the payment of the fees and taxes herein required. [1977 1st ex.s. c 327 § 30; 1955 c 12 § 75.32.110. Prior: 1949 c 107 § 4; Rem. Supp. 1949 § 5780-63.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

RCW 75.32.115 Audits—Rules and procedures. The department or its designee may audit any original receiver as defined in RCW 75.32.080, as now or hereafter amended, for the purpose of assuring the collection of privilege fees and fish sales taxes provided for in this chapter, or for the purpose of collecting unpaid fees and taxes. The director may adopt rules and procedures to govern the collection of any fees and taxes under this chapter. [1977 1st ex.s. c 327 § 31.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

RCW 75.32.120 Penalty for violations. In event any person wilfully violates the provisions of this chapter, or any of the rules, regulations, or orders of the director made pursuant to this chapter, he is guilty of a gross misdemeanor and subject to a fine, or imprisonment, or both. [1955 c 12 § 75.32.120. Prior: 1949 c 107 § 5; Rem. Supp. 1949 § 5780-64.]

RCW 75.32.130 Director may require bond after wilful violation—License revocation for failure. In event any person wilfully violates any of the provisions of this chapter or the rules, regulations, and orders of the director made pursuant to the provisions of this chapter, the director shall have the authority to require such person to post a bond, in an amount not to exceed five thousand dollars, conditioned upon his faithful performance of the provisions of the chapter and the rules, regulations, and orders of the director made pursuant to this chapter, and in event such person fails to post such a bond within thirty days after the same is demanded by the director, the director shall forthwith cancel and revoke any license or licenses to engage in the fishing industry that such person was theretofore issued by the state of Washington. [1955 c 12 § 75.32.130. Prior: 1949 c 107 § 6; Rem. Supp. 1949 § 5780-65.]

## Chapter 75.36 RCW SEIZURE AND FORFEITURE OF PROPERTY FOR VIOLATIONS

### Sections

75.36.010

Seizure of property without warrant—  
Where authorized—Deposit of cash bond  
in lieu.

75.36.020

Forfeiture may be in addition to other  
penalties.

a medical institution as a result thereof.

Any resident of the Alaska Pioneers' Home or other institution may, at any time he wishes to leave the institution,

make application for assistance under this program in lieu of the support and maintenance provided in such Home or institution.

Approved April 18, 1962

## CHAPTER 155

### AN ACT

Relating to shared taxes; amending Subsec. (C), Sec. 35-4-17, ACLA 1949, as last amended by Sec. 2, Ch. 197, SLA 1959; amending Sec. 48-3-0, ACLA 1949, as last amended by Sec. 6, Ch. 142, SLA 1960; amending Sec. 6, Ch. 116, SLA 1949, as last amended by Ch. 53, SLA 1951; amending Ch. 43, SLA 1949; repealing Ch. 66, SLA 1953; and providing for an effective date.

(2nd S.C.S.H.B. 127)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Subsec. (C), Sec. 35-4-17, ACLA 1949, as last amended by Sec. 2, Ch. 197, SLA 1959, is amended to read:

(C) Disposition of Funds. All moneys collected or due the state for licenses under the provisions of this Act shall be deposited with the commissioner of revenue and covered into the general fund; all such moneys derived from the licenses issued excluding wholesale licenses within organized boroughs and all classes of cities shall be refunded semi-annually to said organized boroughs and all classes of cities; provided, however, that in the event of the failure of the officers of said organized boroughs and all classes of cities to actively enforce all of their ordinances, the law of the United States, the laws of the State of Alaska, and those regulations relative to the manufacture and sale of intoxicating liquors in the State of Alaska, the commissioner of revenue may deny said refund and no further moneys will be paid to said local government units until the enforcement of such laws and regulations is actively resumed within them.

Sec. 2. Sec. 4-3-6, ACLA 1949, as last amended by Sec. 6, Ch. 142, SLA 1960, is amended to read:

Sec. 4-3-6. Distribution of Tax. One-half of the proceeds of the gross revenue from the tax herein provided, excluding distributors' fees, penalties, and less the amount duly determined to have been spent by the state in its collection, shall

be refunded to organized boroughs and cities of the first, second, and third classes by action of the legislature in the proportion that such revenue was earned within them, and the balance shall be retained by the state and covered into its general fund.

Sec. 3. Sec. 6, Ch. 116, SLA 1949, as last amended by Ch. 53, SLA 1951, is amended to read:

Sec. 6. 75 percent of the tax on municipalities collected from sales thereof within organized boroughs and cities of the first, second, and third classes shall be refunded to such local government units, and the balance shall be deposited in the general fund of the State of Alaska.

Sec. 4. Sec. 11, Ch. 41, SLA 1949, is amended to read:

Sec. 11. Disposal of Money. All moneys collected by the commissioner of revenue under this Act shall be covered into the general fund of the state, provided, that the commissioner of revenue shall refund to organized boroughs and all classes of cities, incorporated and independent school districts, and public utility districts 60 percent of all such money collected from within said local government units.

Sec. 5. Ch. 66, SLA 1953, is repealed.

Sec. 6. The commissioner of revenue shall pay to each organized borough, city of the first, second, and third classes, incorporated or independent school district, and public utility district 10 percent of

the amount of tax revenue collected from within such municipality or district from taxes levied by Ch. 97, SLA 1949, as last amended by Ch. 102, SLA 1955, and Ch.

82, SLA 1949, as last amended by Ch. 113, SLA 1951.

Sec. 7. This Act takes effect on January 1, 1962.

Became law without signature April 19, 1962

## CHAPTER 156

### AN ACT

Relating to employee contributions and refunds payable under the Alaska Employment Security Act; and providing for an effective date.

(S.B. 218)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Subsec. (b), Sec. 501, Art. V, Ch. 5, S.L.A. 1955, as amended by Sec. 16, Ch. 169, SLA 1957, and Sec. 7, Ch. 60, SLA 1960, is amended to read:

(b) Contributions with respect to wages paid prior after January 1, 1955, for employment shall accrue and become payable by each individual who performs service in employment for each calendar year in which such services are subject to this Act.

The contributions required from each such individual, in accordance with regulations prescribed by the commissioner, shall become payable, be deducted from his wages by his employer, and be held in trust by the employer for the commissioner until such time as such employee contributions are required by regulation to be deposited with the commissioner. Such funds shall not be subject to garnishment or attachment in any fashion, and in the event of lien, judgment, or bankruptcy proceedings, shall not be considered as assets of the employer. Any employer who shall fail to make such deductions from the wages of his employees shall himself be liable to the commissioner for the payment of such required contributions, which shall be collected from him in the same manner as is provided for the collection of employer contributions.

If any employer shall convert to his own use or otherwise misappropriate any funds so held in trust he shall be required to pay to the commissioner for

deposit in the clearing account the amount so converted or misappropriated, together with a penalty equal to five times that amount but not less than \$25. In addition, if such conversion or misappropriation is willful, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200, or imprisoned for not more than 60 days, or both.

Each employer shall maintain a record of the amount so deducted from the wages of each of his employees, and shall furnish a statement of such deductions to each employee at such times and in such manner as the commissioner shall prescribe by regulation. No such deduction shall be made from those wages in excess of the first \$7,200 of wages paid to an employee during any calendar year. In the event that an employee earns wages totaling in excess of \$7,200 in one calendar year in the employ of two or more employers, or in the event that any one employer through error shall have made such deductions from his wages in excess of \$7,200 during any one calendar year, the amount of such deductions in excess of those required by this Act shall be refunded to the employee by the commissioner upon application therefor in accordance with regulations prescribed by him, provided that such application is made during the calendar year immediately following the calendar year in which such deductions were made.

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 19, 1962

of Liquor Control, this earmarking provision called for cooperation in enforcement of liquor regulations. Only those cities cooperating with the Board in enforcing liquor rules and regulations were considered eligible for the 60 percent grant.

In 1937 the Legislature enacted into law a schedule of liquor licenses. The licensing program established at that time followed the pattern established by the Federal license earmarking. All license fees are granted to the cities where collected. Cities are prohibited from levying additional taxes on liquor establishments, although they may provide additional regulations not inconsistent with Territorial law.

#### Raw Fish Tax

As originally enacted in 1949, the raw fish tax included no earmarking provisions. However, in 1953 a law was passed providing that 10 percent of the revenues collected from salmon canneries within the boundaries of local government units was to be granted to the units.<sup>52</sup> Cities, school districts, and public utility districts receive grants under the terms of the 1953 law.

The raw fish tax applies to crab and clam canneries and herring processing plants as well as salmon canneries. Only the revenues from the tax on salmon canneries are earmarked for the local governments. During 1955 a total of \$68,196 were granted to cities, school districts and public utility districts from the raw fish tax on salmon canneries.

#### Amusement and Gaming Devices

Since 1948, 50 percent of the license fees collected on amusement and gaming devices within incorporated cities have been paid to the cities where collected.<sup>53</sup> In 1955 the cities received \$26,463 from this source. Amusement and gaming devices had been first licensed by the Territory in 1941 but were in no way earmarked at that time.

Under the terms of the current law a municipality which levies additional license taxes on such devices loses its right to the Territorial 50 percent grant.

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52 Ch. 66 SLA 1953

53 Ch. 92 SLA 1947

SSB 2388

SPONSORS: Committee on Ways and Means  
(Originally Sponsored by Senators Newschwander, Bausch and Odegaard)

COMMITTEE: Ways and Means

Modifying the privilege fees on certain producers of food fish.

ANALYSIS OF FIRST SUBSTITUTE AS OF FEBRUARY 22, 1979

ISSUE:

Under current law the privilege tax on food fish and shellfish must be paid by all processors and dealers of fish. The tax is utilized to retire salmon run enhancement bonds. Proponents believe that certain growers, processors and dealers should be exempt from this tax.

Proponents further believe that the definition of "original processor", who is the person required by statute to collect fish sales and privilege tax fees, should be limited.

SUMMARY:

The bill exempts from payment of privilege taxes the grower, processor and dealer of food fish which are raised from eggs or fry and are under the physical control of the grower at all times until harvested. The fish that this class of growers produce never enter the natural fishery. The fish are typically marketed when they reach pan-size and compete primarily in markets outside the state.

Further the bill limits the definition of "original purchaser" to exclude persons handling or dealing in or with fresh fish who have no ownership or marketing interest in them. This class of persons includes those typically furnishing services such as warehousing, canning or freezing. Thus, the responsibility for collection is shifted to the person first purchasing and receiving the fish.

FISCAL IMPACT:

Section 1 would reduce estimated revenues for the 1979 through 1981 biennium by \$2.3 million. Section 2 would have no revenue impact since it is a shift in responsibility for collection of the tax to entities which can be contacted, audited and monitored.

STAFF REPORT ON SENATE BILL NO. 2388

Title:

Modifying the Privilege Fees on Certain Producers of Food Fish

Original Sponsors:

Senators Newschwander, Bausch and Odegard

Summary:

Exempts from privilege fees (tax on food fish or shell fish) the grower, processor or dealer in food fish which are raised from eggs or fry and under the physical control of the grower at all times until harvested.

Redefines "original receiver" as the person first purchasing and receiving and excludes a person furnishing services but who has no ownership interest in the food fish or shellfish.

Impact:

The 1977 legislature enacted legislation to impose privilege fees and sales taxes on salmon, other food fish and shell fish in addition to all other taxes, licenses, and fees currently imposed. Receipts from such fees are to be used first for the payment of principal and interest on bonds authorized for the construction and improvement of salmon hatcheries and other salmon propagation facilities (bond authorization of \$31.5 million). Any remaining revenues are to be used for salmon enhancement purposes.

The attached excerpt from the Department of Fisheries' 1979 report to the legislature on salmon license and privilege tax revenues indicates the taxes were not imposed on salmon aquaculture until this year. It might also be noted that licensed oyster, clam or fish farms are exempt from the fish sales tax under RCW 75.32.055(2). Section 1 of this bill would exempt an aquaculturist who maintains complete control of the fish which never enter or become a part of the natural fishery from the privilege fees.

Section 2 redefines "original receiver" and shifts the responsibility for collecting the fish sales tax from persons furnishing services (such as warehousing, canning, freezing, etc.) and who have no ownership or interest in the fish to the person first purchasing and receiving, handling or dealing with the fish.

Fiscal Impact:

Section 1 would reduce estimated revenues for the 1979-81 biennium by \$2.3 million. Section 2 would have no revenue impact if it is a shift in responsibility for collection of the tax to entities which can be contacted, audited and monitored.

EB:sw

Excerpt: Report to the Legislature on  
Salmon License and Salmon Privilege Tax  
Revenues, wa State Dept. of Fisheries,  
1979.

In accordance with RCW 75.48.090, the Washington Department of Fisheries (WDF) is herewith submitting its report on the revenues received from the sport and commercial salmon license sales and from salmon privilege taxes for the fiscal year ending June 30, 1978; and estimates of the revenues to be received for the current and ensuing fiscal years. Also included are estimates of the amounts required from these revenues for the payment of principal and interest on the bonds authorized by Chapter 75.49 RCW, Salmon Enhancement Facilities Bond Issue, and a progress report on the current salmon enhancement programs.

Although we estimate that a large balance is available for additional enhancement, the Department is not requesting any totally "new" enhancement facilities. We agree with the Office of Financial Management that decisions on further expansion of salmon production should be deferred until the Federal involvement question is clarified. In addition, our agency, in a joint effort with the House Natural Resource Committee, is undertaking a hatchery evaluation study that should provide a basic production strategy for at least the next ten years and we feel it is essential to complete this before asking for major production expansion.

ESTIMATES (DOLLARS) OF LICENSE AND SALMON TAX REVENUES, DEBT SERVICE AND  
AVAILABLE BALANCE FOR FISCAL YEARS 1977 - 1981

<u>REVENUE SOURCE</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
Commercial fishing salmon taxes	938,176	1,458,822	1,450,000	1,450,000	1,450,000
* Salmon aquaculture taxes	-	-	518,000	1,000,000	1,300,000
Commercial salmon licenses	740,000	1,651,440	1,650,000	1,650,000	1,650,000
Sport salmon licenses	-	583,382	1,426,000	1,450,000	1,450,000
Total revenues	1,678,196	3,693,644	5,044,000	5,550,000	5,850,000
Estimated Debt Service Costs	-	254,812	1,704,625	1,054,250	1,908,250
Balance Available for Enhancement purposes	1,678,196	3,438,832	3,339,375	4,495,750	3,941,750



1941 ALASKA SEAFOOD VALUES AND TAX REVENUES

Compiled from AD&D and MDS statistics

PROCESSOR TAX	FIRST WHOLESALE VALUE	VALUE TO FISHERMEN	
\$2,610,200	\$101,081,125		Canned salmon Frozen salmon Fresh salmon
99,268	11,000,225	\$21,411,458	
	251,412	total	
	\$1,000,000		Salmon for
\$2,110,158	\$111,801,145	\$21,411,458	Salmon Total
\$340,303	\$35,351,225	\$19,017,223	King Crab
0,000	1,418,112	609,251	King Crab
13,000	2,603,851	1,308,211	Tanner Crab
30,000	12,180,103	3,000,012	Crab
101	101,481	10,125	Crab
0,000	1,200,223	000,482	Salmon (included)
\$118,811	\$23,818,121	\$50,052,303	Shellfish Total
\$15,308	\$10,118,122	\$1,230,815	Halibut
8,311	5,100,222	831,111	Alac. Fish
\$3,500,000	\$14,032,310	\$82,202,350	TOTAL SEAFOOD

The state of Alaska allowed serious overfishing of our king crab stocks during the past decade. Predictions based on Quota-Targeting proved too easy, and management techniques and quota systems have improved, and the king crab catch is on the upswing again. It was an expensive lesson, for it hadn't seriously depleted some of the stocks back in the sixties, we would likely have a higher sustained yield harvest level today.

One would hope that Alaska had learned, but apparently we haven't, for the same pattern of overfishing and undermanagement of our shrimp and Tanner crab stocks is taking place today. The shellfish program of fish and game is underfunded, while at the same time the lucrative resource is undertaxed.

Alaska produces about 25% of our nation's shrimp harvest. Kodiak's 1971 shrimp harvest produced 82,000,000 pounds of shrimp with a value of \$16,000,000 when leaving town, yet the state spent only \$90,000 'managing' the resource, and collected only \$23,000 in fish tax revenues. This year's production dropped thirty percent to 58,000,000 pounds, and some of the grounds have already been seriously overfished. Fish and game has developed the basic management techniques, but it doesn't have the funds to implement them.

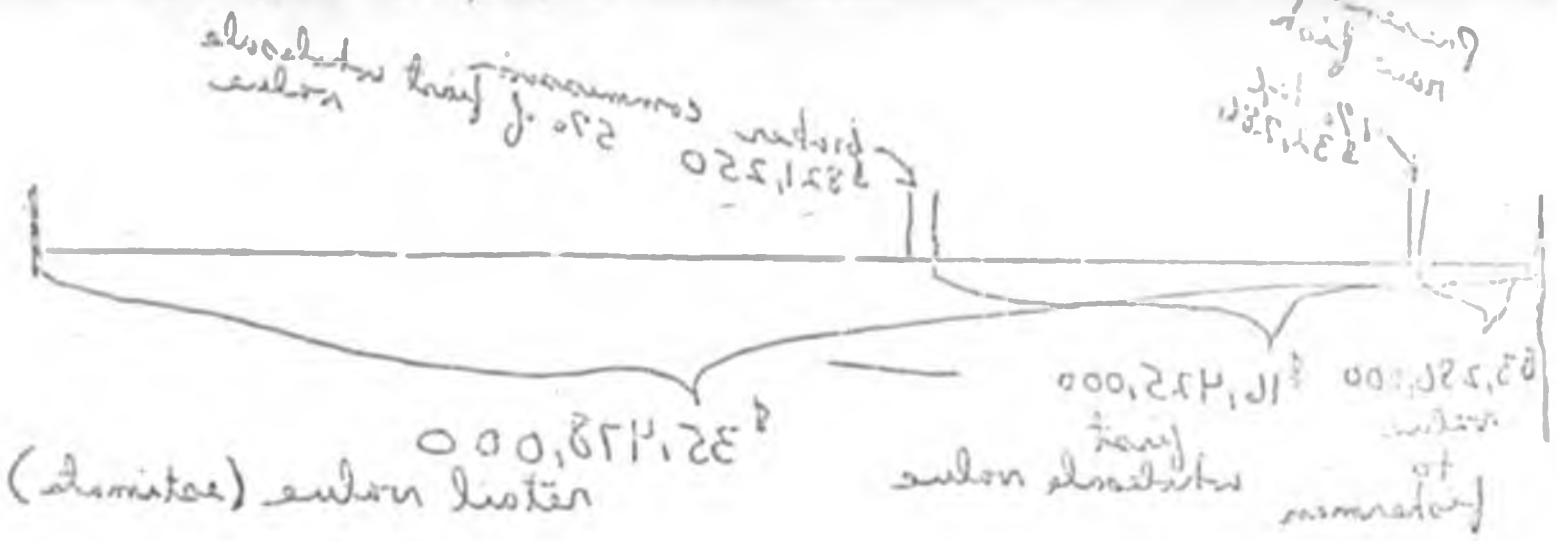
Now some of the fishing pressure is moving westward to the Chirikof-Sand Point area where the expected harvest this year will be 30,000,000 pounds, about a third of the entire American Pacific Coast catch. Yet due to lack of funding there is no management program at all, and the valuable stocks are being subjected to the familiar free-for-all.

And the same destructive development pattern is taking place with the booming Tanner crab fishery, except that with the greatly increased fishing capacity it's happening at an accelerated rate. Fish and game has no Tanner crab program. At the request of the Cordova fishermen a quota was entered at for the Prince William Sound area, but the Kodiak area has no quota, and along with the entire state, no size or mesh limits. No attempt is being made to inventory the Tanner crab stocks or to derive the needed basic management data.

The management of our fisheries is the responsibility of the state. No one else can do this with our competitive, unlimited entry, free enterprise system, unless the federal government should step in and take over the legislative to provide the funds for adequate management of our fisheries. deriving the funds through realistic taxation of the resource if necessary. Crab and other fishermen are making a good living. I feel a major concern is that our resources are being so under-managed that we won't be able to make a living in the future.

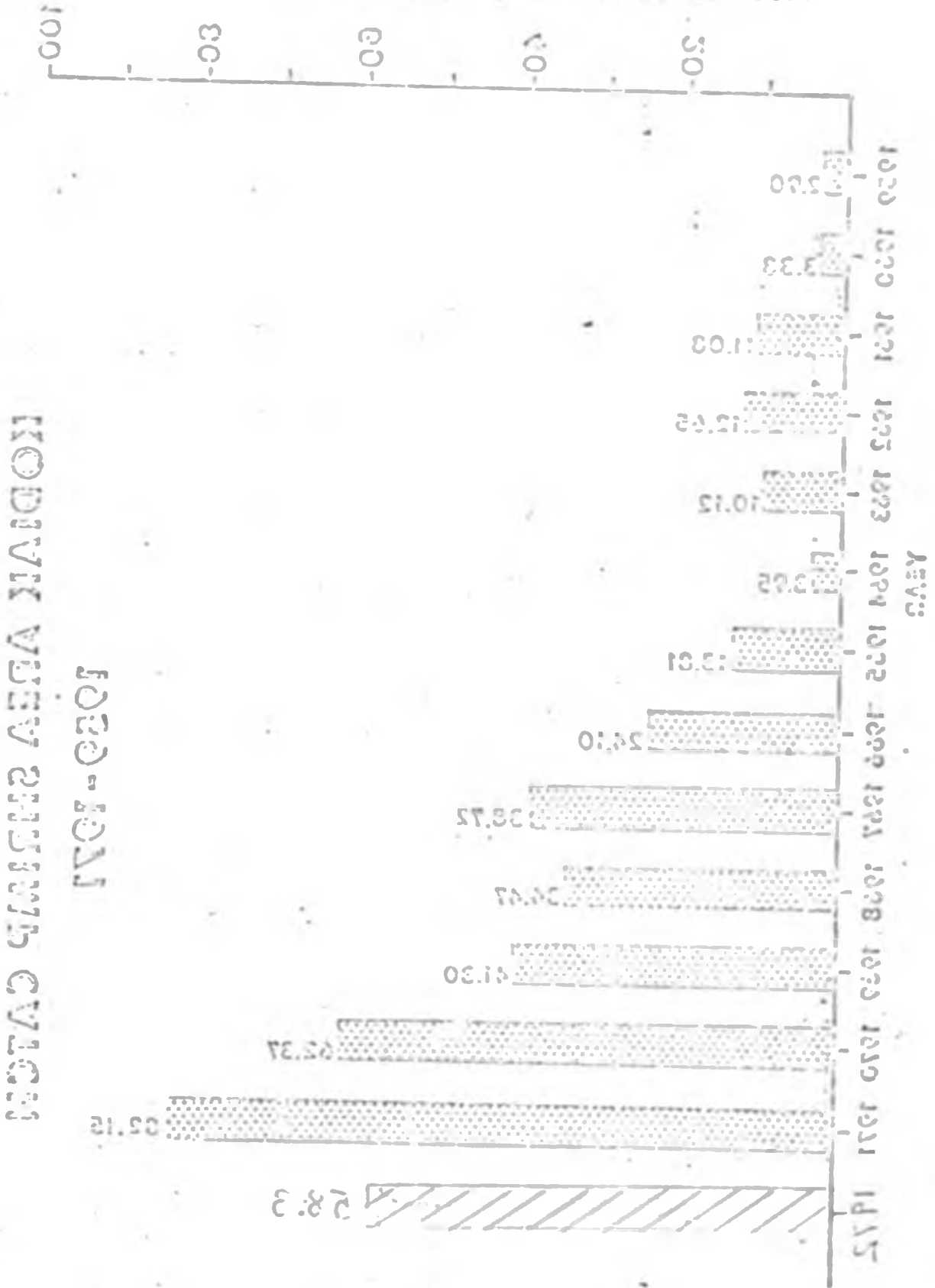
Fishermen have a saying that goes, 'you can't make a reason on the crab bill.' It sort of tells the cook not to be too penny-pinching on the food, because the way the food is going to be determined primarily by the amount of fish caught, and good food can be partly decided when the fishing is heavy. The same type of concept holds true with management--if the fishing industry isn't willing to spend the few dollars necessary to properly take care of our fish, then we very likely won't have enough fish to catch in the future.

82,120,000 pounds



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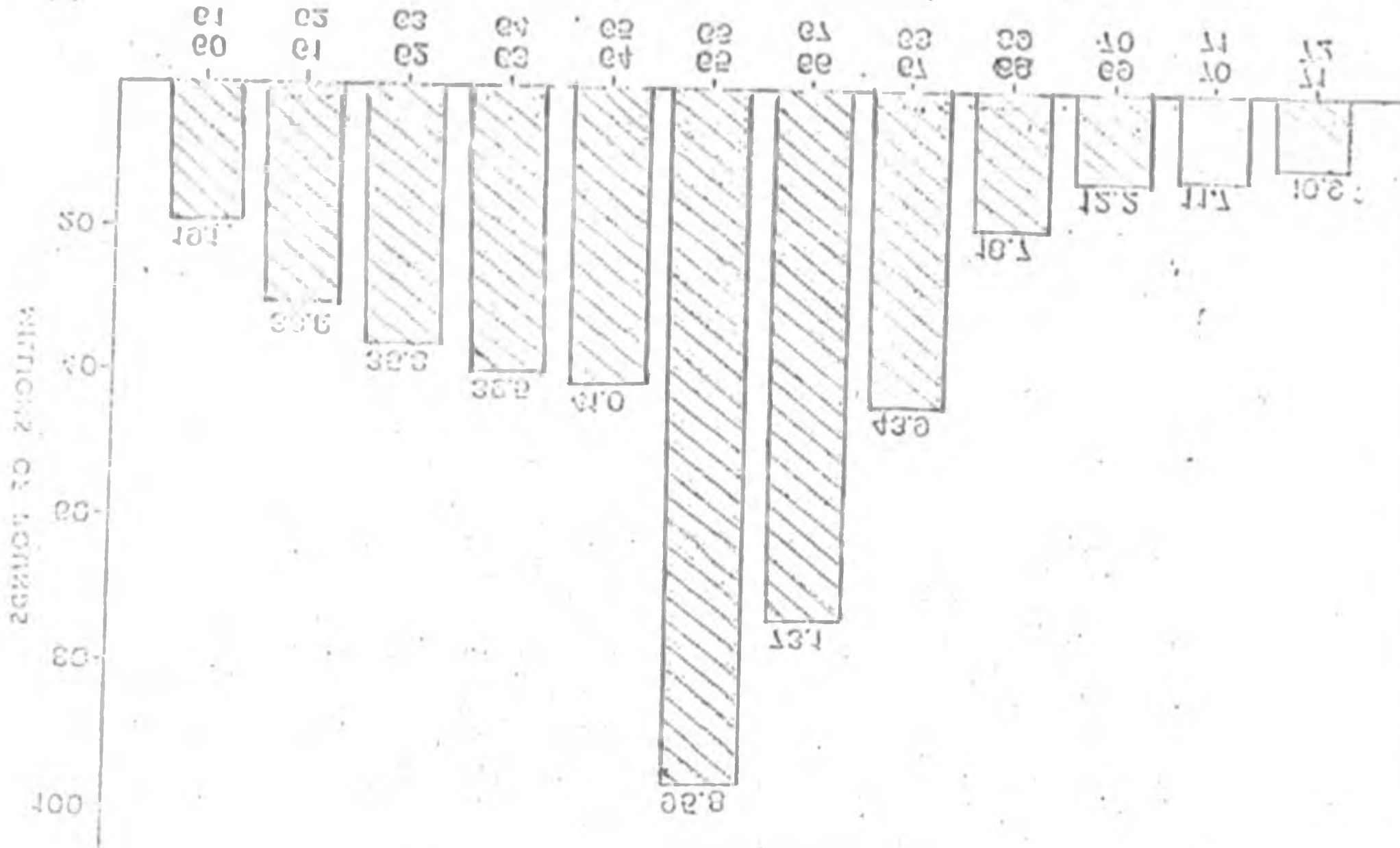
Millions of Pounds



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NOV 20 1951  
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 FISHERIES

FISHING LEVEL (WY-VAL)



25-1791  
 CATCH 1950-51 TO  
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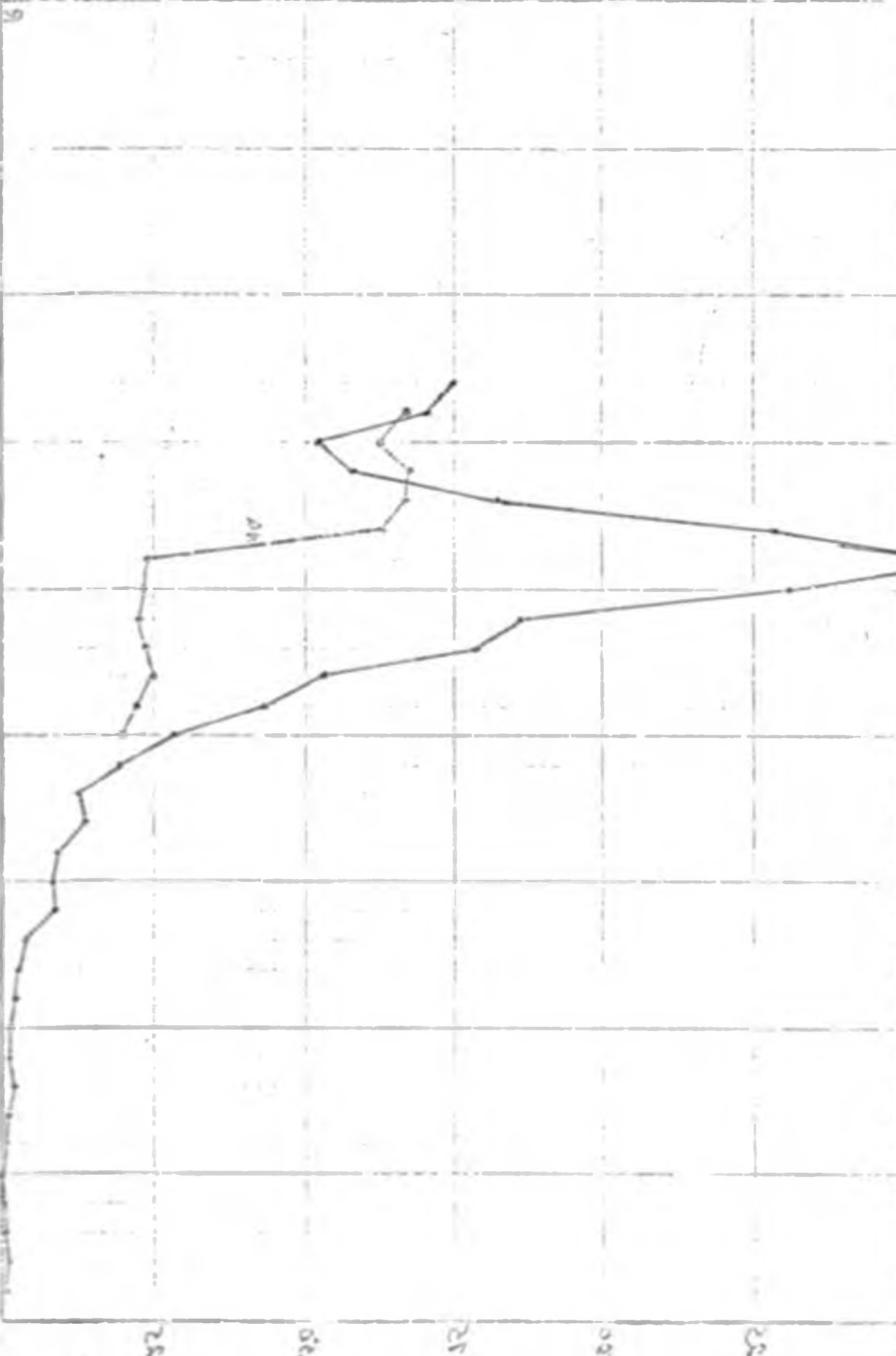
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YEARS

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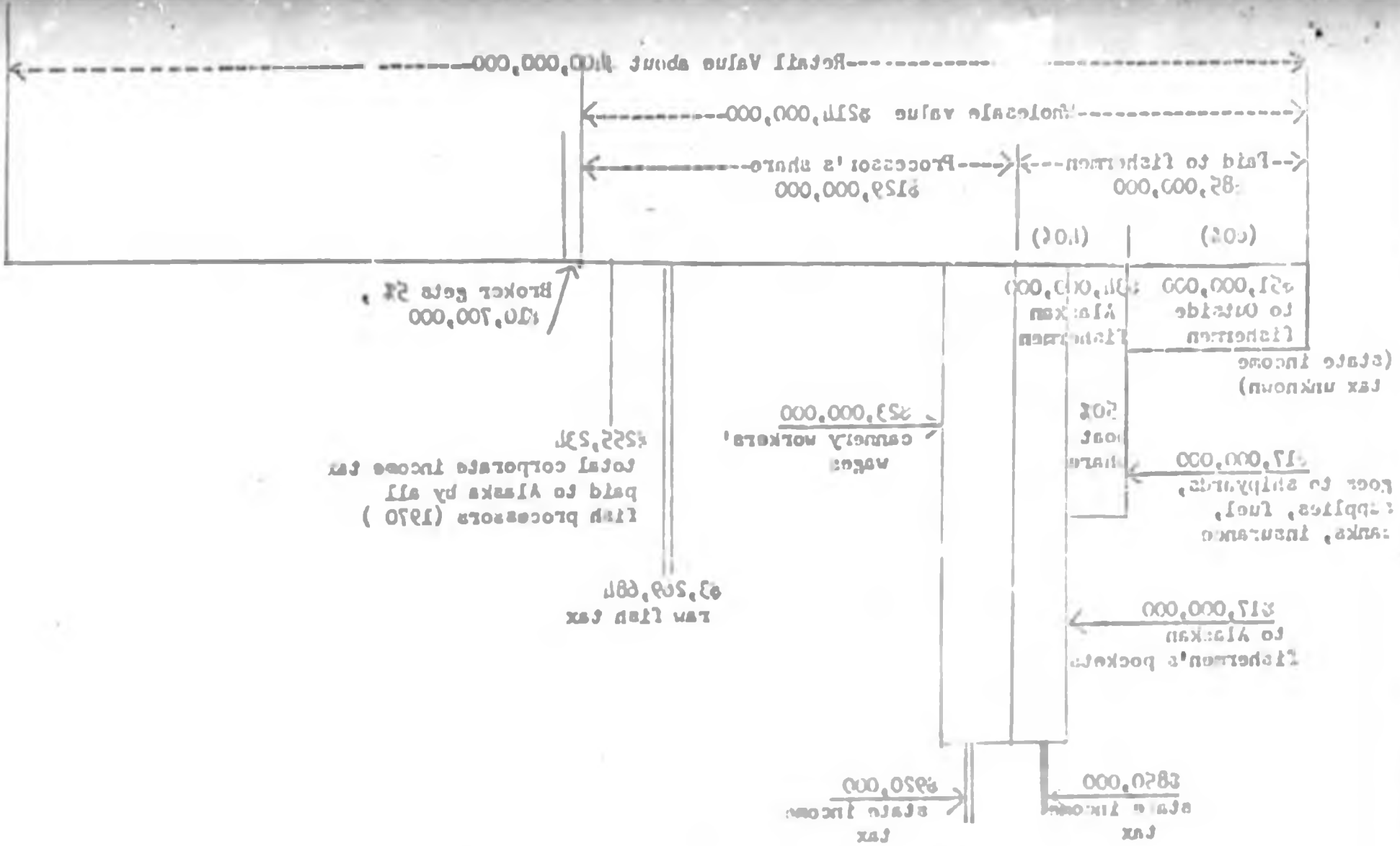
1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960



Compiled by Dave Hartman

Note: The wholesale value may be greater than indicated. Much of the industry is vertically integrated, with many processors having substantial interests at the fishing level as well as in brokering, labeling, and further distribution.

FORM OF FINANCIAL STATEMENT ALASKA FISHERY 1971





growing, processing or dealing  
processors, or deals and insert with respect to the  
On page 1, line 11, after "person," strike "who grows."

BY

Senate Committee Amendment to Senate Bill No. 5388

1973 ALASKA SEAFOOD VALUES AND TAX REVENUE PROJECTIONS

	Value to fishermen	First wholesale	Existing tax	Proposed tax
Canned salmon	\$32,000,000	25,000,000	\$1,570,400	\$1,570,400
Frozen salmon		8,000,000	60,000	60,000
Fresh salmon		700,000		
Salmon roe		12,000,000		1,000,000
<b>Sub total</b>	<b>\$32,000,000</b>	<b>85,700,000</b>	<b>1,630,400</b>	<b>2,630,400</b>
King crab				
shore-based	13,600,000	26,000,000	136,000	680,000
floater	9,700,000	23,000,000	388,000	1,940,000
<b>Sub total</b>	<b>23,300,000</b>	<b>49,000,000</b>	<b>524,000</b>	<b>2,620,000</b>
Shrimp				
shore-based	4,300,000	20,000,000	43,000	215,000
floater	900,000		36,000	180,000
<b>Sub total</b>	<b>5,200,000</b>	<b>20,000,000</b>	<b>79,000</b>	<b>395,000</b>
Tanner crab	6,000,000	16,000,000	60,000	300,000
Langeness crab	2,000,000	4,500,000	20,000	100,000
Scallops	1,400,000	1,700,000	14,000	70,000
Halibut	14,000,000	18,000,000	140,000	420,000
Herring	270,000	2,000,000	2,700	13,500
Herring roe			200,000	
<b>Total Seafood</b>	<b>\$81,170,000</b>	<b>\$197,900,000</b>	<b>\$2,470,100</b>	<b>\$6,748,900</b>

1973 PROJECTED FISH PROCESSOR TAX REVENUES

Revised Budget Estimate	32,200,000
20% Revenue Sharing (actually 13%)	<u>286,000</u>
Net to state	1,914,000

Proposed Increases

King Crab	2,096,000
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Shrimp	316,000
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Halibut	280,000
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Others	387,000
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Roe	<u>1,200,000</u>
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Total Increases	<u>4,279,000</u>
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Total Proposed Revenues	6,193,000
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40% Revenue Sharing (actual 25%)	<u>1,518,000</u>
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Net to State	4,615,000
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Net Increase to State	2,731,000
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In 1971 under 20% revenue sharing only 13% was actually shared with the communities. Less than 10% of proposed revenues would be actually shared. The 11,000,000 collected at Adak, for instance, would go solely to the state.

### SALMON

The present tax on canned salmon is 3% of the value of the pack, with the value determined as the average wholesale price over the preceding five years. This is roughly equivalent to 6% of the value to the fishermen. Shore-based processors purchasing salmon for purposes other than canning, such as fresh or frozen production, pay a tax of 1% of the value to the fishermen. Freezer ships and other floating cold storages pay a tax of 4% of the value to the fishermen, except that if they remain in the same location for more than one year, they pay at the shore-based rate of 1%. SB169 does not change these rates.

### CRAB

Crab canneries, both shore-based and floating, presently pay a tax of 2% of the value of the raw crab. Crab purchased for fresh or frozen production, as most crab are, is taxed at the rate of 1% for shore-based and 4% for floaters. SB169 proposes taxing all crab at the rate of 5% for shore-based processors and 20% for floating processors.

There are several reasons for taxing the floating processors at the considerably higher rate. Unlike the past, when floaters were needed, the crab processing industry today has more than adequate capitalization. A shore-based plant makes significant contributions to the local economy through property taxes, construction and maintenance costs, providing more steady jobs, etc. A floater has the competitive advantage of being able to locate closer to the grounds than a shore-based plant, and so is able to purchase crab at a considerably lower price during a quick season. For instance, the town of Kodiak is on the north end of the island while the heavy king crab fishing the last few seasons has been at the south end. Last year crab was selling for as little as 32 cents at the south end while at the same time it was as high as 1.0 cents in town. The 15% differential, about 4 1/2 cents, would tend to diminish these advantages.

But probably the most important reason for the higher tax on floaters is that they traditionally move into the new or more distant grounds first and get the 'cream of the crop'. It is at these times, before the stocks are fully- or over-harvested, that an impact of management dollars is needed to inventory the stocks and find the right sustained yield harvest levels. This is presently lacking. Protection is also needed in these areas, where it is particularly expensive.

King crab is Alaska's one monopoly and our most lucrative fishery, and it makes sense to use a small part of this wealth for better management of our present and developing fisheries.

### SHRIMP

Shore-based shrimp processors presently pay a tax of one per cent of the value to the fishermen, while a floating processor pays 4%. SB169 proposes raising this to 5% for shore-based and 20% for floaters.

New floaters have recently been moving into the Chirikof-Band Point area, yet the state has no management or protection program.

The proposed tax on shrimp is actually quite low since the value to the fishermen is such a relatively low percentage of the first wholesale value. An amount equal to all the additional tax revenues from shrimp is very badly needed for the neglected resource.

## HALIBUT

The present tax on halibut purchases by cold storages is 1% of the value to the fishermen. SB169 proposes raising the rate to 3%.

In the past there were good arguments for a low tax on halibut, but these are no longer valid with today's high prices. The large halibut boat will fish steadily until he has a load or up to three weeks before selling his fish. Roundtrip running time from the Kodiak area, which is in the midst of the major grounds, to Seattle is 10 to 12 days. Back in 1967 when the price was 16 cents in Kodiak and 25 cents in Seattle, a boat running to Seattle would receive 10% more money for his catch. Last year, with a price of say 70 cents in Kodiak and 77 cents in Seattle, he would receive only 10% more for his catch, while the increased running time would lengthen the time of his trip by maybe 50%. Seattle, formerly the major American buyer, has had a sharp decrease in landings the past several years, and in 1972, when the halibut price was 100% above 1971 prices, Seattle's already small landings decreased 300%.

Many halibut fishermen had very lucrative seasons this year. Additionally, halibut fishermen, unlike all other fishermen, do not have to pay Alaska income tax on any earnings from fish caught outside three miles, as most halibut reportedly are.

## ROE PROCESSOR TAX

SB169 proposes that the roe processor pay a tax of 25 cents per pound of roe processed. The value of the salmon presently taxed as determined by the canned salmon tax does not include the value of the roe. Salmon roe processors reported to Fish and Game that they received \$1.25/lb from the 1971 roe pack. Japanese market reports show that when the roe reached the Tokyo wholesale market in the fall of 1971, it was worth about \$3.25/lb. Freight and market fees are only about \$.25/lb, so I reckon that the roe was worth about \$3.00/lb when leaving Alaska.

People's opinions differ as to where the burden of this tax will fall. Twenty-five cents per pound on roe would produce revenues equal to about 1% of the first wholesale value of the entire salmon production. This burden would be on all processors equally--cold storage and canners alike. The next question is how much of the tax will be passed back onto the fishermen. The vast majority of salmon are sold by the fishermen in the round. When the roe became extremely valuable instead of a waste product, fishermen did not see a corresponding raise in prices. I see no reason why when these extra profits are taxed that the burden should fall completely back onto the fishermen. I feel it will probably be shared by all segments of the industry.

Many salmon fishermen are interested in rehabilitation of the runs, improved management, and hatcheries of some type. With the lack of oil money, I feel the industry should be willing to pay for the investment in the resource. It seems reasonable to 'tax eggs to hatch eggs'. It should all pay off many times over in the long run.

## REVENUE SHARING

Under the existing law, 20% of the fish tax revenues are shared with the local governments in which they are collected. In 1971 only 13% of gross revenues were shared, because considerable amounts are collected in unorganized areas. SB169 proposes sharing 10% with the local governments. This would work out to actually sharing only about 25%. For instance, the million dollars collected from the Adak king crab catch with the increased floor tax would go only to the state.

Fishing communities have special tax problems. Our industry produces much wealth, but usually so little of it stays in the local community. Fishing boats and floating processors are difficult to tax. Sales and property taxes are paid largely by the resident, while the transient makes his money and heads south. Ninety-five percent of Alaska's fish are processed by Outside-owned corporations, so their profits don't stay in the community. It is difficult to tax a salmon boat, for only the local boat can be taxed, and the tax could be the last straw on a bad year.

Seafood money flows into the local economy mainly through the local fishermen and canneryworkers, and these two groups have a difficult time passing on direct taxes. It is more fair to get the same number of dollars by taxing the fish, for then the local tax burden is shared by the whole industry, including the Outsiders.

Other areas of the state have industries that provide buildings, heavy equipment, pipelines, oil platforms, steadier payrolls, etc, that can be more easily taxed with local taxes. Fishing communities spend money trying to provide the services for an industry which is difficult to tax locally. The help of the state through revenue sharing of the fish tax is needed in order for our fishing communities to tax the wealth of our industry.

Foster and Marshall recently did a tax study for Kodiak to determine how the town can raise the money needed to pay for the new high school addition and swimming pool. It recommended raising the sales tax from 3% to 5% and taxing the fishing boats full value. The increased shared revenues under 5K169 would provide about the same amount of dollars. It's an 'either-or' situation for Kodiak.

#### SUMMARY

'Tax' is too often considered a dirty word---everybody wants to avoid it, particularly politicians. But taxes are a necessary part of democracy and capitalism. They are the way of appropriating part of the wealth to serve those needs of industry and society that cannot be served by free enterprise alone. It's easy under socialism or communism, for then all the revenues from production go directly to the government, but I don't think we are interested in that.

Completely unrestricted free competition in the harvesting of fish doesn't work. Even though to a few fishermen at times management may seem to be an evil, management is absolutely necessary, and we should work to make sure that it's as effective as possible.

In eight years time in Kodiak I have lived through inadequate management of two major fish stocks, king crab and shrimp, and have twice experienced the results of overfishing, and now it's happening all over again with Tanner crab. For several years I fished tremendously rich shrimp and king crab grounds--the prices were low, but the volume was great, and we did well. But now some of those grounds are seriously depleted or practically barren. The prices went up to help compensate for the lower volume, but think how much richer we would all be if we had had adequate management.

I don't put all the blame on Fish and Game. Some of their managers probably made some mistakes, but they can't work without tools. The king crab and shrimp budgets have been terribly small. It costs money to gather the research data and inventory the stocks.

The blame lies with all of us--processors, fishermen and the state--we've neglected management until the resource got in trouble. Our fisheries have fantastic potential if we only pay them the necessary attention. The responsibility of management rests with the state. I love fishing--it's my way of life--but I enjoy it much more when I feel I'm harvesting, rather than raping, the resource.

Table 1. Commercial Fisheries Values and Budgets (Thousands of \$)

Year	Fishermen	Value Wholesale	Budget					Total	% of Wholesale
			Management	Research	88-309	89-304	Misc.		
50	40,934	96,674	511	200			711	0.74	
51	46,470	128,687	914	264			1,178	0.92	
52	58,436	131,938	900	284			1,184	0.90	
53	46,859	109,038	913	327			1,240	1.14	
54	56,843	140,921	1,147	498	20		1,665	1.18	
55	70,083	166,572	1,037	257	290	50	1,634	0.98	
56	81,902	197,299	1,073	361	328	20	1,782	0.90	
57	48,777	126,696	1,165	384	333	166	2,048	1.62	
58	79,900	191,686	1,275	375	328	425	2,403	1.25	
59	71,024	144,200	1,317	692	328	425	2,762	1.92	
70	98,390	213,932	1,502	746	304	425	2,977	1.39	
71	85,505	198,658	1,989	980	304	388	3,661	1.84	
			2,095	1,052	304	388	4,222		
							Avg.	1.18	

Table III - Pacific Coast Halibut Landings (Land., Hds-off, wei-hts) 1971 and 1972\*

	Total 1971		Total 1972	
	U. S. Vessels 1,000 lbs	Canadian Vessels 1,000 lbs	U. S. Vessels 1,000 lbs	Canadian Vessels 1,000 lbs
<b>Alaska:</b>				
Juneau	1,220.0	13.0	1,017.0	-
Ketchikan	2,742.0	23.0	1,242.0	-
Kodiak	4,425.0	4,792.0	5,167.0	3,246.0
Pelican	865.0	581.0	653.0	459.0
Petersburg	2,528.0	61.0	2,504.0	48.0
Sand Point	276.0	408.0	651.0	314.0
Seward	2,442.0	1,169.0	3,401.0	1,577.0
Sitka	1,139.0	124.0	1,159.0	70.0
Wrangell	417.0	-	342.0	-
Other Central Alaska	648.0	38.0	920.0	-
<b>Total Alaska</b>	<b>16,702.0</b>	<b>7,209.0</b>	<b>17,833.0</b>	<b>5,714.0</b>
Prince Rupert	1,500.0	11,514.0	1,237.0	17,142.0
Vancouver	-	4,719.0	-	4,263.0
Seattle	1,675.4	110.6	631.0	-
Bellingham	724.0	1,940.4	510.0	1,320.0
Other Washington Ports	219.6	-	233.3	-
Oregon	69.0	3.0	48.0	-
<b>Total</b>	<b>21,375.0</b>	<b>25,406.0</b>	<b>19,982.3</b>	<b>21,337.0</b>

\* Includes British Columbia and Washington. / Includes Yukon and Northern. 1/ Includes Eskdale. 2/ Includes Alaska and British Columbia. 3/ Includes Alaska and British Columbia. 4/ Includes Alaska and British Columbia.

Table IV - Halibut Market Prices (per lb) 1971 and 1972

Grade	Price per 250 lb	
	1971	1972
<b>Grade 1</b>		
Chinook, red	3.41 to 3.73	3.68 to 4.00
King, white, red	3.25 to 3.48	3.33 to 4.23
<b>Grade 2</b>		
Chinook, red	2.16 to 2.48	2.67 to 3.00
King, white, red	2.00 to 2.10	2.40 to 2.60
<b>Grade 3</b>		
Chinook, red	2.01 to 2.10	2.30 to 2.40
King, white, red	2.00 to 2.10	2.30 to 2.40



1. DEVELOPED FISHERIES

Shore Based

	canned salmon	45% (existing law)
existing	all salmon, except canned,	3.0% 7/1/79 - 6/30/80
law 1%	and all other fishery	3.5% 7/1/80 - 6/30/81
	resources	4.0% 7/1/81

Floater

existing	all fishery resources	5% 7/1/79 - 6/30/80
law 4%		5.5% 7/1/80 - 6/30/81
		6% 7/1/81

2. DEVELOPING FISHERIES (includes bottomfish and new commercial fisheries)

Shore Based 1%

Floater 3%

3. DISTRIBUTION

30% Boroughs - Cities (existing law 20%)  
20% Commercial Fish & Agriculture Bank  
50% General Fund

4. NO RETROACTIVE CLAUSE

5. TAX PHASE IN OVER 3 YEARS

1959 Opinions of the  
Attorney General, No. 14

March 26, 1959

Reversed in part as to sharing  
of taxes with local units of  
government by Opinion 31,  
December 2, 1960

The Honorable Hugh J. Wade  
Acting Governor of Alaska  
Federal Building  
Juneau, Alaska

Re: Effect of Section 7 of Article IX of the  
Constitution upon Existing Dedicated Funds

Dear Governor Wade:

I have your request for an opinion of March 14, 1959,  
in which you ask advice concerning the status of several  
dedicated funds in light of my opinion to you of March 11.

In that earlier opinion, I discussed the meaning of  
Section 7, Article IX of the Constitution. At page 3 of  
that opinion, it was stated that no action by the Legislature  
which tends to increase or decrease either the percentage or  
total of dedicated funds would be possible. At page 5, it  
was stated that the Legislature has no power to raise or  
lower the dedication by increasing the tax, or the rate of  
dedication.

The effect of such action by the Legislature will  
now be discussed:

(a) When the Legislature raises the tax, the excess  
tax simply goes into the General Fund.

(b) When the rate of dedication is raised or lowered,  
such action raising the rate of dedication is null and void  
as unconstitutional.

(c) When the purpose for which the dedication is set  
aside is altered the action changing the purpose of the  
dedication is null and void as unconstitutional.

(d) When the tax is lowered the entire dedication  
falls and all tax proceeds are covered into the General Fund.  
This last result is compelled by a realization that the lower-  
ing of the tax irrevocably lowers the dedication because

The Honorable Hugh S. White  
Acting Governor of Alaska

March 26, 1959  
- 2 -

insufficient revenues are available to maintain the present rate of the dedication. Since the only power retained by the Legislature with respect to a dedication (other than administrative directions in the management of the dedication) is the power of repeal, such irrevocable action is tantamount to a repeal of the dedication.

Review of the following dedications were requested.

1. The Fish and Game Fund established by Section 10, Chapter 61, SLA 1957. This dedication was created subsequent to the date of ratification of the Constitution; hence, there is no provision for the fund under the Constitution clause. However, the fund is necessary by the fact that Federal law requires collection of fishing and hunting licenses. (See 16 U.S.C. 803 and 16 U.S.C. 777). However, other license proceeds which are deducted to the Fish and Game Fund, such as game licenses, fur animal licenses and fur dealers' licenses, should not be covered by Federal law to be deducted to the fund. These licenses should be covered into the General Fund. (Note that the only other statutory mention of such licenses is found in the Marine Game Law which is Federal law classified as 16 U.S.C. 1243, et seq.)

2. Your attention is directed to Chapter 131, SLA 1957, which requires liquor license monies to be incorporated cities therein collected. Such collection is permissible because of the authorization of Section 37-4-17, ACLA 1949. However, Chapter 131 unconstitutionally increases some of the license fees. You are advised that only the amount charged for the various license fees upon the date of ratification of the Constitution (April 12, 1956) may be refunded to the cities. The excess must be paid over wholly into the General Fund. All license fees due on or before January 1, 1959, may be refunded to the cities herein collected regardless of the foregoing. There remains only amounts upon licenses granted or otherwise owed upon subsequent to that date.

3. Your attention is also directed to Chapter 175, SLA 1957, which raises the school tax from \$7.50 to \$10.00. This tax is dedicated to the School Fund (see § 37-4-12, ACLA 1949). You are advised that the increase, or \$2.50, must be covered into the General Fund. However, since this annual tax is due on January 1 of each year, you are advised that the taxes for the year 1959 may be covered in whole to the School Fund.

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March 26, 1959

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1959 Opinions of the  
Attorney General, No. 9

March 17, 1959

The Honorable John A. McNees  
Alaska State Senator  
Senate Chambers  
Federal Building  
Juneau, Alaska

Re: Review of Senate Bill No. 94 as Regards  
Opinion of March 11, 1959

Dear Senator McNees:

Pursuant to your request on March 17, 1959, for a review of Senate Bill No. 94 in light of my opinion of March 11, 1959, to determine if the geographical allocations for which the highway fund is to be disbursed in that Bill contravenes Article III, Section 7 of the Constitution, you are advised that the answer is in the negative.

As stated in the opinion of March 11, existing dedications may be continued but may not be revised upward or downward by means of altering the tax, the rate of collection or the purpose for which the dedication will be used. You are advised that the purpose of the dedication of the taxes on motor fuels contained in subsection G of Section 43-5-2, A.C.M.S. 1959, as amended, is public highways. That purpose will not be changed by Senate Bill No. 94. The proposed act deals solely with the geographical allocation of funds and the administration thereof within the already existing special purposes. It would be contrary to the intent of the Constitutional Convention to assume that even and every case in existing dedications is frozen until repealed. For instance, necessary changes in administration, as contemplated by the constitutional re-organization of the executive branch of government, necessitate a change in the agency which will expend the funds. Consequently, inasmuch as the proposed alteration goes to the geographical area of expenditure rather than to the

The Honorable John A. McNees  
Alaska State Senator

March 17, 1959  
- 2 -

special purpose of the dedication, it does not contravene  
the Constitution.

Very truly yours,

J. GERALD WILLIAMS  
Attorney General

By  
Jack O'Hair Asher  
Assistant Attorney General

JO:HK:mc

cc:

The Honorable Hugh J. Wade  
Acting Governor of Alaska  
Federal Building  
Juneau, Alaska

Mr. Richard Freer  
Acting Director of Finance  
Alaska Office Building  
Juneau, Alaska

1959 Opinions of the  
Attorney General, No. 7

March 11, 1959

Reversed in part as to  
Sharing of Taxes with Local  
Units of Government by Opin-  
ion No. 31, December 2, 1960.

The Honorable Hugh J. Wade  
Acting Governor of Alaska  
State Capitol  
Juneau, Alaska

Re: The Prohibition Against Dedicated Funds Contained  
in Article IX, Section 7 of the Constitution of  
the State of Alaska.

Dear Governor Wade:

I have for consideration your request of February 27, 1959,  
for an opinion on § 7, Article IX of the Constitution. . . You  
have specifically requested whether an increase in the tax on  
gasoline used in the aviation industry in Alaska could con-  
stitutionally be diverted to the Aviation Fund or whether the  
excess must go into the general fund.

Section 7 reads as follows:

"DEDICATED FUNDS. The proceeds of any state  
tax or license shall not be dedicated to any  
special purpose, except when required by the  
federal government for state participation in  
federal programs. This provision shall not  
prohibit the continuance of any dedication for  
special purposes existing upon the date of  
ratification of this constitution by the  
people of Alaska."

Inasmuch as this problem is related to a wide variety of com-  
plex revenue dedications which are now law or proposed law and  
since the problem is basic to state financing, the scope of  
this opinion is broadened beyond the question at hand to a  
general review of § 7 of the Constitution.

This section has been diligently researched by recourse  
to the minutes of the Constitutional Convention of 1955-1956.

The typed transcripts have been used wherever available. However, § 7 was introduced on the floor of the Convention on the morning of January 17, 1956, and no transcripts are available. For that morning session, the tape recordings of the debates of the delegates were listened to. References to the tapes so as to provide both pertinent quotations and their context would be impossible without extending this opinion to unmanageable length. However, references will be made to the tapes by giving the foot of tape at which the pertinent discussion transpires and then summarizing the occurrences, leaving the context to be verified from the original by interested persons.

To grasp the problem examination of the reasons behind § 7 and the evils to be avoided, thereby, will be necessary.

Prior to the Convention, the Public Administration Service was employed by the Alaska Statehood Committee to prepare Constitutional Studies for the convention delegates. See Vol. 3 of the Constitutional Studies, Sec. IX, pp 27-30. Among the reasons such a prohibition as is found in § 7 was recommended are the following:

1. Flexibility of budgeting.
2. Financial control.
3. Lack of relationship between the tax and purpose.

Percentages of dedicated funds as compared to total revenue were cited for various states.

Listening to the tape recordings of the morning session of January 17, 1956, impels the conclusion that the delegates were desirous of eliminating dedications so that the Legislature would have the greatest flexibility in allocating tax revenues on a basis of need. It was stated that, as a matter of compromise, a grandfather clause had been included in § 7 to permit all dedications existing on the date of ratification of the Constitution (April 24, 1956) to continue. An amendment to this clause, offering a change from the date of ratification to the effective date of the Constitution was defeated. (See the transcripts pp 57 et seq. on January 28, 1956.)

Other than the grandfather clause which permits existing dedications, there is a further exception to the prohibition. Any dedications "required" for participation in Federal programs are permitted. Federal conservation statutes presently require certain license fees to be diverted to special purposes in order for states to receive matching funds. (For instance, see 16 USCA 609 and 16 USCA 777.) Only those dedications which

Sen. Hugh J. Wade  
Acting Governor of Alaska

March 11, 1959

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the "required" will be permitted. Any attempted dedication of funds after April 26, 1956, which is not absolutely required for participation in Federal programs must be covered into the general fund, any statute not withstanding.

The prohibition against dedications should be read in conjunction with § 7 of Article XI of the Constitution which deals with restrictions on the initiative and referendum. Therein it is stated that the initiative and referendum shall not be used to create or apply to dedications of "revenue." Note that the prohibition in § 7, Article XI is against dedications of "proceeds of any state tax or license." This seeming contradiction is resolved by reference to the typed transcripts at page 31 of January 24, 1956. There it was explained to be the intent that "revenues" is a broader term than "tax or license" and means all proceeds coming to the State. Consequently, it is proper for a legislature to dedicate any revenues that are proceeds of neither taxes or licenses.

The grandfather clause is stated as an exception to the general prohibition in the following language:

... This provision shall not prohibit the continuation of any dedication for special purposes existing upon the date of ratification. . . .

The question you pose is whether or not the rate of the dedication can be raised. In other words, if a tax proceed or a portion thereof is dedicated to a special purpose, may the rate of tax be or the proportion of the proceeds be raised, thereby increasing the amount of dedicated funds.

It is my opinion that no action by the Legislature is permissible which would (1) tend to increase or decrease the percentage of the total tax and license proceeds which are dedicated, or (2) which would tend to increase or decrease the amount of proceeds which are dedicated.

The exception permits only the "continuation" of dedications "existing" on the date of ratification. To raise the aviation gas tax from 5 to 7 cents and dedicate the whole proceeds would constitute another and further dedication of tax and not one for 7 cents. To permit existing dedications to be raised would "open end" all of them existing upon the date of ratification. The purpose of the prohibition would be defeated. Existing dedications could be raised to inordinate percentages of the total revenues, thus shifting the financial responsibility sought by the constitutional framers.

Hon. Hugh J. Wade  
Acting Governor of Alaska

March 11, 1959

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The foregoing opinion is born out by the taped recordings of the Convention proceedings. (Refer to tapes 2, 3 and 4 of January 17, 1958.)

At foot 540, tape 3, Delegate Johnson proposed to amend the present § 7 by striking the words, "prohibit the continuance of" and inserting in their place the words "apply to."

At foot 600, tape 3, Delegate Ralph Rivers spoke in favor of the amendment because he felt it would permit repeal and re-enactment of existing dedications. Delegates Johnson and Nolan at foot 640, tape 3, indicated their understanding of the amendment was that the Legislature would be powerless to repeal an existing dedication. (Note: Delegates Johnson and Rivers were for the amendment, but disagree as to its meaning. However, both they and Delegate Nolan indicate that the section without the amendment could not be repealed and re-enacted at a later date.)

At foot 55, et seq., tape 4, Delegate Victor Rivers says Delegate Johnson's amendment should be supported because it would permit existing dedications to be raised, lowered, replaced or eliminated by the Legislature. He stated that the amendment would therefore give greater flexibility than the present wording.

At foot 125, tape 4, Delegate Nerland stated that he spoke for the Committee on Finance and Taxation, and that it was their intent that present dedications be allowed until repealed; but that once it was repealed, it could not be later re-enacted.

At foot 215, tape 4, this amendment was defeated 40 to 13.

At foot 330, tape 4, Delegate Ralph Rivers offered an amendment to § 7 which would delete the words "the continuance of."

Delegate Ralph Rivers at foot 345, says the present wording freezes the exact rates of the dedications allowed upon the date of ratification of the Constitution. He advocated his amendment so as to give more flexibility. He stated that his amendment would not allow the rate to be raised but would allow it to be lowered or temporarily discontinued.

At foot 395, tape 4, Delegate Coghill supported the amendment to § 7 because if adopted, it would permit the dedication to be temporarily done away with or suspended downward; thereby allowing the Legislature more flexibility for growth or decline in financial problems.

Hon. Hugh J. Wade  
Acting Governor of Alaska

March 11, 1959

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At foot 420, tape 4, Delegate Gray challenged the amendment on the grounds that it was, in substance, the same amendment as the earlier one offered by Delegate Johnson at foot 540 of tape 3.

Delegate Ralph Rivers answered Delegate Gray by saying that the purpose of Delegate Johnson's amendment was to permit doubling the dedications or the rate involved, and the purpose of his own amendment was to permit lowering of rates while still prohibiting the rates from being raised by the Legislature. Delegate Ralph Rivers' amendment was also defeated, leaving § 7 substantially as it appears in the Constitution after re-drafting by the Committee on style and drafting.

Consequently, the intent of the drafters of the Constitution of the State of Alaska, was to permit the continuance of existing dedications at the then existing rates until the Legislature saw fit to exercise the only power retained in relation to them: that is, the power to repeal.

A dedication must be continued, if at all, in exactly the same form. Any attempted alteration short of repeal is nullity. A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. The Legislature has no power to raise or lower the dedication by increasing or decreasing the tax or license fee or the rate thereof which is set aside. Also, there is no power to broaden or reduce the purposes for which an existing dedication is made, for to do so is to alter the dedication itself.

I have for further consideration, two questions submitted by the Director of the Legislative Council. For purposes of continuity and clarity, these questions and their answers will be set out herein.

(1957)

The first question is whether H.B. 120, which is substantially a re-enactment of Ch. 10, SLA 1949, the Alaska Property Tax Act, violates § 7 of the Constitution by providing in § 4 of the bill that the tax levied by the State shall be turned over to the local political subdivision wherein collected.

You are advised that it is my opinion that such a provision violates the Constitution and is a prohibited application. This is a tax proceed which at the time it is collected is earmarked for a special purpose (political subdivisions). There is, however, nothing to prevent such political subdivisions from annually making an appropriation to the political subdivisions of the monies already collected under the Act. To be sure, this is the

Hon. Hugh J. Wade  
Acting Governor of Alaska

March 11, 1959  
-6-

express intent of the constitutional framers: that each obligation of government be judged both on its own merits and in comparison with the merits of others in the computation of the budget. (See page 31 et seq. of the written transcripts from the January 24, 1956, session of the Convention for the proposition that a dedication is present when a tax proceed is earmarked from the time it is collected.) Also note that at foot 110, tape 3, it is indicated that the return of liquor license fees and business license fees to political subdivisions constituted a dedication, but since they were earmarked at the time of ratification, they would continue to be dedicated.

The second problem posed by the Director of the Legislative Council is whether or not the raw fish tax refund to political subdivisions could be raised from the present 10% to 50%. In view of the foregoing expressions, the answer is in the negative.

You are further apprised that since the ratification date of the Constitution was April 26, 1956, all dedications made in the 1957 session of the Territorial Legislature are null and void as of January 3, 1959. Any monies due and owing prior to January 3rd may be covered to their earmarked purposes, but receipts due and owing after that which fall into the prohibited category must be covered into the general fund. Also note that any repeal or repeal and re-enactment of a dedication during that session takes the dedication from under the protection of the grandfather clause and a re-enactment either in 1957 or later is a nullity unless the dedication is required by the Federal Government for participation in Federal programs.

Very truly yours,

J. GERALD WILLIAMS  
ATTORNEY GENERAL

By  
Jack O'Hair Asher  
Assistant Attorney General

JOH:bb

Addendum: On page 5, paragraph 6, after H.B. 126, insert "introduced in the 1957 Legislature."

cc: Department of Finance  
Alaska Office Building  
Juneau, Alaska

March 14, 1979

The Honorable Clem Tillion  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: CSSB 132 (FINANCE), relating to fish-  
processing taxes

Dear Senator Tillion:

In your letter of March 12, 1979, you requested that this office review AS 43.75.131 and 135 as proposed in the above-referenced bill in light of the comments of Senator Ziegler, Chairman, Senate Judiciary Committee, who raised substantial concerns regarding the constitutionality of these provisions under Article 9, Section 7 of the Alaska Constitution. That provision states:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

AS 43.75.130 and 135 in the present fish processing tax chapter presently provide that the "commissioner of revenue shall pay to each organized borough and each city of the first class [twenty percent] of the amount of tax revenue" collected under this chapter. Since § 130 was originally enacted in 1962 (§ 6, ch. 155, SLA 1962) and § 135 in 1963 (§ 1, ch. 89, SLA 1963) neither of the refund provisions qualify under the grandfather clause in the second sentence of the constitutional provision. This mandatory language ("shall pay") was carried over into the new proposal AS 43.75.131 which requires the following distributions:

1. Subsection (a) states that "the department shall pay to each borough and to each city of the first class an amount equal to 33 and 1/3 percent of the amount of tax revenue collected" under AS 43.75.

2. Subsection (a) also requires that the tax revenue be shared equally between city and boroughs when the city is located within a borough.

3. Subsection (b) states that "one-half of the revenue shared . . . shall be used for docks or other fisheries related development programs."

It is our opinion that Senator Ziegler's concerns are well-founded and that the language in AS 43.75.131 as written might well be found to be facially invalid under the state constitutional provision prohibiting the dedication of funds. Even with the mandatory language of the existing statute, the Department of Law has always construed these provisions as (1) requiring an appropriation and (2) that each subsequent legislature has the discretion as to whether or not to make such an appropriation for the purposes stated in the underlying statute. Thus, any such formula is advisory only and operates as an expression of the policy of the enacting legislature and nothing more. However, Senator Ziegler is quite correct in that the advisory nature of such language should be made more express so that the language of the provision would not become subject to a challenge that on its face the provision violates the intent of the constitutional provision.

We therefore recommend that proposed AS 43.75.131 and 136 as stated in CS for SB 132 (FINANCE) Section 3 be modified as follows:

AS 43.75.131. REFUND TO LOCAL GOVERNMENTS.  
The legislature may, in its discretion, annually appropriate to each borough, each city of the first class, each municipality unified under AS 29.68.240--29.68.440 an amount equal to 33 and 1/3 percent of the amount of the tax revenue collected in the municipality from taxes levied in this chapter. In the case of tax revenue collected inside a city within a borough, the legislature may, in its discretion, divide the revenue to be shared equally between the city and the borough.

[Subsection (b) should be deleted in its entirety.]

AS 43.75.136. PAYMENTS TO COMMERCIAL FISHING AND AGRICULTURE BANK. The legislature may in its discretion annually appropriate an amount equal to 33 and 1/3 percent of the amount of tax revenue levied under this chapter to the Commercial Fishing and Agriculture Bank established in AS 44.54.010 until that bank is fully capitalized as determined by the commissioner of commerce and economic development based upon the estimated capital needs of the bank.

In addition to the safeguard which I mentioned in our meeting this morning, I would further recommend that sec. 12 of the Act be modified as follows:

EFFECT OF REVENUE SHARING PROVISIONS AND TRANSITIONAL RULES. The tax paid for the 1978 calendar year may be shared in accordance with AS 43.75.130 and AS 43.75.135 as those sections read before repealed by this Act. The tax paid for the 1979 calendar year and for each succeeding calendar year may be shared in accordance with AS 43.75.131, added by sec. 3 of this Act, depending upon the judgment of each subsequent legislature and upon the amounts properly appropriated for this purpose. It is recognized by this legislature that AS 43.75.131 and 136 are advisory only, that they have no binding effect on future legislatures, and that future legislatures will be free to disregard the formula outlined in the sections.

In addition, it is suggested that the reporting committee issue a letter of intent along with the proposed committee substitute, a draft of which is attached to this letter.

Sincerely,

AVRUM M. GROSS  
ATTORNEY GENERAL

By:  
Joseph K. Donohue  
Assistant Attorney General

JFD:chw

Enclosure

bcc: Art Peterson

DRAFT

It is the intent of this committee that the revenue shared with the local municipalities pursuant to AS 43.75.131 be used for docks and other fisheries related projects. It is believed that such improvements would operate as an incentive to the development of a bottomfishing industry in the state as well as to improve and further develop the fisheries currently being exploited. This committee recognizes that AS 43.75.131 and 136 merely reflect the policy of the current legislature and that future legislatures would be free to disregard the formula set forth therein. Future legislatures should examine the extent to which municipalities which have received these revenues have made reasonable efforts to meet the demand for fishery related facilities. If future legislatures find that needed fisheries development programs have not been implemented, the revenue sharing program reflected in AS 43.75.131 should be reevaluated.



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

### DOCUMENTS RELATED TO CSSB132

1. CSSB 132 (Rules)
2. Letter to Senator Tillion from Senator Ziegler re constitutionality questions.
3. Letter to Senator Tillion from Joseph Donahue, Assistant A.G., re constitutionality questions.
4. Letter to Rep. Osterback from John Messenger, Acting Commissioner of Revenue, re revenue sharing projections.
5. Fiscal Note -- Dept. of Revenue re Shared Taxes
6. Fiscal Note -- Dept. of Revenue re Revenue Collection and Management.
7. Review of various versions of SB132 with reference to local government refund provisions.
8. Letter to Senator Sackett from John Messenger re fisheries tax structure.
9. Letter of Intent re SB 132 from Senate C&RA Committee.
10. Minutes -- Senate Finance Committee 3/9/79
11. Minutes -- Senate Finance Committee 3/10/79
12. July 1977 Memo--From: Avrum Gross, A.G., To: Roger Pegues Assist A.G.. RE: Municipal revenue sharing, fish processing taxes
13. Department of Revenue Guideline
14. Fiscal Note--Dept. of Revenue: requested by Osterback  
Re: Revenue Collection and Management

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Official Business

Senate  
Office of the Secretary

March 13, 1979

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM TO: Rules Committee  
From: Secretary of the Senate *AM*  
Subject: COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 132  
(relating to fisheries taxes) - Conclusion  
on by Senate Judiciary Committee Chairman

President Tillion referred the above message to the Rules  
Committee this date.



Official Business

Senate  
Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99801

March 12, 1979

The Honorable Clem Tillion  
President of the Senate  
Alaska State Legislature

Re: CSSB 132

Dear Mr. President:

On March 9, 1979, you requested me, in my capacity as chairman of the Senate Judiciary committee, to review the captioned bill and to report to the Senate as to its constitutionality.

At the outset, I should state that the following comments are mine and mine alone; I do not profess to speak for the other members of the Judiciary committee. It should likewise be noted that I do not claim any special expertise in the field of constitutional law, nor have I had sufficient time to devote to the research which would ordinarily be entailed in analyzing this bill.

A close reading of CSSB 132 indicates two sections of the bill would run afoul of the Alaska Constitution. Those two are 43.75.136, providing for payments to the Commercial Fishing and Agriculture Bank, and 43.75.131, making increased refunds to local government.

Article IX, sec. 7 of the Alaska Constitution provides as follows:

"The proceeds of any state tax or license shall not be dedicated to any special purpose except when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of the constitution by the people of Alaska."

I was assisted in my efforts to check the constitutionality of the questioned sections of the bill by the opinions of two Attorneys General dated, respectively, April 4, 1969 and May 2, 1975. Both opinions not only considered the case law of this and other jurisdictions, sparse as it is, but they also reviewed the minutes of the Alaska Constitutional Convention and committees thereof. It is evident, in both these opinions, that the framers of our constitution did not want to have additional taxes earmarked or dedicated to special purposes.

A dedication of ten per cent of the fish tax existed at the time of the ratification of the Constitution, and the dedication clearly falls within the exemption. Problems arise when that ten per cent is increased, as in the instant bill, to thirty-three and one-third per cent. The issue of the constitutionality of increasing the percentage of an existing dedicated fund was not specifically addressed by either of the opinions reviewed. However, material contained in these opinions strongly suggests that increasing an existing dedicated fund was not intended by the Constitution.

It is equally clear that payments to the Commercial Fishing and Agriculture Bank and earmarking state tax revenue for the construction of docks, etc. by local governmental units would do violence to the Constitution of the State of Alaska.

The Attorney General's opinion of April 4, 1969 holds:

"The proceeds of any state tax or license which must be shared with local governmental units are dedicated to a special purpose and are in violation of Article IX, sec. 7 of the Alaska Constitution."

The Attorney General's opinion of May 2, 1975 states:

"Accordingly, it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs."

Conclusion: CSSB 132, as written, is patently unconstitutional.

Respectfully submitted,

  
Robert H. Ziegler, Sr.  
Chairman  
Senate Judiciary Committee

RHZ/pkz

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

March 14, 1979

The Honorable Clem Tillion  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: CSSB 132 (FINANCE), relating to fish-  
processing taxes

Dear Senator Tillion:

In your letter of March 12, 1979, you requested that this office review AS 43.75.131 and 135 as proposed in the above-referenced bill in light of the comments of Senator Ziegler, Chairman, Senate Judiciary Committee, who raised substantial concerns regarding the constitutionality of these provisions under Article 9, Section 7 of the Alaska Constitution. That provision states:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

AS 43.75.130 and 135 in the present fish processing tax chapter presently provide that the "commissioner of revenue shall pay to each organized borough and each city of the first class [twenty percent] of the amount of tax revenue" collected under this chapter. Since § 130 was originally enacted in 1962 (§ 6, ch. 155, SLA 1962) and § 135 in 1963 (§ 1, ch. 89, SLA 1963) neither of the refund provisions qualify under the grandfather clause in the second sentence of the constitutional provision. This mandatory language ("shall pay") was carried over into the new proposal AS 43.75.131 which requires the following distributions:

1. Subsection (a) states that "the department shall pay to each borough and to each city of the first class an amount equal to 33 and 1/3 percent of the amount of tax revenue collected" under AS 43.75.

2. Subsection (a) also requires that the tax revenue be shared equally between city and boroughs when the city is located within a borough.

3. Subsection (b) states that "one-half of the revenue shared . . . shall be used for docks or other fisheries related development programs."

It is our opinion that Senator Ziegler's concerns are well-founded and that the language in AS 43.75.131 as written might well be found to be facially invalid under the state constitutional provision prohibiting the dedication of funds. Even with the mandatory language of the existing statute, the Department of Law has always construed these provisions as (1) requiring an appropriation and (2) that each subsequent legislature has the discretion as to whether or not to make such an appropriation for the purposes stated in the underlying statute. Thus, any such formula is advisory only and operates as an expression of the policy of the enacting legislature and nothing more. However, Senator Ziegler is quite correct in that the advisory nature of such language should be made more express so that the language of the provision would not become subject to a challenge that on its face the provision violates the intent of the constitutional provision.

We therefore recommend that proposed AS 43.75.131 and 136 as stated in CS for SB 132 (FINANCE) Section 3 be modified as follows:

AS 43.75.131. REFUND TO LOCAL GOVERNMENTS.  
The legislature may, in its discretion, annually appropriate to each borough, each city of the first class, each municipality unified under AS 29.68.240--29.68.440 an amount equal to 33 and 1/3 percent of the amount of the tax revenue collected in the municipality from taxes levied in this chapter. In the case of tax revenue collected inside a city within a borough, the legislature may, in its discretion, divide the revenue to be shared equally between the city and the borough.

The Honorable Clem Tillion  
March 14, 1979  
Page 3

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[Subsection (b) should be deleted in its entirety.]

AS 43.75.136. PAYMENTS TO COMMERCIAL FISHING AND AGRICULTURE BANK. The legislature may in its discretion annually appropriate an amount equal to 33 and 1/3 percent of the amount of tax revenue levied under this chapter to the Commercial Fishing and Agriculture Bank established in AS 44.54.010 until that bank is fully capitalized as determined by the commissioner of commerce and economic development based upon the estimated capital needs of the bank.

In addition to the safeguard which I mentioned in our meeting this morning, I would further recommend that sec. 12 of the Act be modified as follows:

EFFECT OF REVENUE SHARING PROVISIONS AND TRANSITIONAL RULES. The tax paid for the 1978 calendar year may be shared in accordance with AS 43.75.130 and AS 43.75.135 as those sections read before repealed by this Act. The tax paid for the 1979 calendar year and for each succeeding calendar year may be shared in accordance with AS 43.75.131, added by sec. 3 of this Act, depending upon the judgment of each subsequent legislature and upon the amounts properly appropriated for this purpose. It is recognized by this legislature that AS 43.75.131 and 136 are advisory only, that they have no binding effect on future legislatures, and that future legislatures will be free to disregard the formula outlined in the sections.

In addition, it is suggested that the reporting committee issue a letter of intent along with the proposed committee substitute, a draft of which is attached to this letter.

Sincerely,

AVRUM M. GROSS  
ATTORNEY GENERAL

By:

*Joseph K. Donohue*

Joseph K. Donohue  
Assistant Attorney General

JKD:chw

Enclosure

DRAFT

It is the intent of this committee that the revenue shared with the local municipalities pursuant to AS 43.75.131 be used for docks and other fisheries related projects. It is believed that such improvements would operate as an incentive to the development of a bottomfishing industry in the state as well as to improve and further develop the fisheries currently being exploited. This committee recognizes that AS 43.75.131 and 136 merely reflect the policy of the current legislature and that future legislatures would be free to disregard the formula set forth therein. Future legislatures should examine the extent to which municipalities which have received these revenues have made reasonable efforts to meet the demand for fishery related facilities. If future legislatures find that needed fisheries development programs have not been implemented, the revenue sharing program reflected in AS 43.75.131 should be reevaluated.

1977-78 Raw Fish Tax for 2<sup>nd</sup> Class Cities  
and Unincorporated Areas

	<u>Raw Fish Tax</u>	<u>20% return</u>	<u>33½ return</u>
	\$ 65,460	\$ 13,092	\$ 21,798
	48,470	9,694	16,140
2 ND	26,166	5,233	8,713
CASS	22,687	4,537	7,555
CITIES	4,619	924	1,538
	4,533	906	1,511
	2,012	402	671
	1,213	243	404
	791	158	264
	643	129	214
	275	55	92
	54	31	51
	25	5	8
	25	5	8
	25	5	8
	<u>177,098</u>	<u>35,419</u>	<u>58,975</u>
	361,176		
UNINCORP.	344,011		
	323,990		
	165,117		
	149,783		
	68,383		

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Back-up  
info on  
CS132

(legislative committee  
mtg minutes,  
letters to & from  
regulators, fiscal notes etc)

# STATE OF ALASKA

4  
JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99811

March 8, 1979

The Honorable Alvin Osterback  
Co-Chairman  
House Resource Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Osterback:

You have requested the Department of Revenue look at fish tax receipts that would be collected if a tax rate based on the effective current canned salmon rate was applied uniformly.

The breakdown of revenues on the attached sheets is based on a tax rate of 4.45 percent. This rate was arrived at by taking the raw value of salmon used by canneries, \$121,758,700 (based on Fish And Game Catch Estimates) and dividing it by the FY 1978 tax collected from canneries, \$5,420,438.

The total amount of revenue that would be collected using a 4.45 percent rate would be \$15,205,850. A further breakdown of this total is attached for your information.

Sincerely,



John R. Messenger  
Acting Commissioner

Use 4.45% rather than 6%

GENERAL FUND PORTION  
(1977-1978)  
Based on 4.45%

EXISTING SYSTEM

\$7,097,820

PROPOSED SYSTEM

\$6,139,472

COMMERCIAL FISHING AND AGRICULTURE BANK  
(1977-1978)

EXISTING SYSTEM

\$ -0-

PROPOSED SYSTEM

\$5,068,617

REVENUE SHARING  
(1977-1978)

EXISTING SYSTEM

\$1,202,180

PROPOSED SYSTEM

\$3,997,761

TOTALS  
(1977-1978)

EXISTING SYSTEM

\$8,300,000

PROPOSED SYSTEM

\$15,205,850

FISH TAX PROPOSAL  
(1977-1978)  
Based on 4.45%

COMMUNITIES	REVENUE SHARED	
	EXISTING (20%)	PROPOSED (33-1/3%)
ANCHORAGE CITY & BOROUGH	\$ 40,519.66	\$130,868.76
BRISTOL BAY	92,780.60	157,318.90
CORDOVA	111,744.77	244,183.72
CRAIG	2,814.75	20,793.45
DILLINGHAM	32,802.06	242,915.29
HAINES BOROUGH*	35,471.84	79,277.08
HAINES	4.53	18.16
HOMER	6,467.84	31,544.62
HOONAH	2,239.25	16,560.33
HYDABURG	1,564.03	11,557.42
JUNEAU CITY & BOROUGH	8,032.77	59,424.20
KENAI BOROUGH*	132,326.36	388,598.39
KENAI	34,008.00	73,347.27
KETCHIKAN GATEWAY BOROUGH*	70,299.04	144,634.06
KETCHIKAN	15,652.76	44,418.73
KING COVE	11,608.46	62,039.79
KLAWOCK	22,721.11	37,811.93
KODIAK BOROUGH*	182,757.95	558,936.10
KODIAK	99,510.10	420,025.56
SEANANA	13.93	72.31
PELICAN	11,916.11	80,196.89
PETERSBURG	99,651.69	267,915.01
ST. MARY'S	235.00	1,710.31
SAND POINT	14,533.00	60,017.00
SELDOVIA	1,151.34	8,499.72
SEWARD	25,281.78	82,022.13
SITKA CITY & BOROUGH	7,308.47	54,057.69
UNALASKA	140,269.07	720,077.51
WRANGELL	11,565.98	36,207.38
YAKUTAT	1,460.59	10,729.25

\* Includes additional Revenue Sharing from cities within borough.

Figures are based upon 1978 collections for the 1977 tax year and may differ from budget figures based upon fiscal year cutoff.

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

6

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_  
Title An Act relating to fisheries taxes  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Revenue  
Program Category Affected Revenue Collection and Management  
BKU, Program, or Subprogram(s) Affected Audit Division  
(Note: If more than one budget component is affected, separate line items amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)


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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

It is estimated that this bill will raise an additional 12 million dollars and bring total fish tax collections to 20 million dollars. These collections will be split evenly among the general fund, revenue sharing to municipalities, and the commercial fishing and agriculture bank, until fully capitalized. It is estimated that revenue sharing to municipalities would be increased by about 4 million dollars as shown in the attached breakdown. It would also allow an annual appropriation to the commercial fishing and agriculture bank of approximately 7 million dollars. Revenue to the general fund would be increased by approximately 1 million dollars and then by a greater amount when the commercial fishing and agriculture bank is fully capitalized. A breakdown of the distribution of revenues is shown in the attached pages.

IV. DA: 2 2/26/79 PREPARED BY   
AGENCY Department of Revenue  
PHONE 465-2300  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (If Not Legislator Named)

GENERAL FUND PORTION  
(1977-1978)

EXISTING SYSTEM

\$7,097,820

PROPOSED SYSTEM

\$8,277,936

7,097,820

1,180,116 ✓

COMMERCIAL FISHING AND AGRICULTURE BANK  
(1977-1978)

EXISTING SYSTEM

\$ -0-

PROPOSED SYSTEM

\$6,834,037 ✓

REVENUE SHARING  
(1977-1978)

EXISTING SYSTEM

\$1,202,130

PROPOSED SYSTEM

\$5,390,233

1,202,130

4,188,103 ✓

TOTALS  
(1977-1978)

EXISTING SYSTEM

\$8,300,000

PROPOSED SYSTEM

\$20,502,261

8,300,000

12,202,261

FISH TAX PROPOSAL  
(1977-1978)

COMMUNITIES	TOTAL REVENUE COLLECTED		REVENUE SHARED	
	EXISTING	PROPOSED	EXISTING - (20%)	PROPOSED - (33-1/3%)
ANCHORAGE CITY & BOROUGH	\$ 202,598.29	\$ 529,886.46	\$ 40,519.66	\$176,452.19
BRISTOL BAY	463,903.02	636,932.85	92,780.60	312,115.28
CORDOVA	558,723.88	938,707.05	111,744.77	329,239.44
CRAIG	14,073.75	84,192.50	2,814.75	28,036.10
DILLINGHAM	164,010.31	983,561.86	32,802.06	327,526.09
HAINES BOROUGH*	177,336.56	320,918.67	35,471.84	106,890.40
HAINES	45.34	147.04	4.53	24.48
HOMER	64,678.37	255,447.72	6,467.84	42,532.05
HOONAH	11,196.27	67,052.62	2,239.25	22,328.52
HYDABURG	7,820.15	46,795.90	1,564.03	15,583.03
JUNEAU CITY & BOROUGH	40,163.84	240,608.04	8,032.77	80,122.48
KENAI BOROUGH*	327,097.01	782,202.92	132,326.36	523,952.65
KENAI	340,050.00	593,964.91	34,008.00	98,695.16
KETCHIKAN GATEWAY BOROUGH*	273,231.39	405,771.01	70,299.04	195,012.13
KETCHIKAN	156,529.09	359,702.06	15,652.76	59,890.39
KING COVE	58,042.28	231,193.56	11,608.46	83,649.12
KLANCK	113,605.53	153,100.14	22,721.11	50,982.35
KODIAK BOROUGH*	416,239.21	562,447.54	152,757.95	753,621.33
KODIAK	995,101.01	3,401,359.50	99,510.10	566,326.35
NENANA	69.63	292.78	13.93	97.50
PELICAN	59,580.57	357,103.42	11,916.11	118,917.10
PETERSBURG	498,258.45	1,054,735.50	99,651.69	361,233.57
ST. MARY'S	1,175.00	6,925.00	235.00	2,306.03
SELDOVIA	11,513.43	68,830.58	1,151.34	11,460.29
SEWARD	252,817.79	664,213.70	25,281.78	110,591.58
SITKA CITY & BOROUGH	36,542.35	218,879.10	7,308.47	72,886.74
UNALASKA	701,345.38	2,915,597.34	140,269.07	970,690.60
WRANGELL	57,829.92	146,603.37	11,565.98	48,818.92
YAKUTAT	7,302.94	43,442.64	1,460.59	14,466.40
<i>Sand Point</i>			<i>14,533.<sup>02</sup></i>	<i>57,200.<sup>00</sup></i>

\* Includes additional Revenue Sharing from cities within borough.

Figures are based upon 1978 collections for the 1977 tax year and may differ from budget figures based upon fiscal year cutoff.

5

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill No. SB 132  
 Title Raw Fish Tax  
 Requested by Community & Regional Affairs & Finance Date 2-12-79

II. FISCAL DETAIL

Agency Affected Revenue  
 Program Category Affected Development  
 Budget Request Unit(s) Affected Shared Taxes

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>						

FUNDING (Thousands of Dollars)

GENERAL FUND	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There is no additional cost to administer the Bill. The General Fund will decrease in the amount shown as the additional raw fish tax revenue is shared.

IV. DATE 2-16-79 PREPARED BY *[Signature]*  
 AGENCY Revenue  
 PHONE 465-2313  
 Original Legislative Finance  
 cc: Subject and Management  
Prime Sponsor (First Legislator Named)

## Fisheries Tax

Cities	FY 77 Actual	Actual FY 77 @ 25%	FY 78 Actual	Actual FY 78 @ 25%	FY 79 Authorized	Est. FY 79 @ 25%	FY 80 Request	Est. FY 80 @ 25%
Cordova	86477	214,192.5	111791	279,477.5	69500	173,750.0	89988	224,970.0
Craig	4260	10,650.0	3273	8,182.5	5000	12,500.0	4433	11,082.5
Dillingham	29669	74,172.5	32792	81,980.0	30000	75,000.0	30574	77,185.0
Fairbanks	15	37.5	3	7.5	15	37.5	16	40.0
Haines	-0-	-0-	5	12.5	-0-	-0-	-0-	-0-
Hoonah	1952	4,880.0	2249	5,622.5	7000	5,000.0	2031	5,077.5
Hozier	2697	6,742.5	6475	16,187.5	2000	5,000.0	2806	7,015.0
Hydaburg	1659	4,147.5	1564	3,910.0	2000	5,000.0	1726	4,315.0
Yake	391	977.5	-0-	-0-	500	1,250.0	407	1,017.5
Kenai	33639	84,097.5	34010	85,025.0	30000	75,000.0	37086	92,715.0
Ketchikan	14860	37,150.0	27290	68,225.0	15000	37,500.0	15463	38,657.5
King Cove	85810	214,525.0	11593	28,982.5	80000	200,000.0	89294	223,235.0
Ilwaco	10858	27,145.0	22716	56,790.0	10000	25,000.0	11299	28,247.5
Kodiak	74439	186,097.5	98465	246,162.5	70000	175,000.0	77461	193,652.5
Nenana	92	230.0	79	197.5	100	250.0	96	240.0
Pelican	12447	31,117.5	13153	32,882.5	12000	30,000.0	12952	32,380.0
Petersburg	36904	92,260.0	99651	249,127.5	35000	87,500.0	38402	96,005.0
Seldovia	1233	3,082.5	1151	2,877.5	1000	2,500.0	1283	3,207.5
Seward	21220	53,050.0	26850	67,125.0	20000	50,000.0	22081	55,202.5
St. Marys	-0-	-0-	235	587.5	-0-	-0-	-0-	-0-
Unalaska	101417	253,542.5	154901	387,252.5	90000	225,000.0	105534	263,835.0
Valdez	-0-	-0-	5	12.5	-0-	-0-	-0-	-0-

AGENCY Revenue DU Shared Taxes COMPONENT Fisheries Tax DATE REVISED

CONTINUED

1

of

2

Form





# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

Date: 4/3/79  
TO: C&RA Committee  
FROM: Rep. Bill Parker, Chairman  
RE: CSSB 132 Relating to Fisheries Taxes

For your background information, below are listed the various versions of the section of SB 132 related to "refund to local governments."

Existing Law -- AS 43.75.130 Attached

Senate Bill No. 132 -- Original version introduced on 2/12/79 by Sen. Kerttula Attached

CS SB132 -- Offered 3/8/79 by Community and Regional Affairs Committee

Sec. 43.75.131 REFUND TO LOCAL GOVERNMENTS. (a) The department shall pay to each borough, to each city of the first class, and to each municipality unified under AS 29.68.240 - 29.68.440, an amount equal to 3 1/3 per cent of the amount of tax revenue collected in the municipality from taxes levied in this chapter. In the case of tax revenue collected inside a city within a borough, the revenue to be shared shall be divided equally between the city and the borough.

(b) One-half of the revenue shared with a borough or city of the first class shall be used for docks or other fishery enhancement projects and those expenditures must be certified and reported to the department annually no later than January 30.

CS SB132 (Finance) Offered 3/12/79 by the Finance Committee

Same as in CS SB132 by C&RA (See above)

CS SB 132 (Rules) Offered 3/17/79 by the Rules Committee

Sec. 43.75.131 TAX SHARING WITH MUNICIPALITIES. The legislature may annually appropriate to each borough, to each city of the first class, and to each municipality unified under AS 29.68.240 - 29.68.440, an amount equal to 33 1/3 per cent of the amount of tax revenue collected in the municipality from taxes levied in this chapter. If tax revenue is collected in a city within a borough, the legislature may divide the tax revenue appropriated under this section between the city and the borough.

If a receiver, trustee, or assign is operating the property or business, he 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 he 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 the business license tax law for salmon canneries. (§ 2 ch 190 SLA 1959)

**Sec. 43.75.120. Violations and penalties.** (a) The liability to file returns and pay interest and deficiency assessments, and the subjection of property to liens is the same as prescribed in the business license tax law for salmon canneries.

(b) A violation of §§ 100 — 120 of this chapter or the regulation... is defined under §§ 100 — 120 of this chapter is a misdemeanor subject to punishment as prescribed in the business license tax law for salmon canneries. (§ 3 ch 190 SLA 1959)

**Article 4. General Provisions.**

**Section**

- 130. Refund to local governments
- 135. Additional refund to boroughs and cities

**Sec. 43.75.130. Refund to local governments.** The commissioner of revenue shall pay to each organized borough and each city of the first class 10 per cent of the amount of tax revenue collected in the borough or city from taxes levied by §§ 10 — 90 of this chapter. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "city of the first class" for "city of the first, second, and third classes." **Legislative committee report.** — For report on ch. 89, SLA 1970 (HB 544), see 1970 House Journal Supplement No. 2, p. 7.

**Sec. 43.75.135. Additional refund to boroughs and cities.** In addition to the payment allowed in § 130 of this chapter, the commissioner of revenue shall pay to each organized borough 10 per cent of the amount of tax revenue collected in the borough from taxes levied by §§ 10 — 90 of this chapter and shall pay to each city of the first class located in the unorganized borough 10 per cent of the amount of the tax revenue collected in the city from taxes levied by §§ 10 — 90 of this chapter. (§ 1 ch 89 SLA 1963; am § 1 ch 120 SLA 1969; am § 11 ch 218 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "city of the first class" for "city of the first, second, and third classes."

SENATE FINANCE COMMITTEE  
March 10, 1979  
10:00 a.m.

Chairman Sackett called the meeting to order at 10:00 a.m. Senators Dankworth, Bennett, Hackney, Sackett, Ray and Hohman were present. Also present were: Dr. Sherman Carter, VP for Finance, U of A, Don McKnight and Russell Clark from ADF & G, Jack Utton, Director of Natural Resources, Tanana Chiefs, Bob Palmer, Special Projects, Office of the Governor, Jim Farmer, Executive Director, Koyukon Development Corporation, and Robert Shelley, Analyst, Budget & Management.

PRESENT

Senator Sackett advised that the purpose of the meeting was that of a bill session. He then brought up SB 132 (An Act relating to the refund of raw fish tax receipts to local government). He advised the committee that a CS had been prepared which included an amendment offered by Senator Tillion. Chairman Sackett explained the changes made by the CS.

SB 132

Senator Hohman moved that CS SB 132 be passed from committee with individual recommendations. CS SB 132 passed as follows: senators Hackney, Bennett, Dankworth and Sackett voted do pass. Senators Hohman and Ray voted no recommendation.

MOTION

Senator Sackett moved that SB 62 (supplemental appropriations to Special Projects Office, Office of the Governor, to fund Delta Agricultural Development Project) be brought before the committee for discussion. It was so ordered.

SB 62

Senator Sackett introduced Bob Palmer, Special Projects director to give testimony on the bill. Mr. Palmer offered information regarding the bill, and gave information to the committee that had been requested in a previous meeting. Senator Hohman had questions concerning the contract dates. Mr. Palmer stated that 30% of the work had to be completed by May 1980, 60% completed by May 1981, and total preparation and ready for planting had to be completed by May 1982. When asked if they were going to stick by the contract dates, Mr. Palmer replied "most definitely!" He said there might be a couple who would not make the contract date, but he felt most of them would.

CONTRACT  
DATES

Senator Sackett explained that a CS had been prepared for the bill. The changes were explained. Senator Hohman made a motion that CS SB 62 be passed from committee with individual recommendations. There being no objection, it was so ordered. CS SB 62 passed as follows: Senators Hohman, Hackney, Bennett, Dankworth and Sackett voted do pass. Senator Ray voted do not pass unless amended

MOTION

TO: Hon. Sterling Gallagher  
Commissioner  
Dept. of Revenue

DATE July 6, 1977

FILE NO

TELEPHONE NO

FROM: Avrum H. Gross  
Attorney General

SUBJECT: Municipal revenue  
sharing, fish pro-  
cessing taxes; our  
file J-66-687-77

BY: Rodger W. Pegues  
Assistant Attorney General

This responds to your request for our opinion on the proper interpretation and application of AS 43.75.130 and 135, which provide for sharing of certain revenues with organized boroughs and first class cities.

AS 43.75.130 was enacted in 1962 and, since amended, reads as follows:

The commissioner of revenue shall pay to each organized borough and each city of the first class 10 per cent of the amount of tax revenue collected in the borough or city from taxes levied by §§ 10 -- 90 of this chapter.

AS 43.75.135 was enacted in 1963 and, since amended, reads as follows:

In addition to the payment allowed in § 130 of this chapter, the commissioner of revenue shall pay to each organized borough 10 per cent of the amount of tax revenue collected in the borough from taxes levied by §§ 10 -- 90 of this chapter and shall pay to each city of the first class located in the unorganized borough 10 per cent of the amount of the tax revenue collected in the city from taxes levied by §§ 10 -- 90 of this chapter.

Under a literal reading of these two sections, as pointed out by the Legislative Audit Division, an organized borough, whether or not there is a first class city within it, would receive 20 percent of the revenue collected from sources within it. However, a literal reading does not arrive at the result the legislature appears to have intended. To better understand how these two statutes came to read as they do, one should read the latter as it was enacted in 1963 before being amended to include cities:

Additional Refund to Boroughs. In addition to the payment allowed in sec. 130 of this chapter, the commissioner of revenue shall pay to each organized borough 10 per cent of the amount of tax revenue collected in the borough from taxes levied by secs. 10 -- 90 of this chapter.

§ 1, ch. 89, SLA 1963.

What happened was that the 1962 statute gave cities 10 percent of the taxes collected within them and organized boroughs 10 percent of the taxes collected within them. Of course, many cities are within organized boroughs, and the taxes collected within those cities are then collected within both. The result was that a city would get the 10 percent if the tax was collected within its limits and so would the borough, for a total local share of 20 percent. \*/ If the tax were collected solely within a city, i.e., one net in a borough, it would get 10 percent. If the tax were collected from outside the city limits in an organized borough, then the borough would get the 10 percent and nothing went to the city. In other words, the local people got 10 or 20 percent of the tax revenue based entirely on the locus of the tax source and the existence of both a city and an organized borough.

This result was patently unintended and unfair. The tax was to be shared with those municipal entities which levied a local tax to support schools and was designed to reduce their tax burden. Where there is a city and an organized borough, the residents in both pay the same local taxes for schools.

The 1963 legislature passed ch. 89 to provide for a borough to get an additional 10 percent share when the city did not receive a share so that the total local share would be 20 percent. Finally, in 1969, the statute was again amended to provide the same for cities. In that way, the total local share was uniformly set at 20 percent.

\*/ Of course, the original statute could have been interpreted to have a different result, i.e., it could have been viewed as not giving an organized borough any share of the tax collected from within first class cities within the borough. This would have resulted in a total local share of 10 percent. Arguably, the legislature may originally have intended this result. However, the agency interpreted the statute otherwise and the subsequent acts of the legislature tend to ratify the agency's view.

which--in all likelihood--was what was eventually intended by the legislature.

Our analysis is buttressed by a contemporary agency construction. Under the legislation as originally enacted, when taxes were collected from a source within a city in an organized borough, the Department of Revenue gave both 10 per cent. If they were collected from a source outside the city, the borough got 10 percent and the city, nothing.

After the 1963 enactment, in the first situation given above, both continued to get 10 percent, for a total local share of 20 percent. But, in the second situation given above, the borough now got 20 percent, i.e., an additional 10 percent, bringing the total local share in that situation up to an equal 20 percent.

After the 1969 amendment (to give cities as well as organized boroughs an additional 10 percent), the department continued to split 20 percent between the city and the borough whe. the tax source was a city within a borough (i.e., 10 percent to each), to give the borough 20 percent when the source was within the borough but outside of any city, and then to give a city which was not in an organized borough 20 percent as well. We perceive this latter amendment as tantamount to the ratification of the agency's interpretation. In effect, the legislature said, "Do the same for cities outside of boroughs."

While the precise language and history of the statute are obscure, we believe that the department's practical, longstanding and consistent interpretation of the statute and the legislature's apparent ratification of that interpretation are pretty much conclusive. Accordingly, and despite the literal terms of the statute, the department should continue to apply it as it has been doing.

RVP:chp