

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6480 SENATE RESOURCES

884

Boards, additional staff has been hired. It is ADF&G's hope that they will improve council effectiveness.

- o As a result of the improved process proposed in their FY 1990 Application for Federal Assistance, ADF&G contends that the "public, through the committees, will be intimately involved". Sealaska feels that two advisory committee meetings and two regional council meetings a year is hardly conducive to intimate public involvement, nor is it adequate to carry out the responsibilities and authorities listed in ANILCA.

As a matter of information, the Alaska Department of Law Alaska Native Law Section 1989 Subsistence Update, gives an interpretation of Title VIII which is supportive of Sealaska's official position. In that document they state:

"Title VIII is important for four major reasons. First is that it establishes an absolute priority for subsistence users over all other competing consumptive purposes. Second is that it guarantees subsistence users access to fish and game on federal land which would otherwise be closed to hunting and fishing. Third is that it requires federal land managers to incorporate subsistence uses in their land use decision process. Fourth is that it establishes an administrative structure which would potentially serve to increase the representation of Alaska Native interests in fish and game management."

S B

74

Bill/Resolution History 12:59 PM 05/16/90
BILL: SB 74
NAME: 2D CSSB 74(FIN)
TITLE: "An Act establishing a fisheries business tax credit;
and providing for an effective date."

Page 1

PRIME SPONSOR: ZHAROFF
CO-SPONSOR: STURGULEWSKI, KERTTULA

CURRENT STATUS: (H) FIN

STATUS DATE: 05/05/90

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

02/26/90 SENATE JOURNAL PAGE 2586

SB 74

The Resources Committee considered SENATE BILL NO. 74 (An Act amending and extending the fisheries business tax credit; relating to fisheries business tax refunds to municipalities; and providing for an effective date) and recommended it be replaced with

CS FOR SENATE BILL NO. 74 (Resources)

Senator Fahrenkamp, Chair, and Senators Kerttula and Eliason signed "no recommendation." Senator Zharoff signed "do pass." Senator Frank signed "do not pass."

Fiscal note for the Committee Substitute published today from Department of Revenue.

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

02/26/90 SENATE JOURNAL PAGE 2586

SENATE BILL NO. 74 was referred to the Finance Committee.

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Journal Text

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 74 (Res) REVISED
PUBLISH DATE: 4/6/90

FISCAL NOTE

MAR 7 1990

REQUEST:

Revision Date: _____
Title: Fisheries Business Tax Credit
Refunds to Municipalities
Sponsor: Zharoff, Et al.
Requestor: Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	<15,000>	<16,000>	<16,000>	<16,000>	<16,000>	<16,000>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 5, 1990

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 5, 1990

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Adending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff et.
Requestor: CRA, Res. and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: _____
Approved by Commissioner: Hugh Malone *Hugh Malone* Date: 2/23/90
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 74 (Res) REVISED
PUBLISH DATE: 4/6/90

FISCAL NOTE

MAR 7 1990

REQUEST:

Revision Date: _____
Title: Fisheries Business Tax Credit
Refunds to Municipalities
Sponsor: Zharoff, Et al.
Requestor: Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	<15,000>	<16,000>	<16,000>	<16,000>	<16,000>	<16,000>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 5, 1990

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 5, 1990

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a dual fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 6 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation for the following reasons.

1. This legislation will have a significant impact on general fund revenues. The department estimated that general fund revenues will decrease by as much as \$64 million over the additional four year period the fisheries tax credit program is extended under this legislation.

The expansion of the scope of expenditures coupled with the deletion of the provision to require approval by the department prior to expenditures will increase the total amount of credits to be applied and carried forward against fisheries taxes that would otherwise be collected.

2. The department believes that the current fisheries credit program has fully served its purpose to benefit the industry by allowing them to establish new shore based processing plants and improve existing facilities. Now that the industry has made significant investment to increase production and efficiency, it is capable of successfully competing in the marketplace without additional fisheries tax credits provided by this legislation.

The department also contends that with the growing market for Alaska fisheries products, many of the expenditures incurred to date would have been made regardless of the current tax credit program. The department believes that extension of the fisheries tax credit program will not induce additional capital expenditures which otherwise may be made.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Adending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff et
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BRU: Income & Excise Audit
 Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel *Steve Kettel* Phone: (907) 465-2320
 Division: Income and Excise Audit Date: _____
 Approved by Commissioner: Hugh Malone *Hugh Malone* Date: 2/23/90
 Agency: Department of Revenue

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a triple fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

3. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff etc.
Requestor: CRA, Res. and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	(6700)	(13000)	(13700)	(13700)	(13700)	(13700)

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 14, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 14, 1989

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

SECTIONAL ANALYSIS

Section 1 extends the maximum period for which a fisheries business may receive a credit against their fish tax liability from three to five years.

Section 2 also extends the maximum period of time from 3 to 5 years the amount a municipality may increase the fish tax credit by foregoing up to one-half of their share of fish tax collections.

Section 3 extends the unused credit carryover to correspond to the 5 year election period in Section 1.

Section 4 increases the maximum amount of credit that may be claimed to 75% of the taxpayers total tax liability if a municipality participates in the credit program. Current law provides a 50% maximum whether or not a municipality participates.

Section 5 makes a technical change to adopt the five year credit period.

Section 6-8 provides a sunset provision on the fish tax credit of December 31, 1995.

Section 9 provides transition rules allowing municipalities to adopt an ordinance conforming to the change in this bill.

SB 74/CURRENT LAW COMPARATIVE ANALYSIS

	<u>SB 74</u>	<u>CURRENT LAW</u>
1. AUTHORIZED PERIOD FOR EXPENDITURE	1987-1991	1987-1989
2. PERIOD CREDIT AVAILABLE	1987-1995	1987-1991
3. CARRY-OVER PROVISION	5 year	3 year
4. POTENTIAL FISCAL IMPACT	\$74.5 Million	\$35.2 Million
5. MAXIMUM CREDIT AVAILABILITY *	75 % tax liability	50% tax liability

* requires municipal approval and participation

BILL ANALYSIS

The present fish tax credit program has been widely utilized by the shorebased fisheries processing industry. Nearly \$136 million in shorebased investment has been proposed since 1986 and the Department continues to approve additional millions in proposed expenditures each month.

Actual tax credits taken to date total \$6.7 million. This represents credits for expenditures made in 1987 only. 1988 expenditures and the corresponding credits will be claimed by the end of March 1989. Due to higher than expected returns in some salmon fisheries, and higher prices for many species, we anticipate both an increase in fish tax collections for 1988 and a corresponding increase in fish tax credits claimed.

FISCAL IMPACT OF HB 74

We project that fish processors will continue to take advantage of this program into the 1990's. The attached schedule anticipates that by expanding the number of years that capital expenditures will create tax credits, an estimated \$74.5 million in general funds may be lost. To calculate this impact we have made several broad assumptions.

- 1) Expenditures will level out to \$40 million per year for each additional year of the program.
- 2) The fish tax collections will increase 10% in FY89 and 5% thereafter based upon increased product capacity and productivity through capital expansion.
- 3) We assume that the last tax year for which credits will be granted is 1995.

DEPARTMENT POSITION STATEMENT

The Department of Revenue opposes this legislation for the following reasons:

- 1) As the fiscal note reports, this legislation has substantial impact on general fund revenues.
- 2) This legislation does not mandate municipal participation. The Department favors an amendment requiring cities and boroughs which benefit from the capital expansion to give up a portion of their revenues.
- 3) The Department believes that many of the expenditures have been made and will be made in the future regardless of whether a credit is offered.
- 4) Shorebased fisheries businesses already fully constructed are put at a competitive disadvantage against those new entries to the market.

PROJECTED REVENUE IMPACT
FISHERIES BUSINESS TAX CREDIT (AS 43.75.032)

INCOME & EXCISE AUDIT
MARCH 14, 1989

\$ in millions	EXISTING CREDIT PROGRAM				PROGRAM UNDER SB74					PROGRAM TOTALS	SB74 TOTALS	
	TAX YEAR FISCAL YEAR	1987 1988	1988 1989	1989 1990(a)	1990 1991	1991 1992	1992 1993	1993 1994	1994 1995			1995 1996
APPROVED EXPENDITURES		55.5	62.4	38.4	40.0	40.0	N/A	N/A	N/A	N/A	236.3	100
CREDIT APPROVED		27.7	31.2	19.2	20.0	20.0	N/A	N/A	N/A	N/A	118.1	
CREDIT APPLIED (REVENUE LOSS)		6.7	11.0	11.8	12.4	13.0	13.7	13.7	13.7	13.7	109.7	74.5
CREDIT AVAILABLE FOR CARRYFORWARD		21.0	41.2	48.6	56.2	63.2	49.5	35.8	22.1	8.4		

SUMMARY

FISHERIES TAX LIABILITY BEFORE CREDIT APPLIED	29.2	(b)32.1	33.7	35.4	37.2	39.0	39.0	39.0	39.0	323.6
CREDIT APPLIED	(6.7)	(11.0)	(11.8)	(12.4)	(13.0)	(13.7)	(13.7)	(13.7)	(13.7)	(109.7)
MUNICIPAL SHARE	<u>(14.6)</u>	<u>(16.0)</u>	<u>(16.8)</u>	<u>(17.7)</u>	<u>(18.6)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(19.5)</u>	<u>(161.7)</u>
GENERAL FUND SHARE	7.9	5.1	5.1	5.3	5.6	5.8	5.8	5.8	5.8	52.2

(a) TY 1989 expenditures to 3/10/89 amount to 18.4 million. Balance of calendar year expenditures at 20 million. TY 1991 through 1992 annual expenditures estimated at 20 million per year.

(b) Tax liability is an estimate based on an increase in resource value and production. Fisheries Business tax returns are due March 31 of the following year. The rate of increase is estimated at 5% to FY 1993 and remained constant through FY 1996.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Adending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff et.
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BR#: Income & Excise Audit
 Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
 Division: Income and Excise Audit Date: _____
 Approved by Commissioner: Hugh Malone *Hugh Malone* Date: 2/23/90
 Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BILL ANALYSIS

This bill repeals and reenacts a new section to replace the current fisheries tax credit statute. This bill would have a triple fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by 4 years through tax year 1995.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

3. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

Additionally, this bill removes the current provision for prior approval of expenditures to qualify for tax credits. Without this requirement, more expenditures will likely be claimed because taxpayers may in their discretion believe that the expenditure is indeed eligible for the credit program.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BRU: Income & Excise Audit
 Components: operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit
 Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Phone: (907) 465-2320
 Date: _____
 Date: 2/23/90

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

BILL ANALYSIS

This bill amends the current fisheries tax credit statute keeping intact the basic provisions for claiming credits. This bill would have a dual fiscal impact to the State as follows:

1. Extends the current fisheries tax credit program as provided by AS 43.75.032 by 4 years. This bill extends the time period for making capital expenditures, which expired December 31, 1989, by 4 years to December 31, 1995. Concomitantly, this bill also extends the time period for claiming credits, which is currently due to expire with tax year 1991, by four years through tax year 1995.

2. Increases the amount of credit from 50% to 75% of the fisheries tax liability. This bill would allow fisheries business to decrease the amount of tax remitted to the state from 50% to only 25% of the tax liability for cases in which municipalities which adopt ordinances directing the department to reduce their tax refund under AS 43.75.130. In cases where this provision would be applicable, the department would retain no revenue after refunding the respective municipality.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff etc
Requestor: CRA, Res. and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	
---------	----------	----------	----------	----------	----------	--

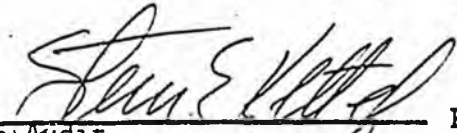
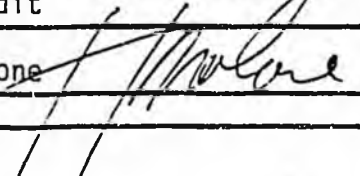
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel  Phone: (907) 465-2320
Division: Income and Excise Audit Date: _____
Approved by Commissioner: Hugh Malone  Date: 2/23/90
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which would be similar to the current fisheries tax credit statute (AS 43.75.032). This bill would have a dual fiscal impact to the State as follows:

1. Adds a new fisheries tax credit program to expire with tax year 1994.

This bill essentially establishes a new three year tax credit program similar to the current tax credit program. The bill would extend the credit program by three years by allowing credits to be claimed through tax year 1994 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years from December 31, 1989 to December 31, 1994.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

The Department opposes this draft legislation.

0335K
PED/ped

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the
Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BRU: Income & Excise Audit
 Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit

Phone: (907) 465-2320
 Date: _____

Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Date: 2/23/90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which essentially is patterned after the current fisheries tax credit statute (AS 43.75.032). This bill would have a fiscal impact to the State as follows:

Adds a new fisheries tax credit program to expire with tax year 1994.
This bill essentially establishes a new three year tax credit program similar to the current tax credit program. The bill would extend the credit program for three years by allowing credits to be claimed through tax year 1994 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years to December 31, 1994.

The Department opposes this draft legislation.

0335K
PED/ƒed

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Amending and Extending the Fisheries Business Tax Credit
 Sponsor: Zharoff etc.
 Requestor: CRA, Res. and Finance

Agency Affected: Revenue
 BRU: Income & Excise Audit
 Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	(15,000)	(16,000)	(16,000)	(16,000)	(16,000)	(16,000)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel
 Division: Income and Excise Audit

Phone: (907) 465-2320
 Date: _____

Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue

Date: 2/23/90

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Amending and Extending the Fisheries Business Tax Credit
Sponsor: Zharoff, etc
Requestor: CRA, Res. and Finance

Agency Affected: Revenue
BRU: Income and Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99			
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE	(18,000)	(18,000)	(18,000)			
---------	----------	----------	----------	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steven E. Kettel Phone: (907) 465-2320
Division: Income and Excise Audit Date: _____

Approved by Commissioner: Hugh Malone Date: _____
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

BILL ANALYSIS

This bill amends AS 43.75 to add a new section (AS 43.75.033) which would substantially extend the period for claiming fisheries tax credits. This bill would have a dual fiscal impact to the State as follows:

1. Adds a new fisheries tax credit program to expire with tax year 1998.

This bill establishes a new 5 year tax credit program similar to the current tax credit program. The bill would extend the credit program by 7 years by allowing credits to be claimed through tax year 1998 versus the current tax credit program to expire after tax year 1991. This bill extends the time period for making capital expenditures by 5 years to December 31, 1994.

2. Expands the allowability of expenditures eligible for fisheries tax credits. This bill would allow fisheries businesses to claim credits for construction, extension, or improvement of a utility, road or dock to be owned by a municipality. This subsection, AS 43.75.032(a)(3), omits any provision for the department to use its discretion in approving such expenditures, but provides for the municipality or cooperative to use its "judgment" in determining whether expenditures would qualify for the credits.

The Department opposes this draft legislation.

0335K
PED/ped

Chapter 75. Fisheries Taxes.

Article

1. Taxes and Licenses (§§ 43.75.010, 43.75.015, 43.75.018, 43.75.032, 43.75.034)
3. General Provisions (§§ 43.75.130, 43.75.133, 43.75.140)

Article 1. Taxes and Licenses.

Section

10. [Repealed]
15. Fisheries business tax
18. Fisheries business education credit

Section

32. Fisheries business tax credits
34. Tax credit report

Editor's notes. — The citation to the case at this location in the main pamphlet is erroneous. The correct citation is *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (1978).

Sec. 43.75.010. Fisheries business licenses. [Repealed, § 13 ch 79 SLA 1979. For current law, see AS 43.75.011.]

Editor's notes. — The citation to the case at this location in the main pamphlet is erroneous. The correct citation is *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (1978).

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business — four and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three percent;

(3) fisheries resources processed by a floating fisheries business — five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for

and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981; am § 1 ch 79 SLA 1986)

Effect of amendments. — The 1986 amendment substituted "fisheries business" for "cannery" in paragraph (1) of subsection (a).

Sec. 43.75.018. Fisheries business education credit. (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) Contributions accepted for endowment purposes are not eligible for the credit under (a) of this section.

(c) By September 30 of each year, the Department of Revenue shall report to the Legislative Budget and Audit Committee on the credits taken under this section. Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used. (§ 7 ch 58 SLA 1987)

Cross references. — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 of the Temporary and Special Acts.

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

§ 43.
than
unde
(b)
expe
erat
ity
fish
tota
year
expi
(c
und
cari
a cr
yea
(
der
to t
fac
tur
(
pe
tio
sch
cre
ye
me
(
tax
bir
ity
if
tl
w
p
s
c
f
(
;

tion.
the
rces
rson
t all
ions
SLA

than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

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

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

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

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

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

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

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

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

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

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

1) of

per-
the
sted
, in-
ofit,
The
due
edit
ovi-

ible

all
lits
all
ved

cial

util
not
15
ise
ve
he
od
ed
es
m
ct
gh
re

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

(j) In this section

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

(2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Editor's notes. — Effective January 1, 1992, this section will read: "Sec. 43.75.032. Tax credit for scholarship contributions. (a) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 47.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A tax credit under this section may not be approved for more than 100 percent of a scholarship contribution.

"(b) The department may not approve a tax credit under this section if the fisher-

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

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

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

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

Postponed repeal. — Section 8, ch. 79, SLA 1986 repeals this section, effective February 15, 1992.

Article 3. General Provisions.

Section

130. Refund to local governments

133. Provision of information to municipalities

Section

140. Definitions

Sec.

vided

(1)

ganize

the m

(2)

of tax

ter; a

(3)

(A)

the b

(B)

cated

(b)

43.75

be ce

ing t

(c)

credi

volv

indu

palit

mur

thar

expe

(d)

secti

(1)

16, 1

city

(A)

whi

(1)

aft

(

ye

(

aft

(

fol

wi

wl

af

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

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

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

(3) to each borough

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals subsection (c), effective January 1, 1992.

Revisor's notes. — Subsection (f) enacted as (d). Renumbered in 1987.

Effect of amendments. — The 1985 amendment in paragraph (1) substituted "unified municipality" for "municipality unified under AS 29.68.240 — 29.68.440."

The 1986 amendment added subsections (b) and (c).

The first 1987 amendment added subsection (f).

The second 1987 amendment in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the section and substituted "under" for "by" throughout the subsection and added subsections (d) and (e).

Sec. 43.75.133. Provision of information to municipalities.

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

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

fisheries resources reported by the fisheries business to the department and the value reported to the municipality are substantially the same if the values are equal or the variance between them does not exceed one percent of the greater value. (§ 1 ch 128 SLA 1988)

Editor's notes. — Section 2, ch. 128, applies to tax returns filed after December 31, 1986. SLA 1988 provides that this section ap-

Sec. 43.75.140. Definitions. In this chapter

(1) [Repealed effective January 1, 1992] "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the commissioner of commerce and economic development;

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

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

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

(5) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

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

(7) [Repealed effective January 1, 1992] "product diversity" means the processing of nontraditional fish or other seafood species or products;

(8) [Repealed effective January 1, 1992] "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

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

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

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

(10) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(11) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as

fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals paragraphs (1), (7) and (8), effective January 1, 1992.

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Effect of amendments. — The 1986 amendment added paragraphs (1), (7) and (8).

Chapter 76. Salmon Enhancement Act.

Section	Section
10. Three percent salmon enhancement tax	20. Termination of salmon enhancement tax
11. Two percent salmon enhancement tax	25. Collection of tax and disposition of proceeds
12. One percent salmon enhancement tax	28. Liability for tax on salmon shipped from state
15. Election to approve or terminate salmon enhancement tax	35. Exemption

Sec. 43.76.010. Three percent salmon enhancement tax. (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of three percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A three percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the three percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 13 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the inter-nal reference because of section reorganization.

Sec
perso
salmo
salmo
state
salmo
buyer
(b)
collec
(1)
the p
(2)
comm
under
(3)
salmo
am §

Edit
out ab

Se
persc
salm
salm
state
salm
buye
(b)
collec
(1)
the p
(2)
comm
und
(3)
salm

Ef
SLA

S
har
elec
ecor
(1)
1:

15 AAC 75.060. EXPENDITURES ELIGIBLE FOR TAX CREDIT. The following equipment and depreciable property are capital expenditures eligible for fisheries business tax credits under AS 43.75.032:

(1) refrigeration equipment, or new plant construction or improvements made to depreciable property which are integrally related to the original installation of refrigeration equipment, if the equipment, construction, or improvements are dedicated to and necessary for the performance of the following functions at a shore-based seafood processing facility in Alaska:

(A) manufacturing, storing, and delivering of ice;

(B) refrigerated holding or storing of processed seafood products, raw fish, or shellfish before processing or shipment; or

(C) seafood product freezing;

(2) fish processing equipment, or new plant construction or improvements made to depreciable property which are integrally related to the original installation of fish processing equipment, if the equipment, construction, or improvements are necessary for the manufacturing of the following products at a shore-based seafood processing facility in Alaska:

(A) round or dressed frozen fish or shellfish products;

(B) fresh or frozen cut or formed boneless portions;

(C) fresh or frozen fillet products;

(D) comminuted or minced fish products or products that are based on the use of comminuted or minced fish;

(E) surimi or products that are based on the use of surimi;

(F) fish or shellfish meal, oil, solubles, protein derivatives, pharmaceuticals, or biochemicals;

(G) canned salmon;

(H) smoked or cured seafood products;

(I) fish or shellfish products preserved by new or nontraditional methods, including aseptic handling, irradiation, controlled atmosphere storage, or the application of chemicals;

(3) to be eligible under (2) of this section, the equipment, construction, or improvements must be dedicated to and necessary for appropriate processing functions, such as vessel unloading, raw material or finished product storage, weighing, roe separation, cutting, skinning, bone separation, can filling, forming, washing, mixing, grinding, pumping, concentrating, can seaming, cooking, retorting, drying, pressing, can washing, packaging, labeling, or the addition of chemicals, colors, or flavoring. (Eff. 12/16/86, Register 101)

Authority: AS 43.75.032
AS 43.75.140

15 AAC 75.070. APPLICATION FOR FISHERIES BUSINESS TAX CREDIT. To qualify for the fisheries business tax credit for eligible expenditures, as defined in 15 AAC 75.060, made between July 1, 1986 and December 31, 1989, a fisheries business must apply for the credit in advance of the capital expenditure on forms prescribed by the department. On the form, the fisheries business shall provide the following information:

(1) the name of fisheries business;

(2) the fisheries business license number of each processing facility owned by the fisheries business;

(3) the mailing address for the fisheries business;

(4) telephone number for the fisheries business;

(5) the location of the processing facility for which eligible expenditures will be made;

(6) a list of all equipment and improvements to depreciable property to be purchased or constructed and a description of their functions related to the processing of fish;

(7) the approximate cost of each piece of equipment or improvement to depreciable property to be purchased or constructed;

(8) the estimated date that the equipment or improvement to depreciable property is to be purchased or constructed, and the date it first will be placed into service;

(9) if used equipment or a used improvement to depreciable property is to be purchased, a list of the names of the previous owners of the equipment or improvement, and the dates of their ownership. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

15 AAC 75.080. PLACED IN SERVICE RULE. (a) In order for a credit to be applied against a fisheries business tax liability, the equipment or improvement to depreciable property that is the subject of the credit must be effectively placed in service in the state.

(b) Equipment or improvements to depreciable property will be considered to have been placed in service in the earlier of the following tax years:

(1) the tax year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such improvements or equipment begins; or

(2) the tax year in which the equipment or improvement to depreciable property is placed in a condition or state of readiness and availability for a specifically assigned function integrally related to the manufacture of seafood products or fish processing functions described in 15 AAC 75.060.

(c) If otherwise qualifying as an eligible expenditure, the following property will be considered in a state of readiness and availability:

(1) parts acquired and set aside during the tax year for use as replacements for a particular machine in order to avoid operational time loss;

(2) operational fish processing equipment acquired during a tax year, where it is not practicable to use the equipment for its specifically assigned function in the fisheries business until the following year; and

(3) equipment acquired for a specifically assigned function which is operational but which is undergoing testing to eliminate defects.

(d) If the department has determined that certain expenditures are eligible for tax credit, but the expenditures do not reflect the full cost of the equipment or improvement to depreciable property because the total amount to be paid or incurred by the taxpayer is indeterminate, credit will be allowed to the taxpayer for the first tax year with respect to so much of the cost as has been paid or incurred as of the close of that year, and additional credit will be allowed to the taxpayer for subsequent eligible tax years with respect to additional expenditures made during each subsequent year.

(e) Notwithstanding (a) — (d) of this section and for fisheries business tax credit computation purposes only, equipment or improvements to depreciable property placed in service from July 1, 1986 through December 31, 1986 will be considered to have been first placed in service in tax year 1987. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

15 AAC 75.090. LIMITATION ON CREDIT. (a) If a taxpayer is operating both shore-based and floating fish processor facilities in the same tax year that eligible capital expenditures are made, the total credit that may be claimed in that tax year may not exceed 50 percent of the taxpayer's combined fisheries business tax liability incurred at all of the taxpayer's fish processing facilities. However, in no event will the fisheries business tax credit generated at a processing facility in one tax year be applied to the fisheries business tax liability incurred at another processing facility in a subsequent year if the other facility was not owned by the taxpayer in the tax year the capital expenditure was made. The following are illustrative examples:

(1) Company F solely owns and operates a shore-based processing facility in Alaska and a floating freezership. In 1987, the company spent \$1,000,000 in adding new refrigeration equipment and capacity to its shore-based plant. The company's 1987 fisheries business tax liability at its shore-based plant is \$200,000 and at its floating

facility is \$50,000. The 1987 fish tax credit is limited to \$125,000, one-half of the combined liabilities of both facilities. The remaining \$375,000 credit is available to offset taxes incurred in tax year 1988.

(2) Assume the same facts as in (1), except that in 1988 Company F acquires a second floating freezership and makes no additional eligible capital expenditures to its shore-based facility. For tax year 1988, the new company has a fish tax liability at its shore-based facility of \$200,000, at the original floating facility of \$50,000 and at the acquired facility of \$150,000. The 1988 fisheries business tax credit is again limited to \$125,000. The unused credit cannot be used to offset fisheries business tax incurred at the new facility, which was not owned in the year the relevant capital expenditure was made.

(b) A fisheries business tax credit will not be approved if the fisheries business has any arrears or outstanding liability to the state under AS 43.75 which could result in a lien under AS 43.10.035(a), irrespective of whether the arrears or outstanding liability arose out of the business activity of the facility for which the expenditure was made. An amount properly and timely disputed under the provisions of AS 43.05.240, and regarding which the appeal process under AS 43.05.240 is not concluded, does not constitute an amount in arrears or an outstanding liability.

(c) No credit will be approved for otherwise eligible expenditures made to acquire equipment or an improvement to depreciable property from another fisheries business in which there exists substantial common ownership. For purposes of this subsection, "substantial common ownership" means a 50 percent or greater direct or constructive ownership interest; constructive ownership will be determined according to the provisions of 26 U.S.C. 318 (Internal Revenue Code § 318) in effect on August 12, 1987. (Eff. 8/12/87, Register 103)

Authority: AS 43.05.080
AS 43.75.032
Sec. 6, ch. 79, SLA 1986

Article 2. Tax Imposed on Acquisition of Fisheries Resources

Section
100. Tax imposed on acquisition of fisheries resources

15 AAC 75.100. TAX IMPOSED ON ACQUISITION OF FISHERIES RESOURCES. (a) A person who takes, purchases or otherwise acquires a fisheries resource, and who transports the fisheries resource to a point outside the taxing jurisdiction of the state, before

ARR 30 1990

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
P.O. BOX 5A
JUNEAU, ALASKA 99811-0400

April 27, 1990

The Honorable Jan Faiks
Box V, Room 101
Juneau, AK 99811

RECEIVED
JAN FAIKS
SENATE OFFICE

Dear Senator Faiks:

At your request I have reviewed our March 5, 1990 fiscal note analysis on CSSB 74 (Resources). Except for the error which you noted to me on the phone (the CS does require prior approval by the Department) the fiscal note represents our analysis of the legislation.

The department opposes this legislation for the reasons stated in the fiscal note analysis; principally it has a substantial impact upon general fund revenues and it provides a tax shelter to processors for capital expenditures they would make regardless of whether a tax credit is available. The administration took the risk in 1986, compromised with the legislature and industry and supported a short three-year credit program. The state has already forgone \$32 million in revenues due to the credit program, primarily benefitting foreign or Seattle owned and controlled companies. The bill increases our dependence on oil revenues, for at least the next four years, and does not target projects which may need state support. I trust this answers your questions please call if I can provide further information.

Sincerely yours,

Steven E. Kettel
by *Leah K. Roberts*
Steven E. Kettel
Director
Income and Excise Audit Division

90-100

Courtesy of

Jan Faiks

Alaska State Senate



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 09015 (007) 486-5250

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 00811 • (007) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • GHUMAGIN ISLANDS

SECTIONAL ANALYSIS

2d CS For Senate Bill No. 74 (Finance)

"An Act establishing a fisheries business tax credit; and providing for an effective date."

SECTION 1

- (a) Establishes a new fisheries business tax credit program to run in the years 1991 and 1992. Same criteria for credits as the existing program.
- (b) Prohibition on carrying back tax credit to prior tax years, but credit allowed to be carried forward within the two years available. Same provision in the existing program.
- (c) Allows tax credit for contributions to the A.W. "Winn" Brindle memorial scholarship account. Same language as existing program.
- (d) Total tax credit that may be claimed is capped at fifty percent of the taxpayer's business tax liability. Same language as existing program.
- (e) Prohibitions on granting tax credits. Same language as existing program.
- (f) Provides for application form. Same language as existing program.
- (g) Provides for timely consideration of application. Same language as existing program.
- (h) Definitions. Same language as existing program.

TAX CREDIT REPORT

Requires preparation of an annual report. Same language as existing program.

SECTION 2

Establishes tax credit for A.W. "Winn" Brindle memorial scholarship account, to take effect when fisheries business tax credit program sunsets. Language in paragraphs (a) through (d) copied from previous section.

SECTION 3

- (b) Allows municipalities to receive their 50 percent share of fisheries business taxes collected within municipal boundaries. Includes reference to the statute created by this bill.

SECTION 4

Technical amendment for consistency between existing tax credit program and program created in this bill.

SECTION 5

Repeals the requirements for the tax credit report (43.75.039), the definition of "capital expenditure" (43.75.140(1)), the definition of "product diversity" (43.75.140(7)), the definition of "product quality" (43.75.140(8)), and the effective date for Brindle scholarship contributions in the existing law (sec. 10, ch. 79, SLA 1986) upon the sunset date of the new tax credit program, January 1, 1994.

SECTION 6

FISHERIES BUSINESS TAX CREDIT CLAIM IN TAX YEAR 1993.

Makes clear that fisheries businesses that have applied and received approval for two year tax credit projects in 1992 may claim the tax credit in 1993.

SECTION 7

Implements the credit for Brindle Scholarship contributions in Section 2 and the repeal of unneeded statutes when the program sunsets in Section 5.

SECTION 8

Effective date of January 1, 1991 for remaining sections.

S B

76

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3/2/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3/8/89

1/9/89

Mr. President:

RESOURCES

Committee considered SB 76

confidentiality of certain fishery reports and records

and recommended:

- replace with CS SB 76 (Res) same title
- attached amendment(s) and new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rick Holford
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
 Chairman signature and recommendation

Committee backup attached

Original sponsors: Eliason, Zharoff,
Kelly, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 76 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidentiality of certain fish-
7 ery reports and records."

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

9 * Section 1. AS 16.05.815(a) is amended to read:

10 (a) Except as provided in (b) and (c) of this section, records
11 required by regulations of the department concerning the landings of
12 fish, shellfish, or fishery products, and annual statistical reports
13 of buyers and processors required by regulation of the department are
14 confidential and may not be released by the department except that the
15 department may release

16 (1) any of its records and reports to the National Marine
17 Fisheries Service and the professional staff of the North Pacific
18 Fishery Management Council as required for preparation and
19 implementation of the fishery management plans of the North Pacific
20 Fishery Management Council within the exclusive economic [FISHERY
21 CONSERVATION] zone; [HOWEVER, INFORMATION RELEASED TO THE NATIONAL
22 MARINE FISHERIES SERVICE UNDER THIS PARAGRAPH MAY NOT DISCLOSE THE
23 IDENTITY OF INDIVIDUAL FISHERMEN OR THEIR VESSELS;]

24 (2) any of its records and reports to the Department of
25 Revenue and to the Alaska Commercial Fisheries Entry Commission to
26 assist them in carrying out their statutory responsibilities;

27 (3) records or reports of the total value purchased by each
28 buyer to a municipality that levies and collects a tax on fish, shell-
29 fish, or fishery products if the municipality

1 (A) requires records of the landings of fish, shell-
2 fish, or fishery products to be submitted to it for purposes of
3 verification of taxes payable; and

4 (B) maintains the confidentiality of reports and
5 records that it receives under this paragraph;

6 (4) such records and reports as necessary to be in confor-
7 mity with a court order;

8 (5) on request, the report of a person to the person whose
9 fishing activity is the subject of the report; [AND]

10 (6) fish tickets and fish ticket information to the divi-
11 sion of fish and wildlife protection, Department of Public Safety; and

12 (7) fish tickets and fish ticket information regarding
13 halibut to the International Pacific Halibut Commission.

6-0417H
Utermohle
3/7/89

Original sponsors: Eliason, Zharoff,
Kelly, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 76 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidentiality of certain fish-
7 ery reports and records."

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

9 * Section 1. AS 16.05.815(a) is amended to read:

10 (a) Except as provided in (b) and (c) of this section, records
11 required by regulations of the department concerning the landings of
12 fish, shellfish, or fishery products, and annual statistical reports
13 of buyers and processors required by regulation of the department are
14 confidential and may not be released by the department except as set
15 out in this subsection. The department may release the records and
16 reports set out in this subsection to the recipients identified in
17 this subsection if the recipient, other than a court or a person who
18 receives records and reports under (4) of this subsection or a person
19 under (5) of this subsection, agrees to maintain the confidentiality
20 of the records and reports. The [THAT THE] department may release

21 (1) any of its records and reports to the National Marine
22 Fisheries Service and the professional staff of the North Pacific
23 Fishery Management Council as required for preparation and implementa-
24 tion of the fishery management plans of the North Pacific Fishery
25 Management Council within the exclusive economic [FISHERY CONSERVA-
26 TION] zone; [HOWEVER, INFORMATION RELEASED TO THE NATIONAL MARINE
27 FISHERIES SERVICE UNDER THIS PARAGRAPH MAY NOT DISCLOSE THE IDENTITY
28 OF INDIVIDUAL FISHERMEN OR THEIR VESSELS;]

29 (2) any of its records and reports to the Department of

1 Revenue and to the Alaska Commercial Fisheries Entry Commission to
2 assist them in carrying out their statutory responsibilities;

3 (3) records or reports of the total value purchased by each
4 buyer to a municipality that levies and collects a tax on fish, shell-
5 fish, or fishery products if the municipality

6 [(A)] requires records of the landings of fish, shell-
7 fish, or fishery products to be submitted to it for purposes of
8 verification of taxes payable; [AND

9 (B) MAINTAINS THE CONFIDENTIALITY OF REPORTS AND
10 RECORDS THAT IT RECEIVES UNDER THIS PARAGRAPH;]

11 (4) such records and reports as necessary to be in confor-
12 mity with a court order;

13 (5) on request, the report of a person to the person whose
14 fishing activity is the subject of the report; [AND]

15 (6) fish tickets and fish ticket information to the divi-
16 sion of fish and wildlife protection, Department of Public Safety; and

17 (7) fish tickets and fish ticket information regarding
18 halibut to the International Pacific Halibut Commission.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fisheries	BILL NUMBER SB 76	SPONSOR Senator Eliason
SHORT TITLE OF BILL An act relating to confidentiality of certain fishery reports and records.			
DEPARTMENT POSITION Support			
PREPARED BY Robert C. Clasby	DATE 1-19-89	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL National Marine Fisheries Service	CONSTITUENT GROUP(S) AFFECTED BY BILL Commercial groundfish fishermen
ORGANIZATIONAL SUPPORT FOR BILL National Marine Fisheries Service S.W. Municipal Conference Alaska Municipal League	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The department collects essential catch data using landing receipts (fish tickets) for both state and federally managed fisheries, i.e., halibut and groundfish in the EEZ. AS 16.05.815 prohibits the state from identifying individual fishermen when providing catch data to federal managers. The Department of Law's opinion is that this restriction applies to the present system of providing the halibut commission with unedited tickets. The restriction also precludes the National Marine Fisheries Service (NMFS) and the department from accurately estimating discarded crab, salmon, and halibut in the groundfish fishery.

ANALYSIS OF BILL/PROGRAM EFFECTS

The amendment will permit the state to provide complete catch records to the (NMFS) for fisheries managed under federal management plans and to the International Pacific Halibut Commission (IPHC). The IPHC will have legal access to accurate catch data as provided through ADF&G fish tickets. The ADF&G and NMFS will be able to compare groundfish fishery observer and fish ticket data on a trip by trip basis. These comparisons can then be used to make accurate estimates of target and prohibited species which are discarded by fishing vessels at sea.

The ability to provide these previously confidential data to NMFS also provides the state a greater opportunity to actively participate as a contractor in federally funded fishery monitoring programs, e.g., observers.

Current federal law will protect the confidentiality of the information the NMFS receives from the state.

AMENDMENTS PROPOSED

None

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An act relating to confidentiality of certain fishery reports and records
 Sponsor: Senator Eliason
 Requestor: _____
 Agency Affected: Fish and Game
 BRU: Commercial Fisheries
 Components: Commercial Fisheries
 Special Projects

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92 -	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Robert C. Clasby Phone: 465-4210
 Division: _____ Date: _____

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: 03/15/89
Title: "An Act relating to confidentiality..."
Sponsor: Eliason, Zharoff, Kelly,
Requestor: Senate Resouces

Agency Affected: Fish and Game
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Beverly Reaume Phone: 465-4120
Division: Administration Date: 03/15/89
Approved by Commissioner: David S. Wilbur Date: 3/16/89
Agency: Fish and Game

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fisheries	BILL NUMBER CS SB 76	SPONSOR Eliason
SHORT TITLE OF BILL Confidentiality of certain fishery reports and records			
DEPARTMENT POSITION Support			
PREPARED BY Bob Clasby	DATE 3/13/89	COMMISSIONER'S SIGNATURE <i>W. A. Williams</i>	DATE 3.14.89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety Revenue	CONSTITUENT GROUP(S) AFFECTED BY BILL Commercial Fishermen
ORGANIZATIONAL SUPPORT FOR BILL National Marine Fisheries Service S.W. Municipal Conference Alaska Municipal League	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

ANALYSIS OF BILL/PROGRAM EFFECTS

The committee substitute by Senate Resources adds language to the original bill that ensures that the confidentiality provision of AS 16.05.815 are maintained when confidential information is released to qualified agencies. The department supports this amendment as we believe that it will assist in maintaining the fishing industry's trust in our ability to maintain the confidentiality of the detailed information they provide us. That information is essential for management of the state's fisheries.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Confidentiality of certain
fishery reports and records
 Sponsor: Elison
 Requestor: Senate Rules

Agency Affected: Fish and Game
 BRU: Commercial Fisheries
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by Bob Clabv
 Division: Commercial Fisheries
 Approved by Commissioner: Annelle Callenworth
 Agency: Fish and Game

Phone: 465-4210
 Date: 3/13/89
 Date: 3-14-89

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

JAN 30 1989

MEMORANDUM

TO: Sen. Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Sen. Dick Eliason

DATE: Jan. 27, 1989

RE: SB 76, Relating to confidentiality of certain fishery reports and records.

I would like to request that SB 76 be scheduled for a hearing in the Resources committee. It is a straight-forward measure which simply clears the way for some desirable exchange of information between several state and federal fisheries management entities.

I am enclosing a bill analysis and a zero fiscal note which have been prepared for SB 76 by the Department of Fish and Game.

If you need further information about the bill, please contact my office. Thank you for your consideration.

Alaska State Legislature

Senate Resources Committee

Senator Bettyc Fahrenkamp, Chairman

Senator Jay Kertula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Hafford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

M E M O R A N D U M

TO: SENATE RESOURCES COMMITTEE

FROM: COMMITTEE STAFF *[Signature]*

DATE: MARCH 6, 1989

RE: COMMITTEE MEETING MONDAY, MARCH 6, 1989

On Monday, March 6, we will be hearing SB 76, Relating to confidentiality of certain fishery reports and records. SB 76 would allow federal managers access to fish tickets for enhanced fisheries management. Current law allows statistical information to be passed on to the National Marine Fisheries Service. It is believed that this precludes NMFS and ADFG from accurately estimating overall and incidental catch of species. This bill would allow for timely distribution of fish ticket information to the agencies managing the fisheries. The Committee Substitute adds language which directs that fishery records (fish tickets) be released to the professional staff of the North Pacific Management Council.

SB 96, relating to vendors for fish and game licenses. EO 73 transfers the responsibility for hunting and fishing license sales from the Department of Revenue to the Department of Fish and Game. SB 96, transfers the the administrative responsibility to the Department of Fish and Game. It clarifies the compensation paid to vendors and enables the department to effectively collect the amounts due from those selling licenses, including setting forth the time frame in which such remittances are due to the state and penalties which the department may exact to ensure compliance. That penalty is set at one and one-half percent of the amount of proceeds due, and is collected by withholding that amount from the agent's compensation.

SJR 31, relating to the bycatch of halibut by domestic fisheries and an on-board observer program. This resolution would request the U.S. Secretary of Commerce and the North Pacific Fishery Management Council to implement a comprehensive program to place on-board observers on all vessels participating in a nonhalibut fishery where a halibut bycatch occurs.

Page two

March 6, 1989

Memorandum to Senate Resources Committee

SB 198, relating to sport fishery regulations. SB 198 would allow ADFG the flexibility to modify the limits or method and means for sport fishing. If, for example, the levels of stocks are reduced in a stream, ADFG can close the stream to fishing by emergency regulation. This measure would allow ADFG to reduce the bag limit or to change the method of fishing to a less efficient method. If stocks levels are increased, the department could increase the bag limit. It would allow for increased flexibility for sport fisheries. The Alaska Sportfishing Association strongly supports the bill.

INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA
AND THE UNITED STATES OF AMERICA

DIRECTOR
DONALD A. MC CAUGHY

P.O. BOX 85009
SEATTLE, WA 98145-2009

TELEPHONE
(206) 634-1838

FAX:
(206) 632-2983

February 22, 1989

Honorable Robert A. Mosbacher
Secretary of Commerce
U.S. Department of Commerce
Washington, D.C. 20230

Dear Sir:

The International Pacific Halibut Commission and industry representatives (Conference Board) at their January 24-27, 1989, meetings devoted much attention to the issue of halibut bycatches in the groundfish fisheries of the Bering Sea and Gulf of Alaska. The Commission and Conference Board are convinced that juvenile halibut mortalities in the expanding United States groundfish fisheries promise most serious and widespread impacts to the traditional halibut fisheries if effective mitigating measures are not imposed quickly.

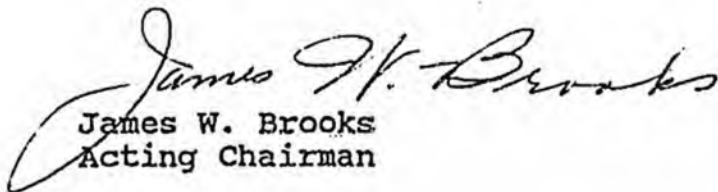
Based on recent observer reports from joint venture operations augmented by some pilot scale observer programs involving U.S. catches/processors, the Commission's scientific staff has concluded that halibut bycatch rates are alarmingly high and the Commission recommended reduced quotas for the traditional halibut fishery to compensate for halibut bycatch mortality. The Commission and Conference Board are very concerned that widespread losses of catch will occur to the halibut fishery in the absence of effective bycatch control. The Commission Staff estimates that bycatch mortality has increased from a recent historical low of 7 million pounds in 1986 to a projected mortality of 15 million pounds in 1989. Halibut bycatches are responsible for most of the quota reduction imposed by the Commission in the 1989 halibut fishery. We believe such bycatch increases are unwarranted, and the Commission requests that a comprehensive conservation program be developed aimed at minimizing the bycatch of halibut in non-halibut fisheries.

The Commission believes that the fully-domestic United States fishery should be able to achieve substantial reductions in bycatch by implementing the same effective conservation measures that were initiated to address this problem when it was being caused by the foreign fleet in the 1960's and 1970's operating in Alaskan waters.

In our discussions in January with the North Pacific Fishery Management Council, it is apparent that they are keenly aware of the situation described above and they are proposing mitigating recommendations to the Secretary of Commerce. The serious implications of Bering Sea and Gulf of Alaska bycatch on the Canadian fishery and United States fisheries off Alaska, Washington, Oregon, and California must be considered in the development and implementation of effective conservation measures in Alaskan waters. The Commission commends the recommendations of the Council and urges the Secretary of Commerce to respond positively and expeditiously, to these much-needed conservation initiatives.

In conclusion, the Commission respectfully solicits the concern and cooperation of the governments in developing and implementing effective conservation measures including a comprehensive observer program to address this most serious problem.

Sincerely,


James W. Brooks
Acting Chairman

Reasons for Amending the Fisheries Confidentiality Statute

AS 16.05.815

Purpose: Amend current confidentiality restrictions to allow the state to share detailed fish ticket and observer data for the halibut and groundfish fisheries with those international and federal agencies that have primarily management responsibility for those fisheries.

1. The Department of Law recently said that our historical practice of providing fish tickets for halibut landings to the halibut commission (IPHC) as the department is probably illegal under the above statute.

Strict interpretation of the statute will make it impossible for the state to provide accurate halibut harvest information to IPHC. This will lead to either overharvest of the resource or more conservative management; both of which will mean a loss of revenue to the industry and to the state.

2. Prevent duplication of catch records and inappropriate fisheries closures by the NMFS.

The state (DF&G) collects groundfish harvest information for state and federal waters using fish tickets (FT's), while the federal government (NMFS) obtains their harvest information via in-season weekly reports (via FAX or radio) from groundfish catcher/processors. DF&G, via contract, supplies NMFS with information on catches in federal waters, however, that information is masked, as required by AS 16.05.815, so as not to reveal the vessel or vessel operator. Without being able to identify and match individual vessels or operators on FT's, NMFS cannot reconcile their reports with the state's. This can lead to inaccurate determination of the total catch.

3. Estimate discard of crab, halibut, herring, etc. and target species. These data are currently unavailable for most U.S. groundfish fisheries.

Substantial discard of crab, halibut, salmon, undersized, and non-target species can occur in groundfish fisheries. This discard can only be estimated by 1) matching observer and fish ticket records for the specific observed trips, 2) calculating discard proportion by species based on observer data, and 3) appropriately applying the discard proportions to the total landed catch of a given fishery. Both agencies have detailed observer and catch information. That information is not useful, because each agency needs to know the vessel that generated the data. Once that is known, each agency can create the data base required to perform the analysis that will tell the managers what effects bycatch is having on the target resource, as well as on resources harvested in other fisheries.

4. Permit continued and possibly expanded federally funded state programs for data collection (FT's and marine mammal observers).

To be a viable contractor for these services, the state must be able to provide NMFS with complete data sets, not summaries. Advantage: Data provides the state influence in the federal management process.

5. Provide mutual access to fisheries data.

Recent meetings with the NMFS demonstrate a willingness on the part of the feds to make their administratively confidential data (e.g., observer) available to ADF&G. This assumes the state is willing to change its confidentiality restrictions. Advantages: 1) promotes governmental efficiency, 2) promotes better quality analyses because complete data sets are available, and 3) allows the state to perform independent analyses to protect state interests, e.g., analysis of incidental king crab and herring catches in the Bering Sea.

6. The administration should support the change because it is administratively and management oriented.

This request involves interagency cooperation and agency effectiveness.

7. Public support exists for the change.

Enclosed is a resolution from the Southwest Alaska Municipal Conference urging the removal of all barriers to fisheries data sharing. Senator Eliason has stated to Jim Brooks, NMFS Alaska Region Deputy Director, that he would not object to this change for groundfish, although he previously blocked similar legislation which included salmon. Ken Parker has discussed the proposed change with Rick Lauber (Pacific Seafood Processors Assoc.), Kate Graham (UFA), and Chris Blackburn (Groundfish Data Bank). They were not initially opposed, but need to talk to their membership about the proposal.

MEMORANDUM

State of Alaska

DEPARTMENT OF FISH AND GAME

TO: Don W. Collinsworth
Commissioner
Department of Fish and Game

DATE: August 22, 1988

FILE NO.:

TELEPHONE NO.: 465-4210

SUBJECT: Proposed Statutory
Amendment:
Confidentiality
of Fisheries Records

FROM: Ken Parker
Director
Commercial Fisheries Division

The Commercial Fisheries Division recommends that the Governor introduce legislation to amend AS 16.05.815, regarding confidentiality of fisheries records and reports, to address several long-standing problems encountered by this division in its interactions with federal agencies over jointly managed fisheries. These problems are:

1. Although we have, since 1971, routinely transmitted the fish tickets we receive for halibut landings to the International North Pacific Halibut Commission (IPHC), we have had no statutory authority to do so. Previous actions have been based on the fact that we have no management authority over that fishery and that the IPHC is the internationally recognized manager. Since the IPHC provides us with complete, verified data files in return for our assistance, cessation of this practice will result in an immediate loss of information to the state.
2. Many groundfish species are highly mobile and are widely distributed across state and federal marine boundaries. They are best managed as a unit throughout their range. Coordinated management is hampered by the restriction in AS 16.05.815 (a)(1) which requires that all information from state waters released to the National Marine Fisheries Service (NMFS) be stripped of vessel and fisherman identifiers. This information is required by the NMFS to ensure against duplicate records and to relate harvests to information collected in their own observer program. While NMFS has the legal authority to require a separate report of this information from U.S. citizens operating in state waters, coordinated management is best served if both agencies are able to use the same information to manage this common resource.
3. The Legislature recently enacted legislation which authorizes a state onboard observer program. Meanwhile, emphasis in the federal observer program has shifted to the emerging domestic fleet. Although the information collected by observers is not directly required in regulation, the Attorney General's office has advised us that this information is probably subject to the confidentiality statutes. The needs for joint access to this information

are similar to those described in #2. To be truly effective, the limited resources of both agencies must be pooled to give a complete picture of groundfish harvests.

These confidentiality problems are not all one-sided, as the federal government has confidentiality regulations of its own. Since the state is the federal government's contracted agent to compile groundfish tickets, however, we already have access to all fish tickets from federal waters. The federal government has also committed to administrative resolution of confidentiality issues regarding its observer data. The remaining barriers to access relate to state statutes.

The amendments we recommend are as follows:

1. Add a section AS 16.05.815 (a)(7) which would permit release of fish tickets and fish ticket information on halibut landings to the International North Pacific Halibut Commission.
2. Repeal the last sentence in AS 16.05.815 (a)(1) which requires that all information released to the NMFS be stripped of vessel and fisherman identifiers.

Implementation of these changes should have no fiscal impact on the department. I am not aware of a similar bill which has been drafted or introduced and not passed. No other departments should be impacted by this proposal.

Although no private organizations have addressed this issue in any fashion, support should be solicited from the United Fishermen of Alaska, the Alaska Groundfish Data Bank, or other fishermen's organizations. Support from these organizations may, however, be divided. Similarly, processors or legislators with substantial fisheries constituencies may also be opposed if they are not convinced of the need to share detailed information.

The precedents for access to this information by other agencies, including the NMFS, already exist in AS 16.05.815. We have been informed that similar provisions enabling free access by state and federal agencies to fisheries information already exist in Texas, Louisiana, Georgia, South Carolina, North Carolina, Puerto Rico, and the Virgin Islands, among others.

cc: Bruce Twomley



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

JAN 30 1989

MEMORANDUM

TO: Sen. Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Sen. Dick Eliason

DATE: Jan. 27, 1989

RE: SB 76, Relating to confidentiality of certain fishery reports and records.

I would like to request that SB 76 be scheduled for a hearing in the Resources committee. It is a straight-forward measure which simply clears the way for some desirable exchange of information between several state and federal fisheries management entities.

I am enclosing a bill analysis and a zero fiscal note which have been prepared for SB 76 by the Department of Fish and Game.

If you need further information about the bill, please contact my office. Thank you for your consideration.

S B

82

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

SB 82

*Joint Senate Resources &
International Trade & Tourism*

2/3/89



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

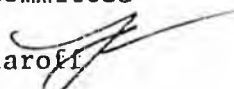
P.O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5259
DURING SESSION:
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILLIAMNA • PIRILLOF ISLANDS • SIUMAGIN ISLANDS

MEMORANDUM

TO: Senator Bettye Fahrenkamp
Chair
Senate Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: January 12, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

I respectfully request that SB 82 be scheduled for a hearing at the Resources Committee's earliest convenience.

SB 82 would allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to establish a new program that will help keep limited entry permits in the hands of Alaska residents.

The new program will be especially applicable to those situations in which a commercial fisherman wishes to liquidate his fishing operation by selling his or her limited entry permit to a specific resident fisherman -- frequently a younger family member -- who has little cash and who, alone, is not perceived to be sufficiently creditworthy to be granted a permit purchase loan. Under the new program, a seller may share in the credit risk of a CFAB-financed permit purchase by using a portion of the sale proceeds to purchase a participation in the loan involved. The seller's financial interest is protected because of CFAB's ability to foreclose its permit lien in the event of irremediable default. Also, if desired, the seller can retrieve the permit by having the purchaser (the borrower) designate the seller as the person to assume the debt in the event of default and foreclosure.

As an investment, the loan participation certificate will allow the seller to receive the market interest rate on the deferred portion of the sale proceeds.

The program offers an alternative to what is commonly called "permit migration" or "permit drain". Under current circumstances, a rural permit holder -- unable to find a local fisherman with the financial capacity to buy the permit -- concludes there is no alternative other than to sell the permit to an urban Alaskan or nonresident who can raise the cash upfront.

The bill also makes a number of miscellaneous amendments to CFAB's statute.

Attached is a sectional analysis explaining how the bill works. The sections related to the program described above are Sec. 2, (f) in Sec. 3, Sec. 6, and Sec. 9.

Also included is a copy of CFAB's most recent annual report. I have requested position statements from the Commercial Fisheries Entry Commission and the Division of Banking, Securities and Corporations to use as backup information, but have not yet received them. I will provide them to the committee as soon as they are available.

It is crucial that SB 82 be acted on as soon as possible in order for the new program to be effectively utilized by Alaskan fishermen in 1989. Even though limited entry permits are bought and sold throughout the year, the market sees the most activity and peaks in the period between early March and May.

Thank you for your consideration of this request.

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

RECEIVED JAN 12 1989

STEVE COWPER, GOVERNOR

P.O. BOX KB
JUNEAU, ALASKA 99811-0302
PHONE: (907) 465-4081

January 11, 1989

The Honorable Fred F. Zharoff
Alaska State Legislature
M/S 3100

Re: CFAB Legislation
SB 82

Dear Senator Zharoff:

Thank you for the opportunity to review your legislation introduced on behalf of the Alaska Commercial Fishing and Agriculture Bank, which I understand has become SB 82.

CFAB's president, Mr. Ed Crane, developed the idea behind the legislation about a year ago, and we have discussed the proposal with him a number of times since then. We are very pleased that CFAB perceived the need and took the initiative to develop this remedy. We also commend you for having introduced this legislation.

SB 82 appears to the Entry Commission to be sound. For those Alaskan fishermen wishing to take advantage of such an opportunity, this legislation should be helpful. In direct response to your question, we would be happy to support this legislation. Please do not hesitate to contact us, if we can provide you with any further information.

Cordially,

COMMERCIAL FISHERIES ENTRY COMMISSION

Bruce Twomley, Chairman
Rich Listowski, Commissioner
Phil Smith, Commissioner

by: 

cc: Bob Evans
Deputy Chief of Staff
Office of the Governor
M/S 0101



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

Senate Bill No. 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SECTION 1 PURPOSE.

Explains the rationale behind the bill.

SECTION 2

New paragraph (12) added to 44.81.210(a).

Gives CFAB the power to issue loan participation certificates.

SECTION 3

New subsections (e) and (f) added to 44.81.230.

(e) Allows a borrower to pledge more than one limited entry permit as security for a loan. This will be of benefit to fishermen who have multiple permits and are trying to expand their operations. They will be able to use their limited entry permits as financial assets to leverage the funds they need to purchase vessels, gear, etc. They can diversify and spread fixed costs over more fisheries. This will be of particular benefit to fishermen who have little liquidity, but substantial equity in existing permits.

(f) Allows a borrower to nominate another person to assume the debt on a permit loan. This way the individual who holds a loan participation certificate can take over the loan in the case of foreclosure.

SECTION 4

Amendment to subsection (b) in 44.81.235.

Corrects an oversight in the existing statute by allowing a loan made to purchase a limited entry permit to be included when a single permit is pledged to secure multiple loans.

SECTION 5

Amendment to subsection (c) in 44.81.235.

Corrects an oversight in the existing statute by allowing CFAB to refinance a loan which is made to purchase a limited entry permit. Under the current statute, CFAB may accept a permit as collateral when refinancing loans for fishing vessels, fishing gear, set net sites, and working capital, but not loans which are for the purchase of a permit.

SECTION 6

Amendment to subsection (b) in 44.81.250.

Makes this section of the existing CFAB statute consistent with the amendment in paragraph (f) of Section 3, above, by including a reference to the nomination of a person to assume debt.

SECTION 7

Amendment to subsection (d) in 44.81.250.

Adds reference to loans for the purchase of limited entry permits to the statute regarding CFAB's legal rights during foreclosure.

SECTION 8

New subsection (e) added to 44.81.250.

Describes the procedure CFAB shall follow when it has repossessed a limited entry permit.

SECTION 9

New paragraph (12) added to 45.55.140(a).

Exempts CFAB from the state's securities registration requirements. This restores the exemption CFAB had in statute when it was originally created. The exemption is currently granted to banks, savings institutions, savings and loan associations, trust companies, foreign governments, employee benefit plans, insurance companies, credit unions, nonprofit organizations, and others. The exemption will allow CFAB to offer loan participation certificates and remove the question of whether this transaction must comply with the extensive requirements for securities registration. CFAB will still be subject to annual audits by the Division of Banking, Securities and Corporations, an independent outside auditor, and, upon legislative instruction, by the Legislative Audit Division, as provided for in 44.81.270.

SECTION 10

Immediate effective date.

RECEIVED JAN 12 1989

STEVE COWPER, GOVERNOR

COMMERCIAL FISHERIES ENTRY COMMISSION

P.O. BOX KB
JUNEAU, ALASKA 99811-0302
PHONE: (907) 465-4081

January 11, 1989

The Honorable Fred F. Zharoff
Alaska State Legislature
M/S 3100

Re: CFAB Legislation
SB 82

Dear Senator Zharoff:

Thank you for the opportunity to review your legislation introduced on behalf of the Alaska Commercial Fishing and Agriculture Bank, which I understand has become SB 82.

CFAB's president, Mr. Ed Crane, developed the idea behind the legislation about a year ago, and we have discussed the proposal with him a number of times since then. We are very pleased that CFAB perceived the need and took the initiative to develop this remedy. We also commend you for having introduced this legislation.

SB 82 appears to the Entry Commission to be sound. For those Alaskan fishermen wishing to take advantage of such an opportunity, this legislation should be helpful. In direct response to your question, we would be happy to support this legislation. Please do not hesitate to contact us, if we can provide you with any further information.

Cordially,

COMMERCIAL FISHERIES ENTRY COMMISSION

Bruce Twomley, Chairman
Rich Listowski, Commissioner
Phil Smith, Commissioner

by: 

cc: Bob Evans
Deputy Chief of Staff
Office of the Governor
M/S 0101

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Commercial Fishing and Agriculture Bank
 Sponsor: Zarhoff, Sturgulewski, et al
 Requestor: Senate Resources

Agency Affected: Commerce & Econ. Dev.
 BRU: Banking and Securities
 Components: Securities

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: L.P. Carroll, Senior Securities Examiner
 Division: Banking and Securities

Phone: 465-2521
 Date: 01/17/89

Approved by Commissioner: Larry Merculieff *LM*
 Agency: Dept. of Commerce and Economic Development


Date: 1/18/1989

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- mm0595t
- 011789a

SB 82: An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank.

The banking section is neutral on this measure. The intent is to facilitate transfers of Limited Entry Permits held as loan security by CFAB. This bill will remove CFAB from securities law regulation for issue of its stock and/or other securities in conjunction with loans to members.


Larry Mercuri, Commissioner

Date: 1-18-1989

5.55.110(c) and the
.55.260(g):
d under the Securi-

articles of incorpora-
currently in effect, a
a copy of an inden-
f the security to be
ty;
mation, or copies of
Act of 1933; and
ments to the federal
ly delays the effec-
id in any event not
are forwarded to or
on, whichever first

automatically be-
tion statement be-
satisfied:
pending under AS

th the administra-
proposed offering
d commissions has
period which the
thin those limita-

inistrator by tele-
deral registration
ice amendment, if
dment containing
endment. "Price
which includes a
lling discounts or
, call prices, and
pon failure to re-
endment with re-
nay enter a stop
g effectiveness to
eness until com-
his section if the
elephone or tele-
hen the adminis-
der. If the regis-

grant proves compliance with the requirements of this subsection: and subsection (c) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The administrator may by regulation or otherwise waive either or both of the conditions specified in (c)(2) and (3) of this section. If the federal registration statement becomes effective before all the conditions in this subsection and subsection (c) of this section are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly advise the registrant by telephone or telegram at the registrant's expense, whether all the conditions are satisfied and whether the administrator then contemplates the institution of a proceeding under AS 45.55.120; but this advice by the administrator does not preclude the institution of the proceeding at any time. (§ 403 ch 198 SLA 1959, as amended by § 19 ch 105 SLA 1961; am § 2 ch 55 SLA 1972; am § 7 ch 86 SLA 1972; am § 79 ch 14 SLA 1987)

Effect of amendments. — The 1987 "three copies" at the beginning of subsection amendment substituted "one copy" for tion (b)(1).

Article 4. General Provisions.

Section	Section
140. Exemptions	210. Criminal penalties
200. Orders, injunction, and civil penalties	260. Scope of the chapter and service of process

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from AS 45.55.070:

- (1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;
- (2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

transaction or
 rrent transac-
 7 within nine
 grace, or any
 arantee of the
 e type eligible

e's stock pur-
 loyee's benefit

n or a debt of,
 , or a building
 of a state and

n or a debt of,
 er the laws of
 his exemption
 act, or similar
 xed in dollars
 ults of a seg-
 rat policies or
 lo business in

union or any
 ociation orga-

ther common

erce Commis-

tility Holding
 in the mean-

governmental

f the security
 e, Canada, or

e of issuance
 xchange, the
 ange, or any
 substantially
 warrants so
 subscribe to

(11) a security issued by a person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association.

(b) The following transactions are exempted from AS 45.55.070:

(1) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(2) a transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidence of indebtedness, secured thereby, is offered and sold as a unit;

(3) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(4) an offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(5) sales by an issuer

(A) to no more than 10 persons in this state other than those designated in (4) of this subsection during a period of 12 consecutive months whether or not the seller or any of the buyers is then present in this state, if

(i) no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective buyer in this state;

(ii) the total dollar amount invested during a period of 12 consecutive months does not exceed \$100,000;

(iii) a legend is placed on the certificate or other document evidencing ownership of the security, stating that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from it;

(iv) offers are made without public solicitation or advertisement; and

(v) the issuer files with the administrator a notice specifying the issuer, the security to be sold and the terms of the offer at least two days before any sales are made;

(B) to no more than 25 persons in this state other than those designated in (4) of this subsection during a period of 12 consecutive months whether or not the seller or any of the buyers is then present in this state, if

(i) the sales are made solely in this state;

(ii) before any sale, each prospective buyer is furnished access to the information that would be provided to a prospective buyer in a registration under AS 45.55.100, which information shall be furnished to the administrator upon request;

(iii) the total dollar amount invested during a period of 12 consecutive months does not exceed \$500,000;

(iv) commissions or other remuneration meet the requirements of this chapter and are made only to persons registered under AS 45.55.040;

(v) a legend is placed on the certificate or other document evidencing ownership of the security, stating that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from it;

(vi) the issuer obtains a signed agreement from the buyer acknowledging that the buyer is buying for investment purposes and that the securities will not be resold without registration under this chapter;

(vii) offers are made without public solicitation or advertisement; and

(viii) the issuer files with the administrator a notice specifying the issuer, the security to be sold, and the terms of the offer at least two days before any sales are made;

(6) an offer or sale of a preorganization certificate or subscription if

(A) no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective subscriber,

(B) the number of subscribers does not exceed 10, and

(C) no payment is made by any subscriber;

(7) a transaction under an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if

(A) no commission or other remuneration, other than a standby commission, is paid or given directly or indirectly for soliciting a security holder in this state, or

(B) the issuer first files a notice specifying the terms of the offer and the administrator does not by order disallow the exemption within the next five full business days;

(8) an offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending under either Act;

(9) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

(10) a nonissuer distribution of an outstanding security if

(A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

(B) the security is sold to the issuer or within 60 days of the issuer's payment of principal or interest;

(11) a transaction involving a broker-dealer or other person registered with the administrator upon a signed copy of the certificate or other document evidencing ownership of the security for a specified period;

(12) a transaction for the purpose of evaluating the issuer;

(13) a transaction involving a court order, a judicially approved reorganization, a quasi-reorganization, or a similar transaction;

(A) no commission or other remuneration is paid or given to any commission or other remuneration holder;

(B) the issuer is not the issuer or not less than 100 shares;

(14) a transaction involving a stock dividend is the stockholders' cash or property dividend in full;

(15) an acquisition of an interest in a corporation, partnership, or other entity, including a merger, consolidation, or other transaction of another corporation;

(16) the offer is made to the principal or to the public if

(A) the security is sold to the issuer or within 60 days of the issuer's payment of principal or interest; or

(B) the security is sold to the issuer or within 60 days of the issuer's payment of principal or interest; or

1 of 12 consecu-
 requirements of
 red under AS
 ment evidenc-
 v is not regis-
 it registration
 uyer acknowl-
 s and that the
 r this chapter;
 advertisement;
 specifying the
 r at least two
 subscription if
 given directly
 and
 holders of the
 ansaction are
 nts, or trans-
 days of their
 an a standby
 iciting a secu-
 f the offer and
 on within the
 t registration
 he Securities
 and no public
 ending under
 ed through a
 rity if
 es of the is-
 e as of a date
 her the fiscal
 perations, or

(B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(11) a nonissuer transaction effected by or through a registered broker-dealer under an unsolicited order or offer to buy; however, the administrator may by regulation require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(12) a transaction executed by a bona fide pledgee without any purpose of evading this chapter;

(13) a transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets, if

(A) no commission or other remuneration, other than a standby commission is paid or given directly or indirectly for soliciting a security holder in this state; and

(B) the issuer files a notice in the form specified by the administrator not less than 30 days before making the offer;

(14) a stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock;

(15) an act incident to a class vote by stockholders, under the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities or sale of securities of another corporation;

(16) the offer or sale by a registered broker-dealer, acting either as principal or agent, of securities previously sold and distributed to the public if

(A) the securities are sold at prices reasonably related to the current market price at the time of sale, and, if broker-dealer is acting as agent, the commission collected by the broker-dealer on account of the sale is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(B) the securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by the broker-dealer as an underwriter of the securities or as a participant in the distribution of the securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(C) the securities have been lawfully sold and distributed in this state under this chapter;

(17) offers or sales of certificates of interest or participation in oil, gas, or mining rights, titles or leases, or in payments out of production under such rights, titles or leases, if the purchasers

(A) are or have been during the preceding two years engaged primarily in the business of exploring for, mining, producing, or refining oil, gas, or minerals; or

(B) have been found by the administrator upon written application to be substantially engaged in the business of exploring for, mining, producing, or refining oil, gas, or minerals so as not to require the protection provided by AS 45.55.070.

(c) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(d) The administrator may by order deny or revoke an exemption specified in (a)(5), (7) or (11) of this section or in (b) of this section with respect to a specific security or transaction. The order may not be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the administrator shall promptly notify all interested parties that it has been entered and of the reasons for it and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(e) An order under (d) of this section may not operate retroactively. A person may not be considered to have violated AS 45.55.070 or 45.55.150 by reason of an offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known of the order.

(f) The administrator shall by regulation prescribe a schedule of fees for examination or investigation of claimed exemption. (§ 302 ch 198 SLA 1959; am §§ 3 — 11 ch 105 SLA 1961; am § 1 ch 8 SLA 1966; am § 1 ch 25 SLA 1968; am §§ 11 — 13 ch 86 SLA 1972; am § 15 ch 218 SLA 1976; am §§ 1 — 3 ch 132 SLA 1977; am § 1 ch 56 SLA 1978; am § 50 ch 94 SLA 1980; am § 1 ch 87 SLA 1988)

Effect of amendment,

Sec. 45.55.200 appears to engage in a or regulati

(1) in the order

(A) direc or practice:

(B) direc file the an statements, under AS 4

view 10 w (C) voidi AS 45 55.19 their past e

or misleadi (2) bring tices and to order under remedy mu pointed for require the

(b) The a istered pers lates this ch this chapter single violat single proce

(c) For vi tor may iss other person administrat than \$500 fr violations, i

(d) Before administrat hearing. He under (a)(1) effect until if the person within 15 da

Effect of amendments. — The 1988 amendment, effective June 2, 1988, re-wrote subsection (a)(5) to the extent that a detailed comparison is impracticable.

Sec. 45.55.200. Orders, injunction, and civil penalties. (a) If it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of a provision of this chapter or regulation or order under this chapter, the administrator may

(1) in the public interest or for the protection of investors, issue an order

(A) directing the person to cease and desist from continuing the act or practice;

(B) directing the person, for a period not to exceed three years, to file the annual reports, proxies, consents of authorizations, proxy statements, or other materials relating to proxy solicitations required under AS 45.55.139 with the administrator for examination and review 10 working days before a distribution to shareholders; and

(C) voiding the proxies obtained by a person required to file under AS 45.55.139, including their future exercise or actions resulting from their past exercise, if the proxies were solicited by means of an untrue or misleading statement prohibited under AS 45.55.160; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or regulation or order under this chapter, and upon a proper showing, the appropriate remedy must be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond.

(b) The administrator may issue an order against an applicant, registered person, or other person who knowingly or intentionally violates this chapter or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than \$2,500 for a single violation, or not more than \$25,000 for multiple violations, in a single proceeding or a series of related proceedings.

(c) For violations not covered by (b) of this section, the administrator may issue an order against an applicant, registered person, or other person who violates this chapter or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than \$500 for a single violation, or not more than \$5,000 for multiple violations, in a single proceeding or a series of related proceedings.

(d) Before issuing an order under (a)(1), (b), or (c) of this section, the administrator shall give reasonable notice of and an opportunity for a hearing. However, the administrator may issue a temporary order under (a)(1) of this section pending the hearing, which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice. (§ 308 ch 198 SLA 1959; am

Chapter 81. Commercial Fishing and Agriculture Bank.

Section

- 10. Alaska Commercial Fishing and Agriculture Bank
- 20. Board of directors
- 30. [Repealed]

Section

- 90. Term of office and removal
- 210. Powers of the bank
- 235. Limitations on pledge of permits
- 270. Audit of bank

Sec. 44.81.010. Alaska Commercial Fishing and Agriculture Bank.

(a) There is established the Alaska Commercial Fishing and Agriculture Bank. The exercise by the bank of the powers conferred by this chapter is considered to be for a public purpose. The bank is exempt from the provisions of AS 06.05 (Alaska Banking Code) and AS 10.15 (Alaska Cooperative Corporation Act) in the exercise of powers granted by this chapter.

(b) For the purpose of the funding of the bank's operations, the board of directors may issue nonvoting, preferred shares of stock in the bank and determine the value of each share. The state, through appropriate agencies, may purchase the nonvoting, preferred shares issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years, the commissioner of commerce and economic development may dissolve the bank.

(c) [Repealed, § 43 ch 85 SLA 1988.] (§ 3 ch 159 SLA 1978; am § 1 ch 53 SLA 1979; am § 12 ch 122 SLA 1980; am § 1 ch 109 SLA 1981; am § 65 ch 21 SLA 1985; am § 1 ch 49 SLA 1987; am § 43 ch 85 SLA 1988)

Effect of amendments. — The 1985 amendment inserted "and except that any filing fees shall be waived," preceding "the bank is subject" in the next-to-last sentence of subsection (a).

The 1987 amendment in subsection (a) deleted the former second sentence, which read "Except as otherwise provided in this chapter, and except that any filing fees

shall be waived, the bank is subject to the provisions of AS 10.15 (Alaska Cooperative Corporation Act)" and in the last sentence inserted "and AS 10.15 (Alaska Cooperative Corporation Act)."

The 1988 amendment, effective June 2, 1988, repealed former subsection (c), relating to the purchase of preferred bank stock during 1979.

NOTES TO DECISIONS

Status for maritime foreclosure proceedings. — The Alaska Commercial Fishing and Agriculture Bank is not a state agency for purposes of maritime lien

foreclosure proceedings. *Alaska Com. Fishing & Agriculture Bank v. O/S Alaska Coast*, Sup. Ct. Op. No. 3027 (File No. S-892, 715 P.2d 707 (1986).

Sec. 44.81.020. B aged by a board of d members shall be el one of the elected b board members sha chase of all the non bank and purchased pleted, all board me bank. The board m among themselves. T the bank.

(b) The governor s on the board will rem section. (§ 3 ch 159 § SLA 1980; am § 2 c

Effect of amendment: amendment in subsection former second, third and f concerning initial appoin board and the appoinmen

Sec. 44.81.030. Ar SLA 1985.]

Sec. 44.81.090. Te board shall serve for t sive terms. Terms sha who releases confider commits serious ethic ness to serve as a men irredeemably substan be removed from the members of the board. am § 3 ch 49 SLA 1

Effect of amendments. amendment deleted the for fourth sentences, concerni

Sec. 44.81.110. Co

Cited in Alaska Com. Fi: culture Bank v. O/S Alask

Agriculture

nd removal
nk
ledge of permits

nd Agriculture
ial Fishing and
owers conferred
se. The bank is
king Code) and
the exercise of

operations, the
res of stock in
state, through
ferred shares
shall be repur-
se. If the bank
ommissioner of
he bank.

\ 1978; am § 1
109 SLA 1981;
43 ch 85 SLA

nk is subject to the
(Alaska Coopera-
nd in the last sen-
10.15 (Alaska Co-
Act)."

. effective June 2.
ubsection (c), re-
f preferred bank

Alaska Com.
Bank v. O'S
p. No. 3027 (File
7 (1986).

Sec. 44.81.020. Board of directors. (a) The bank shall be managed by a board of directors consisting of seven members. Five board members shall be elected by the members of the bank, with at least one of the elected board members being an Alaska farmer, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the members of the bank. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank.

(b) The governor shall designate the two members whose positions on the board will remain appointive for the period set out in (a) of this section. (§ 3 ch 159 SLA 1978; am § 2 ch 53 SLA 1979; am § 3 ch 51 SLA 1980; am § 2 ch 49 SLA 1987)

Effect of amendments. — The 1987 amendment in subsection (a) deleted the former second, third and fourth sentences concerning initial appointments to the board and the appointment of an experi-
enced Alaska farmer, in the present second sentence substituted "Five" for "Thereafter, five" and deleted "with at least 10 years of Alaskan farm experience" following "Alaska farmer."

Sec. 44.81.030. Articles of incorporation. [Repealed, § 66 ch 21 SLA 1985.]

Sec. 44.81.090. Term of office and removal. The members of the board shall serve for terms of three years, and they may serve successive terms. Terms shall be staggered. An elected member of the board who releases confidential information in violation of AS 44.81.260, commits serious ethical misconduct that relates to the member's fitness to serve as a member of the board, or maintains a chronically and irredeemably substandard borrowing relationship with the bank may be removed from the board by affirmative vote of a majority of the members of the board. (§ 3 ch 159 SLA 1978; am § 3 ch 53 SLA 1979; am § 3 ch 49 SLA 1987)

Effect of amendments. — The 1987 amendment deleted the former third and fourth sentences, concerning terms of office of initial board members, added the last sentence and added "and removal" at the end of the catchline.

Sec. 44.81.110. Compensation of board members.

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agriculture Bank v. O'S Alaska Coast. Sup. Ct. Op. No. 3027 (File No. S-892), 715 P.2d 707 (1986).

Sec. 44.81.160. Pledge of the state.**NOTES TO DECISIONS**

Cited in Alaska Com. Fishing & Agri- Ct. Op. No. 3027 (File No. S-892), 715
culture Bank v. OS Alaska Coast, Sup. P.2d 707 (1986).

Sec. 44.81.200. Reports and publications.**NOTES TO DECISIONS**

Cited in Alaska Com. Fishing & Agri- Ct. Op. No. 3027 (File No. S-892), 715
culture Bank v. OS Alaska Coast, Sup. P.2d 707 (1986).

Sec. 44.81.210. Powers of the bank. (a) The bank may

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers and marketers, or to corporations, partnerships or joint ventures engaged in commercial agriculture or fishing, the majority interest of which is beneficially owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank;

(2) make and alter bylaws necessary or desirable to carry out its corporate functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons, or for adverse market conditions for Alaskan products;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of this chapter;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur securities liabilities of another person or the board of directors for the purposes;

(10) make loans with financial institutions;

(11) make contributions in the exercise of its powers;

(12) acquire by purchase or otherwise, the right to acquire, or to operate, and control, any other business;

(13) borrow money on the credit of the bank, notwithstanding its indebtedness for any other purpose, to charge outstanding obligations concerning these purposes;

(14) secure the right to acquire, or to operate, and control, any other business, other than the business of the bank;

(15) appoint officers, directors, and agents, and prescribe their powers;

(16) provide technical assistance to any person in the exercise of his powers to enhance the ability of the bank;

(17) make loans to any person, including liens subordinate to those of a private lender;

(18) participate in any business, including policy and in the business of agriculture in any other manner;

(19) do what is necessary to carry out its purposes and powers;

(20) make loans to any person, including entry permits; a loan to any individual commercial enterprise for a continuous period of more than one year, without application for the loan to the AS 44.81.230;

(21) indemnify directors, officers, heirs, executors and administrators of the bank of expenses including judgments, and the costs of litigation in connection with actions against them because of their official duties as directors, officers, heirs, executors and administrators of the bank;

le No. S-892), 715

le No. S-892), 715

nk may
iduals who are
ture or fishing,
ers, or to corpo-
mercial agricul-
cially owned by
which are resi-
er of the bank;
aph to a corpo-
e of a new or
of an existing
mercially har-
rship, or joint
the state and if

o carry out its
ns, which may
or for adverse

of the federal
er state agen-
he purposes of

purposes and

convey or en-
y other secu-
i which it has
rs, the action

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this subsection in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;

(16) provide technical services to members of the bank; for the purpose of this paragraph, "technical services" includes services that will enhance the ability of the member to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this subsection, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or appropriate to carry out the corporate purposes and powers expressed or implied in this chapter;

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of two years immediately preceding the date of application for the loan; loans made under this paragraph are subject to AS 44.81.230;

(21) indemnify directors, officers or employees of the bank and their heirs, executors and administrators against all liabilities and related expenses including, but not limited to, court costs and attorney fees, judgments, and the cost of reasonable settlements, incurred by them in connection with or arising out of an action or proceeding brought against them because of an act or omission in the performance of their official duties as directors, officers or employees of the bank regardless

of whether they were directors, officers or employees at the time the expenses or liabilities are incurred;

(22) accept the pledge of a limited entry permit as security for a loan made under this chapter subject to the conditions set out in AS 44.81.230 — 44.81.250 on pledges of limited entry permits;

(23) make a loan to a person, regardless of residency, if the board of directors of the bank determines that the loan is necessary to preserve the value of property held by the bank as security for a loan that was made under (1) of this subsection and that is in default.

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is adjudged liable for negligence or misconduct in the performance of official duties.

(c) Notwithstanding (a)(1) of this section, the bank may make a variable or fixed rate loan to a shore-based fish processor, a timber processor, or an agricultural processor or harvester that does not meet the resident ownership requirements of (a)(1) of this section for capital investment or operating capital if a facility of the processor or harvester is located in the state and the majority interest in the processor or harvester is beneficially owned by residents of the United States. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979; am §§ 7 — 10 ch 51 SLA 1980; am § 6 ch 109 SLA 1981; am § 52 ch 113 SLA 1982; am § 17 ch 67 SLA 1983; am § 20 ch 79 SLA 1985; am §§ 4, 5 ch 49 SLA 1987; am § 2 ch 52 SLA 1987)

Cross references. — For legislative findings in connection with the enactment of (c) of this section, see § 1, ch. 52, SLA 1987, in the Temporary and Special Acts.

Effect of amendments. — The 1985 amendment added paragraph (23).

The first 1987 amendment in subsection (a) in paragraph (20) deleted "and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for the year immediately preceding the date of application

and any other two of the past five years, and who has actively participated in the fishery during that period" following "application for the loan" and "the provisions of" preceding "AS 44.81.230"; and deleted "for the repair, restoration, or improvement of a commercial fishing vessel or commercial gear, or for the construction or purchase of a fishing vessel" following "under this chapter" in paragraph (22).

The second 1987 amendment added subsection (c).

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agriculture Bank v. O/S Alaska Coast, Sup.

Ct. Op. No. 3027 (File No. S-892), 715 P.2d 707 (1986).

Sec. 44.81.220. Transition.

Cited in Alaska Culture Bank v. O/S

Sec. 44.81.230 permits.

Cited in Anderson Ct. Op. No. 3172 (File No. P.2d 320 (1987).

Sec. 44.81.235.
may issue a loan
(1) purchase, re-
fishing vessel or
(2) construction
(3) working cap-
boat storage and
(4) purchase and
ment.

(b) A limited entry loan if each loan
(c) A limited entry refinance existing in accordance with

Sec. 44.81.270.
ative Budget and Auditor may conduct
auditor may conduct
has free access to
its business and books
employee relating to
may summon witnesses
examination of the
other person in relation
may require and contracts,
or other documents
(b) The bank shareholders
The legislature
and review the work

(c) The state bar
examination and
commerce and
economics
established under AS 06
Department of Commerce

at the time the

s security for a
is set out in AS
permits;
if the board of
sary to preserve
a loan that was
fault.

t authorize the
he bank who is
performance of

k may make a
essor, a timber
t does not meet
tion for capital
ocessor or har-
n the processor
United States.
7 — 10 ch 51
SLA 1982; am
4, 5 ch 49 SLA

ie past five years,
articipated in the
od" following "ap-
nd "the provisions
.230"; and deleted
tion, or improve-
fishing vessel or
the construction
vessel" following
paragraph (22).
dment added sub-

No. S-892). 715

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agri- Cl. Op. No. 3027 (File No. S-892), 715
culture Bank v. O/S Alaska Coast, Sup. P.2d 707 (1986).

Sec. 44.81.230. Loans for purchase of Alaska limited entry permits.

NOTES TO DECISIONS

Cited in Anderson v. Anderson, Sup.
Ct. Op. No. 3172 (File No. S-1320), 736
P.2d 320 (1987).

Sec. 44.81.235. Limitations on pledge of permits. (a) The bank may issue a loan secured by a limited entry permit for

- (1) purchase, repair, restoration, or improvement of a commercial fishing vessel or commercial fishing gear;
- (2) construction of a commercial fishing vessel;
- (3) working capital, including insurance premiums, fuel, bait, and boat storage and launching expenses; or
- (4) purchase and improvement of set net sites and associated equipment.

(b) A limited entry permit may be used as security for more than one loan if each loan meets the requirements of (a) of this section.

(c) A limited entry permit may be used as security for a loan to refinance existing debts if the proceeds of each original loan were used in accordance with (a) of this section. (§ 6 ch 49 SLA 1987)

Sec. 44.81.270. Audit of bank. (a) At the direction of the Legislative Budget and Audit Committee under AS 24.20.271, the legislative auditor may conduct an audit of the bank. The legislative audit division has free access to all books and papers of the bank that relate to its business and books and papers kept by a director, officer, or employee relating to or upon which a record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, or employees of the bank or any other person in relation to its affairs, transactions, and conditions, and may require and compel the production of records, books, papers, contracts, or other documents by court order if not voluntarily produced.

(b) The bank shall be audited annually by independent outside auditors. The legislative auditor may confer with the outside auditors and review the workpapers of the audit.

(c) The state bank examiners shall perform an annual qualitative examination and evaluation of the bank. The commissioner of commerce and economic development shall assess the bank a fee established under AS 06.01.010(b) for the actual expenses incurred by the Department of Commerce and Economic Development in connection