

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9501 SENATE • COMMUNITY & REGIONAL AFFAIRS • 138

- Provide an investment base which would generate an income stream which could be utilized as State revenues to replace oil once the bonanza had ended.

So, despite these conflicting goals - or, perhaps, because of them - the Permanent Fund was created without a clear definition of its ultimate purpose. This did have the advantage, however, of putting the issue before the public for on-going debate.

Overlaying the very healthy debate concerning basic goals - which I might point out have never been defined - and the four years of study and debate which resulted in establishing the savings trust as the management philosophy to be adhered to, was the creation of the Permanent Fund dividend program.

This was not as some may contend, just some political give-away scheme, but rather a finely-crafted piece of public policy which was specifically intended to create a broad and powerful constituency which would protect the Fund from those who would pillage it. And it has worked.

More than twenty years have passed since the voters declared their desire that the Fund be created. What began on February 28, 1977 with an initial deposit to the principal account of \$734,000 has grown to total more than \$22 billion today. Clearly the Fund has survived. Let us examine why.

1. THE RIGIDITY OFFERED BY CONSTITUTIONAL AMENDMENT

When the voters amended the state Constitution they created an entity which could not be abolished except by another contravening amendment. Neither executive, nor legislative, nor judicial action could serve to abolish what the people had created. Additionally, the word "permanent" is used three times in the short amendment text. This serves to discourage those who would advance investment, loan, or other pursuits which would reduce the Fund to "temporary" status.

2. CHANGE TO THE MANAGEMENT ACT MUST OCCUR THROUGH

THE SEPARATION OF POWERS PROCESS Legislative change is difficult. It is necessary that all changes to the management act of the Fund be adopted by both houses of the legislative branch and survive gubernatorial scrutiny and a possible veto. The process is usually slow, open and deliberative and process abuses in one branch can be remedied by the other.

3. THE FUND IS RUN SEPARATELY FROM STATE GOVERNMENT

Although the Fund is part of state government itself, it is managed by the Permanent Fund Corporation, a separate and independent instrumentality of the state. Thus, the savings functions of the Fund are separated from the spending functions of the state. This separation prevents our savings account from becoming a spending account.

Part of this separation is the clear understanding that the Corporation manages the Fund as a bottom-line entrepreneurial enterprise. It minimizes risk, and within that constraint, it maximizes investment yield. It does not engage in "social" or "political" investing.

4. THE CONSTITUENCY CREATED BY THE DIVIDEND PROGRAM

Since every man, woman, and child in Alaska with qualifying residency is entitled to a portion of each year's earnings, many individuals have an interest in the Fund's operating and investment activities. Further, earnings of the Fund are subject to special public scrutiny since any expenditure of earnings must go through the legislative appropriation process. Proposed legislative changes to the management act, which may have a bearing on risk and level of earnings, and can affect dividends also receive public review.

5. FUND MANAGEMENT PRACTICES

The management and activities of the Alaska Permanent Fund Corporation contribute to public awareness and public confidence. The six trustees responsible for designing overall policy and the executive director and his staff selected to execute it have fashioned a regimen which includes well-crafted internal controls; an accountability program which includes the publication of complete and easy-to-read financial statements and annual reports, a widely-used speakers bureau; open meetings with opportunity for citizen participation and anti-corruption Fund and staff investment policies.

These five keys to survival might appear straightforward and what you would expect of any long-term, non-liquidating trust. Yet only one other major fund Kuwait's Reserve Fund for Future Generations has succeeded as well as Alaska's.

In a paper presented to the Trustees in September 1987, Dr. Thomas R. Stauffer, Adjunct Professor, Center for Contemporary Arab Studies, Georgetown University, observed that many funds have been created but few survive. Development funds - such as the one considered from 1977 to 1980 and rejected by Alaskans - established by Venezuela, Abu Dhabi, Alberta and Iran have not been successful because they became involved in special interest economic development and/or have mixed government social and political programs into investment regimes. Oman established a savings trust akin to Alaska's and Kuwait's but it failed when its government withdrew contributions and earnings to meet budgetary expenditures. Dr. Stauffer also pointed out that two failed (or failing) funds - Alberta and Iran's - were almost totally EXPENDED domestically, while Kuwait's and Alaska's were almost entirely INVESTED abroad.

It is interesting to note that Kuwait's fund survives for different reasons than Alaska's. It owes its monumental accomplishment to strong, stern and authoritarian leadership. However, individual leadership is a narrow, fragile base to rely upon for long-term success. When such leadership ceases, so may the good fortune of its fund.

Some argue that Alaska's fund is in peril because its ultimate purpose has not been defined. I am not convinced that a final definition of purpose is either necessary or in the best interests of the Fund. Once a single, narrow purpose is established - and thus other competing purposes are eliminated - the supporting constituency of the Fund is fragmented and weakened. It may be better for the Fund to have multiple purposes or several competing purposes in order to retain the broadest possible support. In my view, it is good that Alaskans continue to debate the ultimate purpose of the Permanent Fund because that stimulates continuous statewide citizen interest and involvement (which translates into protection).

Lest you think that the above is too Machiavellian, consider the following "delicate balance theory." Simply stated, it propounds that the existing statute deals fairly with each of the three major constituencies tugging at the Fund. Each constituency wins something it wants but also loses a bit in the bargain. No single constituency wins everything at the expense of the others.

1. Dividend proponents are pleased because dividends have first call on earnings each year. They are unhappy that these payments are not guaranteed by constitutional amendment and are subject to annual legislative appropriation.
2. Proponents of protecting the purchasing power of the trust through inflation proofing are pleased that, after payment of dividends, remaining income in an amount necessary to offset the ravages of inflation is transferred to principal. They would prefer that inflation - proofing have a higher priority than dividends.
3. Proponents of using Fund earnings to support state operating and capital budgets are pleased that funds are available in the earnings reserve account for such use. On the other hand, proponents are displeased that appropriation of this money by legislators would attract extraordinary public attention because it would require removal of funds from the aegis of the Permanent Fund.

Clearly, the statute was fashioned to recognize the legitimate concerns of competing constituencies. It is full of compromise and does, in my view, constitute a "delicate balance." This delicate balance binds together disparate constituencies and even though there is inherent conflict, there is also on-going public debate and a broad base of support which sustains and preserves the Fund.

By 1997 the Fund had grown far beyond that believed possible by its founders. But its very success may contain the seeds of its destruction. It is clear that the "delicate balance" referred to, above, may be skewed to the dividend constituency thus endangering the Funds continuing success.

It is not easy to run a business with billions of dollars in assets and earnings in excess of \$1 billion a year completely in the "sunshine." Yet in the case of the Fund, it is being

done. The fact that the Fund is under the constant scrutiny of its owners - the people of Alaska - insures adherence to the highest standards of personal and corporate integrity and demands continuous professional performance. Both are critical to Fund survival. This same public scrutiny, when used to measure the proposals and actions of elected officials regarding the Fund, is no less critical.

In conclusion the Permanent Fund and the surrounding economic, political and social environment in which it exists is endowed with the correct blend of ingredients necessary to the Fund's long-term survival. Care must be exercised, however, to insure that Alaskans understand what these ingredients are and how they interrelate to our collective benefit.

Portions of this paper first appeared in the Alaska Public Affairs Journal, published by the University of Alaska Southeast in the summer of 1988.

III. ARE WE KILLING THE THING WE LOVE? THE DEMISE OF ALASKA'S PERMANENT FUND

Alaska's Permanent Fund has succeeded over the years because of the delicate balance of constituencies which have supported it. There is a high probability that if this balance is destroyed the future of the Fund will be in peril. The balance is composed of three constituencies: the advocates of using a portion of Fund income for inflation proofing to protect its purchasing power; the advocates of the dividend program to stimulate citizen interest in the Fund and its protection; and advocates of using a portion of income to fund functions of state government. During the past two years the balance has been tilting toward the dividend program. This is manifested by continued appropriations of excess earnings back into the Fund and individual dividends approaching the \$1,300 per capita level. Inflation proofing has been accomplished due to high earnings in a very low inflationary environment.

No income is used for state operation or capital projects. Elected officials intimidated by popular demand which calls for ever increasing dividends; are loath to publicly consider the commitment to a portion of permanent fund earnings to the annual revenue base.

The Permanent Fund Dividend Program was not part of the original constitutional amendment which created the Fund in 1976. It was fashioned in 1982 and the first check was issued that year, not from Permanent Fund earnings, but from the general fund of the State.

Despite all the rhetoric which surrounds the dividend and high sounding phrases like "It is an unparalleled, equal distribution of State wealth to every qualified man, woman and child..." It is, quite simply, a freebie. It is a giveaway not based on need, or work, or good public purpose. It does, however, serve the function it was created for; to buy a constituency. By buying the love and approbation of Alaskans for the Permanent Fund and by giving all Alaskans a stake in the success of the Fund it assures that the Alaska citizenry will rise up and defend the Fund any time the political process moves to pillage it or its administrative caretakers fail to meet their fiduciary responsibilities.

The dividend has served Alaskans well. It has created the scrutiny and demanded the openness which characterizes Fund operations. In the very early years, it helped cement the decision that the Fund serve as a long-term trust; a savings account rather than a spending account.

Other than buying a constituency; sort of like gangster "protection money", the Permanent Fund has not engaged in any public purpose. Indeed, basic human avarice and greed dictates the acceptance of as much free money as will be given away. It is probable that

Alaskans could have been "bought" for \$250 or \$500 per year and that a constantly growing dividend is unnecessary and unwarranted.

Notwithstanding any of the above observations, it is clear that the dividend program has protected the Fund...and itself. Perhaps it did its job too well because today politicians and administrators are loath to do anything with Fund earnings other than inflation-proof and pay dividends, Our public policy makers are intimidated by a constituency that not only wants to protect the Fund but primarily wants to protect the flow of free money in larger and larger amounts.

The "delicate balance" of the three competing constituencies (inflation-proofing, dividends, and use of earnings to support government) has been ignored and this creates several problems:

1. Alaskans have been bombarded with claims that a "fiscal gap" exists. Clearly it does not. A fiscal gap exists only if you ignore the huge annual income of the Permanent Fund and continue to operate State government on existing tax and natural resource receipts. In the name of the gap, politicians are beggaring the State by cutting aid to cities and education while placing more than \$2 billion of surplus earnings into the Permanent Fund. Apparently there are no funds to build and maintain the infrastructure of a growing State, but there are funds to place billions of surplus dollars into the Permanent Fund for a larger annual dividend. Some may defend this action as prudent savings, others call it political pandering.
2. Currently the Alaska Permanent Fund is not subject to Federal taxation. States and municipalities are given this exemption because income earned on public money is assumed to be used for public purposes. It is argued that the Permanent Fund derives its exemption from the fact that it is part of the State Treasury and should be treated the same as the Treasury. Alternately, it could be claimed that the Fund is run by an instrumentality (Alaska Permanent Fund Corporation) of the State and like AIDEA or AHFC it enjoys instrumentality exemption. Regardless of which basis is used, there is a fundamental question of whether or not the Fund serves a public purpose. Giving away money not based on need is not a governmental function. At deminimus dividend levels one could argue that the purchasing of protection for the long-term salvation of the State is a qualifying purpose. However, the current size of the dividend program has developed a life of its own which overwhelms a justifiable governmental public purpose argument. Unless Alaska acts to establish a clearer public purpose for the Fund, it could lose its exemption. This means that Uncle Sam will tax earnings of the Permanent Fund at the current tax levels and dividends will be diminished by the same percent. Dividend recipients would still be required to pay tax on the dividend received. I cannot predict when the Internal Revenue Service will start analyzing these matters but can advise that our public policy makers avoid the problem by immediately moving toward insuring that the Fund begin serving a viable governmental public purpose.

3. The proposal to lock in the dividend program by Constitutional amendment is an action which may be popular. Who wouldn't vote for free money? But putting the dividend into the constitution would sound the death knell for tax-exemption for the Fund. It would make it clear that the Fund had no public purpose other than to give away money.

The Permanent Fund is a twenty two billion dollar gorilla. It is one of the larger funds in the world and it is well-regarded by Alaskans. High regard is manifested by the confidence public policy makers have placed in it by assigning additional responsibilities. By direction of State Statute it now manages large sums of money for the Mental Health Trust and for the Science and Technology Endowment. These are State instrumentalities and it is the prerogative of the State to dictate how these funds will be managed. Little regard has been given to the asset allocation needs of the piggybacking agencies or the concept that different entities have different cash flows, tolerance for risk, etc. The Fund's fame attracts piggy backers regardless of sensibility. Currently, there is a bill in the Alaska legislature which would have the Permanent Fund manage money for any municipal entity with \$50 million or more. If the Permanent Fund is to serve as an investment advisor, competing with private entities, then perhaps it will also be regarded as a taxable entity.

The Fund's fame may do it in. It cannot fracture its focus and manage many funds at once. In serving others it has a fiduciary responsibility to provide special internal controls, order flow, detailed transaction and other reports and hold itself available to report periodically to the boards of directors of the entities it serves. Its job is complex and it is successful because it maintains its focus,

Importantly, the Fund should not compete with the private sector in Alaska which provides investment management services tailored to meet the specific needs of clients. If the Permanent Fund is to serve as an investment advisor, competing with taxable entities, than perhaps it will also be regarded as a taxable entity; similar to private sector advisors.

Public policy makers should resist actions which expand government at the expense of the private sector. They should not burden the Permanent Fund with duties not germane to its main mission.

Our public policy makers should respect the Fund but not hold it in awe. They must address the public purpose problem. They must make sure that the Fund maintains its focus. They must find a way to address fiscal problems by a vigorous pursuit of what is right, rather than what is easy. If greed, demagoguery, and popularism prevail, the use of permanent fund earnings will continue to be skewed toward dividends and away from the delicate balance which has sustained the fund since inception.

IV. THE FUTURE OF THE FUND

Alaska has a problem. It is political in nature, not fiscal.

Created and nurtured through its infancy and adolescence by a succession of thoughtful, proactive Alaskans, the permanent fund has been hugely successful. It has grown not only in value but into an overwhelming force with a life of its own. The delicate balance which has protected it is tipping. Poor, rather than rational, public policy is being fostered.

This behemoth, sometimes called the "Alaska Permanent Dividend Fund" by Alaskans who view it solely as a vehicle to provide them a steady stream of unearned income, has intimidated elected officials to the point of inaction. They know that some of the income of the Fund---over and beyond income used for inflation proofing and dividends---can and should be used to meet the needs of the State. Yet, they fear that their actions will not be considered favorably by a dividend greedy constituency. Indeed, every time clear-thinking elected officials advance an idea for discussion, some of their peers who are true demagogues shut off debate with threats of political assassination.

Alaskans have been told that there is a fiscal gap; that annual expenses of State government exceed its income. This statement is true only if you do not consider the huge annual income of the Fund which approaches \$1.75 billion. If all of the earnings of the Fund are off limits---and they should not be---a fiscal gap exists. So, our problem is not that funds do not exist. The problem is that elected officials fear to touch them.

This political problem has huge fiscal ramifications. With the earnings of the Permanent Fund off the table, our elected officials are beggaring the State.

- The existing infrastructure is crumbling from Nome to Ketchikan. The road and bridge system is deteriorating ; deferred maintenance at the University of Alaska is disgraceful.
- Aid to municipalities has been a mainstay in keeping property taxes low in the communities in which we live and work. Reduction of this program has resulted in higher local taxes. This may be a "savings" at the State level, but to me it is all smoke and mirrors because it increases local taxes.
- Cuts in higher education budgets are absurd. While elected officials place more than two billion dollars of surplus money into the Permanent Fund, cuts are made to the University of Alaska which reduced course offerings, foster low morale, and do not entice students to attend the institution.

These are only a few examples. At this point in Alaska's development we should be making an investment in our infrastructure and education. We should be expanding rather than contracting our ability to compete as we enter the twenty-first century. We should be using some of the income from our Statehood seed corn to increase our vitality and viability as a State.

Of course this should be done carefully not wasting money. We should be improving productivity and effectiveness. But we should not be tearing down the structure and attacking the fiber of our governmental institutions in the name of a fictitious fiscal gap.

Disregarding finger-pointing, recriminations, and ignoring mistakes of the past, it is time to plan for the future of Alaska. Because of its size and importance, the Alaska Permanent Fund can play a pivotal role.

We must be realists. We must realize the position of elected officials who do not wish to take any action which might be perceived as spending the income of the Permanent Fund or diminishing the dividends. We cannot expect more than one or two legislators to fall on their swords and commit political suicide by proposing to do so.

We must find a way to use some of the income of the Permanent Fund without spending it. On its face this appears to be an oxymoron. Somehow elected officials have to make it clear that funds in the Earnings Reserve Account are really General Fund money; not part of the Permanent Fund. The Permanent Fund manages and invests these funds but they are not part of the Fund itself. They are available for appropriation.

Even if this were made clear, some might still claim that "*these Permanent Fund earnings are being spent. Spending such earnings for purposes other than dividends is bad.*" Reality dictates that the demagogues be dealt with. If earnings of the Fund must be saved rather than spent, let's engage in a two-step process which permits us to reach our goals.

The two-step solution is really very simple. Rather than spend the excess earnings of the Permanent Fund, save them. Create another fund, parallel to the Permanent Fund, into which excess earnings can be SAVED. This appropriation for SAVING cannot be construed as expending, wasting, or frittering away these excess earnings. They remain in existence, in perpetuity, in another long-term fund which will be invested in a manner similar to the Permanent Fund. The use of these excess earnings in such a manner permits the Alaska Permanent Fund to fulfill its public governmental purpose which is so critical to its maintenance of tax-exempt status. Over the years, as additional excess Permanent Fund earnings are appropriated to the second fund, it will throw off more and more income which can be used for general government purposes. Its earnings, if not required for use in any given year, may be appropriated back to the new fund or held in the General Fund as equalizing reserves.

In creating this new fund, which I would call the Tax Avoidance Fund (TAF), I would make it clear to all Alaskans that such a fund is necessary to insure that permanent fund dividend money would not be taxed back by the State in the future and that growing corporate Alaska would be less subject to additional taxation if such a buffering fund and income stream existed.

While the TAF would be invested similarly to the Permanent Fund, it would not be administered the same. There would be two major differences. It would not pay a dividend to Alaskans; and the income stream of the TAF could be specifically designated as a possible appropriation source to meet bond debt service as well as state operational needs.

In order to launch the TAF with enough assets which would permit it to start working with the least possible delay, consideration should be given to appropriating a portion of the Constitutional Budget Reserve account to create instant bulk and income production.

It would not be prudent to bog down movement to this approach by insisting who should run it. The Permanent Fund could since the investment disciplines might be the same, but cash flows might be different. Potentially, this could further dilute the Permanent Fund's focus. The State Treasury could run it but its record in investing the Constitutional Budget Reserve is dismal; considering its failure to invest such funds aggressively, even with legislative consent. It is estimated that the Treasury lost an opportunity to earn more than a hundred million dollars (more than the budget cuts in two years) when it decided not to exercise investment options specifically provided by statute. Whichever element of government runs the TAF, its creation statute should provide for clear and unambiguous governance.

The TAF is a simple generic approach to using a portion of Permanent Fund income to serve as the corpus of a second fund which will earn income for the use of State government.

There are many other proposals which have considerable merit. All could use a similar Permanent Fund-Constitutional Budget Reserve vesting approach. In fashioning these other plans, their authors have focused on single constituencies. Their hope is, that if the correct constituency is chosen, it will be strong enough to break the stranglehold legislators find themselves faced with in doing anything with the earnings of the Permanent Fund. Some of these plans include

- Former Governor Walter Hickel's dividend plan for cities.
- Senator Duncan's plan for an educational endowment.

- Senator Kelly's and Representative Mulder's plan for meeting Alaska's critical infrastructure needs.
- Senator Mackie's plan for providing essential new infrastructure.

While these plans are functionally oriented, they really serve all areas of concern. This is because the funding of one function through such a plan frees up money for other areas.

Notwithstanding the merits of each of the other proposals, I prefer the generic TAF for a few important reasons.

1. It appeals to all constituencies. Its proceeds will be available to all, each year dependent upon need. If all constituencies believe they will benefit, all will support it. If some constituencies are cut out under the functional approach, they will be less likely to provide strong support for a competing function. It provides the most legislative flexibility. In step with the non-fund dedication approach set forth in the Alaska Constitution, it allows the Legislature, each year, to make decisions as to what the priority needs of the State are.
2. There is always a danger that the functional recipient of a dedicated fund will receive only the funding from its endowment. If the endowment cannot throw off enough funds to meet the function's need it may remain under funded. "After all", some may argue, "why should we fund the function out of general Fund money when it has its own dedicated fund's income".

Not only does the future point toward the need for two funds and the appropriation of some earnings to create the corpus of the second fund, the generic TAF will put to rest some poor ideas.

1. Specifically, the endowment approach of the long-range planning commission and the Cremo Plan should be discarded. This, is primarily because if the pay out rate is too high or changed at whim, the principal of the Fund will be eroded. Second, the Cremo concept mixes tax receipts with seed corn natural resource bonuses and royalties. The payment of dividends from commingled funds, including taxes, is unconscionable. Third, the entire focus of the Permanent Fund is changed from a savings account to that of a spending account.
2. Another idea which should be discarded is that which permits the Permanent Fund to compete against the private sector and go into the investment advisor business. It should not be required to manage funds other than State funds. It should not engage in the management of municipal funds with the added fiduciary responsibility that function entails; particularly reporting, record keeping, order flow, custody and addressing legal problems which occur when municipal funds are kept in the Permanent Fund's ownership name and are invested in some asset classes considered

inappropriate, i.e. commercial real estate. Government operations should not be expanded to meet needs which are readily met outside of government. The closer the Fund comes to mirroring the private sector, the closer it comes to being taxed like the private sector.

3. The Legislature should not proceed with any action which would lock in the dividend program and make it difficult to use earnings of the fund for other purposes without a vote. Surely nobody is so naïve as to expect a popular vote against a larger and ever-increasing dividend; even if it is poor public policy and threatens the Fund's existence. The adoption of such a proposal will, at worst, make the Fund a taxable entity. At best, it will continue to beggar the State and eventually compel taxation as the State moves to cover its needs from dividend recipients.

The Fund's future is bright. It can fulfill its role of providing a base for an economically viable state. We must, however, protect the Fund by mandating that it serve a public purpose and that it balance the use of income between the dividend program, inflation proofing, and contributing revenue to another fund whose income will be used for state operating and capital expenditures.

SUMMARY
Alaska Education Facilities Financing Program

OBJECTIVES:

1. Provide for the funding of critical rural and urban school construction and major maintenance projects and University of Alaska capital projects when the projects are needed, but before they could be funded by appropriation under a balanced-budget plan.
2. Resume funding of net debt service for school bonds of organized municipalities under formal reimbursement agreements, and provide for continuing this funding indefinitely without impacting the balanced-budget plan.
3. Establish an on-going mechanism, under which projects could be funded indefinitely in an organized manner, under strict criteria and legislative authorization.
4. Fund necessary school construction by means other than G.O. bonds. G.O. bonds: a) could not be issued until after the 1998 election and 2) would be a one-shot affair.
6. Protect a portion (\$1.2 billion) of the Constitutional Budget Reserve Account for future use. The corpus of the initial capitalization of the Education Facilities Fund could not be drawn -- Earnings from the fund would pay for the projects, and potentially allow the fund to grow as well.

SUMMARY

1. Establish the Education Facilities Finance Authority (EFFA) within the Department of Education, and the Education Facilities Fund ("EF Fund") as an asset of the authority. The EFFA would:
 - a. Sell EFFA bonds to directly finance construction of schools upon approval of specific projects by the Legislature. It is contemplated that this method of funding would be used primarily for construction of schools in rural jurisdictions with insufficient tax bases to issue bonds.
 - b. Contract to pay up to 70% of net debt service on municipal bonds issued to finance municipal school facilities and up to 100% of net debt service on University of Alaska

bonds, provided that each specific facility has been approved by the Legislature for a specified level of reimbursement.

c. Apply non-corpus balances of the EF Fund to debt service on EFFA bonds and to the specified percentage of net debt service under authorized reimbursement agreements for municipal school bonds and university bonds.

d. Allow use of a negative pledge of the EF Authorities assets as security for EFFA bonds and for the EFFA 's obligations under authorized reimbursement agreements for municipal school bond and University bond debt service.

2. The EF Fund would be managed by the Permanent Fund Corporation under its statutes. Initial capitalization would come from the constitutional budget reserve, with possible additional deposits from a combination of other sources.

5. The bill would authorize initially: 1) projects from the DOE priority list for EFFA bonds, 2) municipal debt service reimbursement agreements for projects selected by the Legislature, and 3) University of Alaska debt service reimbursement agreements for projects selected by the Legislature.

Future legislatures could continue to authorize more bonds and reimbursement agreements within the financial capabilities of the education facilities fund. The fund would have bonding capacity equal to or exceeding the initial capitalization, without risking the original corpus appropriated to it.

Under reasonable projections of future demands on the fund, it would continue to grow if investments of the fund yield more than bonds issued by the EFFA and by municipalities and the University subject to reimbursement obligations. This should occur with proper management of the authority.

March 5, 1997



City and Borough of Juneau School District

"FY 98" Capital Improvement Plan

Mary Rubadeau, Superintendent
10014 Crazy Horse Drive
Juneau, AK 99801
(907) 463-1700
(907) 463-1712

Top Priorities

"FY 1998"

No. 1	Marle Drake Roof Replacement.....	\$1,189,354
No. 2	Mendenhall River Roof Replacement.....	\$2,230,651
No. 3	Auke Bay Roof Replacement.....	\$847,817
No. 4	High School Heating and Ventilation.....	\$106,663
No. 5	Floyd Dryden Gym Floor Replacement.....	\$183,654
No. 6	High School Overpass.....	\$201,614
No. 7	Gastineau Heating Coil Rep'acement.....	\$183,236
No. 8	Demolition - Auke Bay Sewer Treatment Plant.....	\$112,070
No. 9	New High School Design and Construction.....	\$32,715,151
No. 10	High School Gym Floor Replacement.....	\$129,197
No. 11	Dzantik'i Heeni Site Development Project.....	\$3,524,066

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FY 98 Six Year Plan

FY-98 CAPITAL BUDGET-SIX YEAR CAPITAL IMPROVEMENT PLAN

DISTRICT Matanuska-Susitna Borough School District

DATE: August 1996

District Priority	Location and Descriptions	Priority Type	Community Priority	FY Year in Which Funding is Requested						Cost Estimate
				98	99	2000	2001	2002	2003	
1	Talkeetna School Addition & Renovation	2	1	X						\$7,568,000
2	Atlasta Middle School	2	2	X						\$30,526,000
3	Meadow Lakes Elementary School	2	3	X						\$12,297,000
4	Houston High School	2	4		X					\$32,916,000
5	Greater Core Elementary School	2	5		X					\$12,615,000
6	District Central Office Building	5	6		X					\$7,797,000
7	Operations and Maintenance Building	7	7			X				\$4,043,000
8	Career Center	2	8			X				\$17,484,000
9	Colony Performing Arts Auditorium	7	9			X				\$5,354,000
10	Palmer Area Elementary School	2	10			X				\$12,993,000
11	Yentna Portable School	2	11				X			\$349,000

← 5039.

I hereby certify that the enclosed information is true and correct to the best of my knowledge.

Signed _____
Chief School Administrator

Date _____

Page 1 of 2 Pages

Revised 8/1/94

Second Revision 9/6/94

FY 98 Six Year Plan

FY-98 CAPITAL BUDGET-SIX YEAR CAPITAL IMPROVEMENT PLAN

DISTRICT Matanuska-Susitna Borough School District

DATE: August 1996

District Priority	Location and Descriptions	Priority Type	Community Priority	FY Year in Which Funding is Requested						Cost Estimate
				98	99	2000	2001	2002	2003	
12	Shell Lake School	2	12				X			\$349,000
13	Chase School	2	13				X			\$349,000
14	Chicaloon School	2	14				X			\$349,000
15	Houston Middle School Addition	2	15					X		\$7,303,000
16	Su-Valley School Pool	2	16					X		\$4,637,000
17	Special Education Resource Center	7	17					X		\$13,911,000
18	Colony High School Pool	7	18					X		\$5,796,000
	Food Service & Nutrition Center	2	19					X		\$5,912,000
20	Sutton Jr/Sr School	2	20						X	\$16,716,000
21	Alaska Challenger Learning Center	7	21						X	\$777,000
22	Su-Valley Middle School	2	22						X	\$8,955,000

I hereby certify that the enclosed information is true and correct to the best of my knowledge.

Signed _____
Chief School Administrator

Date _____

Page 2 of 2 Pages

Revised 8/1/94

Second Revision 9/6/94

FY - 98 Capital Budget Six-Year Capital Improvement Plan

MAJOR MAINTENANCE

District Kenai Peninsula School District Date: 8-30-96 Page 1 of 4 Pages

District Priority	Project Location and Description	Primary Purpose	Year for which funding is being requested						Estimated Cost
			FY	FY	FY	FY	FY	FY	
1	A.D.A. Districtwide - Accessible Parking	D	98						81,000
2	A.D.A. Districtwide - Accessible Entries Phase I	D	98						114,000
3	A.D.A. Districtwide - Accessible Restrooms Phase I	D	98						274,000
4	Honer Jr-Handicap Access	D	98						200,000
5	Kenai Middle-Handicap Access	D	98						200,000
6	SoHi-Reroof Section D & G	C		99					459,500
7	KCHS-Reroof Section D	C		99					300,300

869,000

I hereby certify that the information presented is true and correct to the best of my knowledge.

Signed *John L. Little*
Superintendent

Date 9/31/96

05-86-008

Post-It [®] Fax Note	7671	Date	# of pages
To	<u>STEVE McPheters</u>	From	<u>Penny Little</u>
Co./Dept.		Co.	
Phone #		Phone #	
Fax #	<u>586-5879</u>	Fax #	

**FY - 98 Capital Budget
Six-Year Capital Improvement Plan**

MAJOR MAINTENANCE

District Kenai Peninsula School District Date: 8-30-96 Page 2 of 4 Pages

District Priority	Project Location and Description	Primary Purpose	Year for which funding is being requested						Estimated Cost
			FY	FY	FY	FY	FY	FY	
8	School District Administration-Reroof	C		99					185,000
9	SoHi-Replace Upper Gym Floor	D		99					91,900
10	McNeil Canyon-Replace Septic System	C		99					950,000
11	Seward High-Pool Renovation	C			00				
12	Soldotna Elementary-Reroof Section A & B	C			00				315,000
13	Redoubt Elementary-Reroof Section A & B	C			00				365,600
14	A.D.A. Districtwide-Phase 2	D			00				765,300

I hereby certify that the information presented is true and correct to the best of my knowledge.

Signed 
Superintendent

Date 8/31/96

00-00-000

FY - 98 Capital Budget
Six-Year Capital Improvement Plan
MAJOR MAINTENANCE

District Kenai Peninsula School District Date: 8-30-96 Page 3 of 4 Pages

District Priority	Project Location and Description	Primary Purpose	Year for which funding is being requested						Estimated Cost
			FY	FY	FY	FY	FY	FY	
15	Seward Jr/Sr-Reroof Section B & D	C			00				138,900
16	Soldotna Middle-Reroof Section C, D, E & F	C			00				354,000
17	Susan B. English-Reroof Section A	C				01			236,500
18	Tustumena Elementary- Reroof Section C	C				01			117,000
19	Kenai Middle-AHERA Abatement	D					02		2,332,299
20	Homer Inter-AHERA Abatement	D					02		124,458
21	Paul Banks Elem-AHERA Abatement	D					02		46,765

I hereby certify that the information presented is true and correct to the best of my knowledge.

Signed

Superintendent

Date

8/31/96

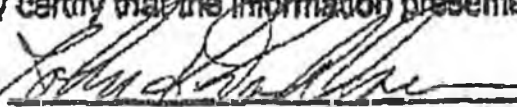
**FY- 98 Capital Budget
Six-Year Capital Improvement Plan**

SCHOOL CONSTRUCTION PROJECTS

District Kenai Peninsula School District Date: 8-30-96 Page 4 of 4 Pages

District Priority	Project Location and Description	Primary Purpose	Year for which funding is being requested						Estimated Cost
			FY	FY	FY	FY	FY	FY	
22	Homer High-Parking Lot Paving	F					03		87,400
23	Homer High-Cover Voc Area	F					03		267,000
24	Sol Middle-Cover for Material Rack	F					03		16,000
25	Nikiski High-Cover Voc Area	F					03		118,000
26	Voznesenka School-New	B					03		

I hereby certify that the information presented is true and correct to the best of my knowledge.

Signed 
Superintendent

Date 8/31/96

Dave.

FY- 98 CAPITAL BUDGET - SIX YEAR CAPITAL IMPROVEMENT PLAN

DISTRICT Fairbanks North Star Borough DATE August 31, 1996 Page 1 of 3 Pages

District Priority	Location and Description	Priority Type	Community Priority	FY in Which Funding is Requested						Cost Estimate
				98	99	00	01	02	03	
1	Hunter Elementary School Planning, Design and Renovation	C		X						\$3,194,997
2	Denali Elementary School Planning, Design and Renovation	C		X						\$8,806,624
3	Nordale Elementary School Planning, Design and Renovation	C		X						\$9,299,000
4	District: Physical Plant Shipping and Receiving Renovation and Addition	C		X						\$5,818,694
5	New Districtwide Food Service Facility	E		X						\$4,827,903
6	Barnette Elementary School Planning, Design and Renovation	C		X						\$5,717,586
7	District Wide: ADA Compliance	D		X						\$6,200,048
8	Two Rivers Elementary School Fire Protection System	C			X					\$291,773
9	Ryan Middle School Planning and Design	C			X					\$756,135
10	Tanana Middle School Planning and Design	C			X					\$586,020
11	District Wide: Fire Protection Projects	D			X					\$196,612
12	Howard Luke Library/Classroom Addition	F			X					\$1,546,500
13	Hutchinson Career Center Planning and Design for Renovation	C			X					\$646,437

43,866

108,673

FY- 98 CAPITAL BUDGET - SIX YEAR CAPITAL IMPROVEMENT PLAN

DISTRICT Fairbanks North Star Borough DATE August 31, 1996 Page 2 of 3 Pages

District Priority	Location and Description	Priority Type	Communi- ty Priority	FY in Which Funding is Requested						Cost Estimate
				98	99	00	01	02	03	
14	District Wide: Repairs for Selected Schools	C			X					\$630,147
15	Ryan Middle School Renovation	C				X				\$9,715,216 (\$1,250,000) \$8,465,216
16	Tanana Middle School Renovation	C				X				\$6,122,284
17	District Wide: Fire Protection for Selected Schools	D				X				\$203,519
18	New Northwest Fairbanks Elementary School Planning, Design and Construction	B				X				\$17,391,767
19	Woodriver Elementary Planning and Design for Renovation	C				X				\$586,020
20	District Wide: Repairs for Selected Schools	C				X				\$655,304
21	Salcha Elementary School Planning and Design for Renovation	C					X			\$346,622
22	Hutchinson Career Center Renovation	C					X			\$5,925,672
23	Woodriver Elementary Renovation	C					X			\$6,446,121
24	District Wide: Fire Protection for Selected Schools	D					X			\$303,423
25	District Wide: Repairs for Selected Schools	C					X			\$681,594

Form Number 05-251-19 Rev 05/25/90 138 FAC-T

FY- 98 CAPITAL BUDGET - SIX YEAR CAPITAL IMPROVEMENT PLAN

DISTRICT Fairbanks North Star Borough DATE August 31, 1996 Page 3 of 3 Pages

District Priority	Location and Description	Priority Type	Communi- nity Priority	FY in Which Funding is Requested						Cost Estimate
				98	99	00	01	02	03	
26	Salcha Elementary School Renovation	C						X		\$2,857,932
27	District Wide: Fire Protection for Selected Schools	D						X		\$315,589
28	District Wide: Repairs for Selected Schools	C						X		\$708,813
29	District Wide: Fire Protection for Selected Schools	D							X	\$328,270
30	District Wide: Repairs for Selected Schools	C							X	\$737,165

I hereby certify that the enclosed information is true and correct to the best of my knowledge.

Signed John D. Moulton Date 8-23-96
 Chief School Administrator

Attachment A

SIX YEAR CAPITAL IMPROVEMENT PLAN
Revised 10/09/96 to remove projects previously funded

District Priority	Location and Description	Community Priority	Year	Cost Estimate
1	Romig Junior High. Roof Replacement	1	FY98	\$1,785,000
2	Birchwood Roof Replacement	2	FY98	\$960,000
3	Taku Elementary Addition & Renovation	3	FY98	\$6,200,000
4	Muldoon Area Elementary New Prototype School	4	FY98	\$12,704,393
5	Chugiak High School Addition	5	FY98	\$9,500,000
6	S. Anchorage Elementary Planning, Ed Specs	6	FY98	\$0 ASD Staff
7	Central Junior High Renovation - Library/Science	7	FY98	\$8,000,000
8	Site Acquisition Muldoon Middle & Chugiak Elementary	8	FY98	* \$2,850,000
9	Nunaka Valley Renewal, Programmatic & Code Upgrades	9	FY98	\$5,400,000
10	Scenic Park Renewal, Programmatic & Code Upgrades	10	FY98	\$4,000,000
11	Ptarmigan Renewal, Programmatic & Code Upgrades	11	FY98	\$2,000,000
12	Ocean View Renewal & Programmatic Upgrades	12	FY98	\$443,500
13	Girdwood School Planning Study K-12	13	FY98	\$0 ASD Staff
14	Denali School K-8 Planning Alternatives	14	FY98	\$0 ASD Staff

SUB-TOTAL FY98

\$53,842,893

(53,843)

* Currently the estimated cost for these two sites is \$3,000,000. The District has available approximately \$200,000 from previously acquired site funds to add to the requested funds through a bond proposal in 1997.

Post-it* Fax Note	7671	Date	1/24/97	# of pages	4
To	Steve W. Phelan	From	Kathy Christ		
Co./Dept.		Co.	ASD		
Phone #		Phone #	348-5244		
Fax #	(907) 586-5879	Fax #	348-5250		

District Priority	Location and Description	Community Priority	Year	Cost Estimate
15	South Anchorage Elementary Site Adapt Design & Construction	15	FY99	\$13,800,000
16	Wendler Junior High Renewal, Programmatic & Code Upgrades	16	FY99	\$9,000,000
17	Muldoon Renewal/Replacement, Code & Programmatic Upgrades	17	FY99	\$9,000,000
18	Creekside Park Renewal, Programmatic & Code Upgrades	18	FY99	\$5,200,000
19	Baxter Renewal, Programmatic & Code Upgrades	19	FY99	\$1,428,000
20	Airport Heights Renewal, Programmatic & Code Upgrades	20	FY99	\$4,200,000
21	Russlan Jack Renewal, Programmatic & Code Upgrades	21	FY99	\$3,200,000
22	S. Anchorage High School Ed Specs	22	FY99	\$100,000
23	Districtwide Master Planning	23	FY99	\$420,000
24	Districtwide Phase 1 Facility Audit Corrections	24	FY99	\$3,000,000
25	Ursa Minor Renewal, Programmatic & Code Upgrades	25	FY99	\$4,800,000 Federal Funding
26	Polaris K-12 Addition Design	26	FY99	\$500,000
SUB-TOTAL FY99				\$54,648,000

District Priority	Location and Description	Community Priority	Year	Cost Estimate
27	Gruening Middle School Renewal, Programmatic & Code Upgrades	27	FY00	\$2,500,000
28	Clark Middle School Renewal, Programmatic & Code Upgrades	28	FY00	\$3,000,000
29	Government Hill Renewal, Programmatic & Code Upgrades	29	FY00	\$3,650,000
30	Gladys Wood Renewal, Programmatic & Code Upgrades	30	FY00	\$1,000,000
31	Girdwood Renewal, Programmatic & Code Upgrades	31	FY00	\$1,000,000
32	Chester Valley Renewal, Programmatic & Code Upgrades	32	FY00	\$1,800,000
33	Chugach Optional Renewal, Programmatic & Code Upgrades	33	FY00	\$500,000
34	Rabbit Creek Renewal, Programmatic & Code Upgrades	34	FY00	\$2,000,000
35	O'Malley Renewal, Programmatic & Code Upgrades	35	FY00	\$300,000
36	Districtwide Phase 2 Facility Audit Corrections	36	FY00	\$15,000,000
37	Orion Elmendorf AFB	37	FY00	\$9,300,000 Federal Funding
38	Polaris K-12 Addition Construction	38	FY00	\$5,500,000
SUB-TOTAL FY00				\$45,550,000

District Priority	Location and Description	Community Priority	Year	Cost Estimate
39	Dimond High School Renewal, Programmatic & Code Upgrades	39	FY01	\$20,000,000
40	Service High School Renewal, Programmatic & Code Upgrades	40	FY01	\$20,000,000
41	Districtwide Phase 3 Facility Audit Corrections	41	FY01	\$5,000,000
42	Sand Lake Renewal, Programmatic & Code Upgrades	42	FY01	\$1,250,000
43	Mt. View Renewal, Programmatic & Code Upgrades	43	FY01	\$1,350,000
44	Turnagain Renewal, Programmatic & Code Upgrades	44	FY01	\$1,125,000
45	Tudor Renewal, Programmatic & Code Upgrades	45	FY01	\$1,125,000
46	Abbott Loop Retrofit Study/Facility Audit	46	FY01	\$500,000
47	Mt. Spurr Elmendorf AFB	47	FY01	\$7,000,000 Federal Funding
SUB-TOTAL FY01				\$57,350,000

48	SW Anchorage Elementary Planning, Ed Specs	48	FY02	\$0 ASD Staff
49	Kennedy Fort Richardson	49	FY02	\$2,400,000 Federal Funding
50	East High School Renewal, Programmatic & Code Upgrades	50	FY02	\$15,000,000
51	Bartlett High School Renewal, Programmatic & Code Upgrades	51	FY02	\$15,000,000
SUB-TOTAL FY02				\$32,400,000

TOTAL for SIX YEAR CAPITAL IMPROVEMENT PLAN \$243,590,893

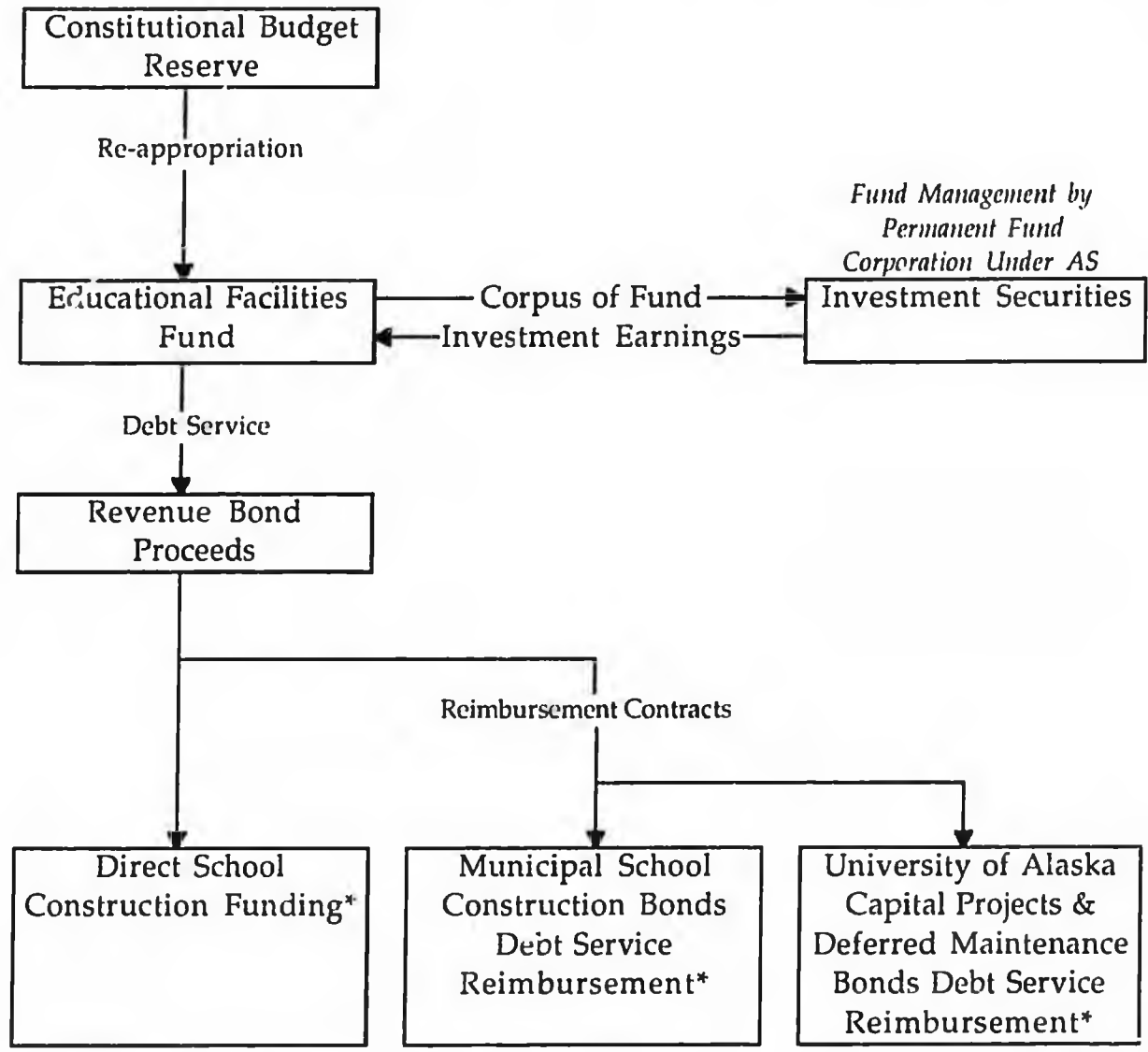
*Alaska Education Facilities
Financing Program*

Senate Bill: SSSB 37
House Bill: HB 216

OBJECTIVES

- Fund urban and rural school construction and major maintenance projects and University of Alaska capital projects when the projects are needed, but before they could be funded by appropriation under a balanced-budget plan, or by G.O. Bonds.
- Resume reimbursement of net debt service for school bonds of organized municipalities under formal reimbursement agreements, and provide for continuing this funding indefinitely without annual appropriation and without impacting the balanced-budget plan.
- Establish an on-going mechanism, under which projects could be funded indefinitely in an organized manner, under strict criteria and legislative authorization.
- Fund necessary school construction by means other than G.O. bonds. G.O. bonds: a) could not be issued until after the 1998 election and 2) would be a one-shot affair.
- Protect a portion (\$1.2 billion) of the Constitutional Budget Reserve Account for future use.

Education Facilities Financing Structure



** Specific projects and reimbursement Contracts must be authorized by the Legislature before the Ed. Fac. fund can enter a funding or reimbursement contract.*

An ONGOING Solution

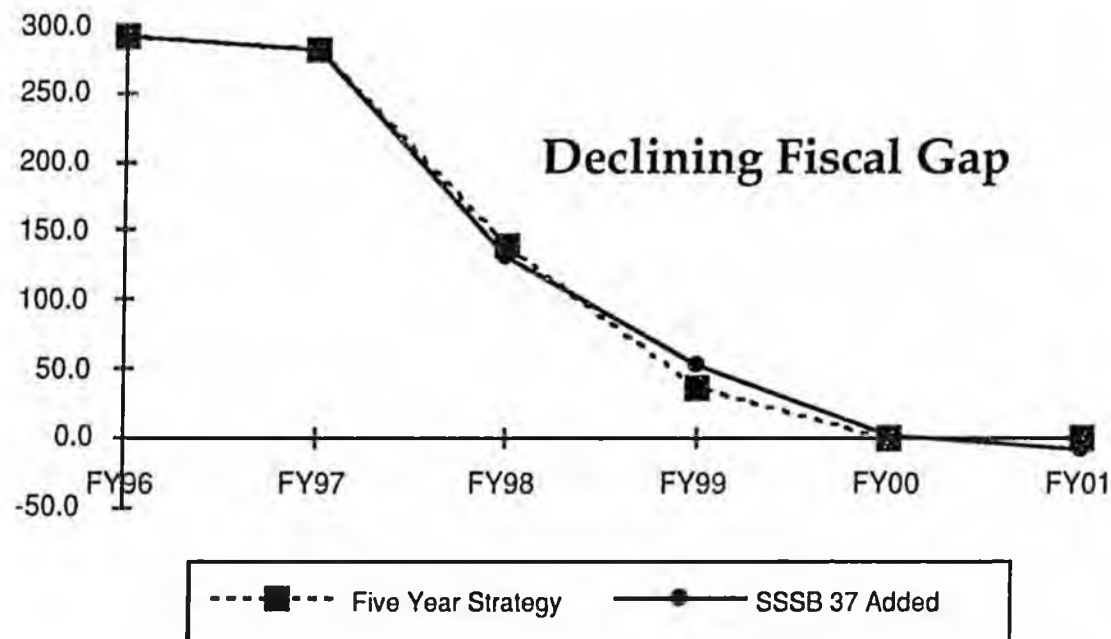
- Future legislatures could continue to authorize more bonds and reimbursement agreements within the financial capabilities of the education facilities fund. The authority would have bonding capacity equal to or exceeding the initial capitalization, without risking the original corpus appropriated to it.
- Under reasonable projections of future demands on the fund, and prudent management, the assets of the corporation would continue to grow if investments of the fund yield more than bonds issued by the EFFA and by municipalities and the University subject to reimbursement obligations. This should occur with proper management of the authority.

Effects on Closing the 'Fiscal Gap'

- Adding the SSSB 37 / HB 216 EFA methodology does not significantly slow the reduction of the "fiscal gap." In fact, it provides a surplus in FY2001. The methodology can be readily meshed with the legislative majority Five Year Strategy, without causing noticeable changes -- while providing \$500 million in construction & major maintenance at the same time.

Annual Fiscal Gap

	<i>FY96</i>	<i>FY97</i>	<i>FY98</i>	<i>FY99</i>	<i>FY00</i>	<i>FY01</i>
Five Year Strategy	291.4	281.5	138.2	36.1	0.0	0.0
EFFA Methodology Added	291.4	281.5	131.7	51.3	2.6	-8.7

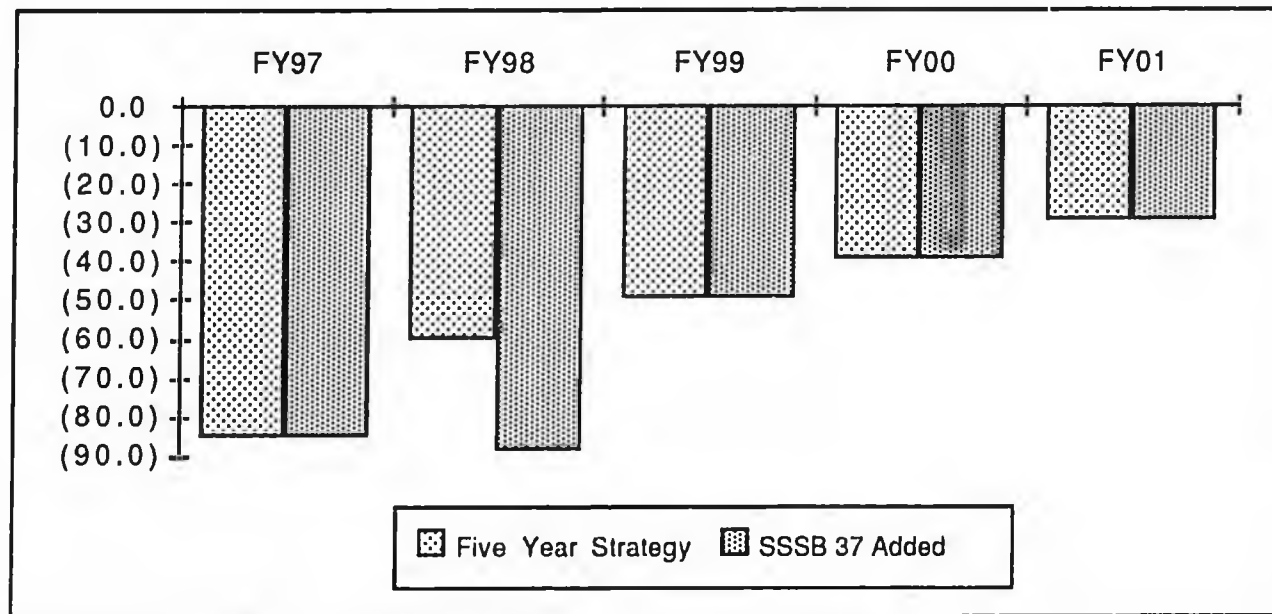


Effects on the Budget Reduction Plan

- Adding the SSSB 37 EFA methodology allows the FY98 General Fund budget to be cut by more than the Five Year Strategy, while still providing the identical services (because the Ed. Fac. Finance Authority provides deferred maintenance and construction that would otherwise be funded by the General Fund Capital budget).

Annual Budget Cuts - Same Services Provided

	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>
Five Year Strategy	(85.1)	(60.0)	(50.0)	(40.0)	(30.0)
SSSB 37 Added	(85.1)	(88.6)	(50.0)	(40.0)	(30.0)



Annual Percent Budget Cuts - Same Services Provided

	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>
Five Year Strategy	-3.40%	-2.48%	-2.12%	-1.73%	-1.32%
SSSB 37 Added	-3.40%	-3.66%	-2.14%	-1.75%	-1.34%

Summary

SSSB 37

HB 216

- **Delivers Present Value**
 - Meets needs as they occur
- **Continues year after year**
 - No annual General Fund appropriations required
- **No new taxes - Meets budget plan**
 - Read my lips
- **Protects CBR**
 - Principal is never spent, earnings returned to CBR
- **Enhances Municipal Credits**
 - Reimbursement Contracts v annual appropriations

Brought to you by:

Senator Jerry Mackie (D-Craig)
Representative Pete Kott (R-Eagle River)
Representative Joe Green (R-Anchorage)

Cominco Alaska, Inc. - Red Dog Mine
Alaska Council of School Administrators (?)

SB

50

FISCAL NOTE

No. 2

Bill Version: SB 50

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. (S) Publish Date: 1/15/97

Revision Date: _____
Title: Administrative Penalties for Violation of Public
Water Supply System Requirements
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Environmental
Conservation
BRU: _____
Component: _____

COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING EXPENDITURES						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS.CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 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: Larry Jones
Division: Director, Division of Administrative Services

Phone: 465-5010
Date: 11/7/96

Approved by Commissioner: [Signature]
Agency: Department of Environmental Conservation

Date: 11/7/96

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FISCAL NOTE

No. 1

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 50
(S) Publish Date: 1/15/97

Revision Date: _____ Dept. Affected: Department of Law
 Title: An Act to administrative penalties for violation BRU: Civil Division
of public water supply system requirements; amends civil court rule 82 Component: Environmental Law
 Sponsor: Rules by Request
 Requester: Governor COMPONENT SERIAL NO. 2092

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF.MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill is in response to a recent change to the federal Safe Water Drinking Act that requires that the state have minimum administrative penalty authority in order to maintain state primacy for enforcement of the federal drinking water program. Presently, the State of Alaska must initiate a lawsuit to collect civil assessments for violation of the requirements for public water supply systems. The 1996 amendments to the Safe Water Drinking Act condition receipt of federal money for drinking water system construction on a state's maintaining primacy under the federal program. Otherwise, the federal construction money allocated to this state is reallocated to the federal Environmental Protection Agency for its use in exercising primary enforcement authority in Alaska and the remainder of the federal money is reallocated to other states that do exercise primary enforcement authority.

Passage of this bill would have no fiscal impact on the Department of Law. Most administrative actions proposed by this legislation could be handled by Department of Environmental Conservation staff. The more complicated

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 11/6/96
 Date: 11/6/96

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ANALYSIS CONTINUATION:

cases that the Department of Law would handle are expected to take about the same time that the department presently expends on compliance order and lawsuits that the present law require for drinking water enforcement.

To: The Honorable Jerry Mackie
Chairman, Senate Community and Regional Affairs

From: Janice Adair,
Department of Environmental Conservation

Subject: CSSB 50 (
0-GS0009\B Lauterbach

Date: March 10, 1997

MEMORANDUM

I understand the teleconference network is unable to provide another line into Anchorage today and I will therefore be unable to testify before the Committee on the proposed committee substitute prepared by Senators Wilken and Hoffman. I have however had a chance to review the above-referenced version, which is the one I believe will be before you today.

The department has no problems with what is being proposed in this version, and would ask for the committee's favorable action on it. We did run by EPA the proposed changes to the penalties for small communities who said they will satisfy the requirements of the Safe Drinking Water Act Amendments.

Thank you for your consideration of this legislation. I'd also like to thank the staff from both Senators Wilken and Hoffman's office for working with the department on the revisions.

Post-it® Fax Note	7671	Date	3-10-97	# of pages	1
To	DAVE	From	JANICE		
Co/Dept.		Co.			
Phone #		Phone #	262-7645		
Fax #	465-3517	Fax #	262-7654		

THANKS, DAVE.



ALASKA STATE LEGISLATURE

Senate Community & Regional Affairs Committee

State Capitol

Juneau, AK 99801-1182

(907) 465-4989

COMMITTEE PACKET

SB 50, Public Water Supply Violations

1. DEC Statement
2. Bill
3. Bill Sectional
4. Fiscal Note Analysis

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501
<http://www.state.ak.us/dec/home.htm>

Telephone: (907) 269-7644
Fax: (907) 269-7654

January 22, 1997

The Honorable Jerry Mackie
Chairman, Senate Community & Regional Affairs Committee
Capitol Building, Room 427
Juneau, AK 99801

Re: SB 50, An Act relating to administrative penalties for violation of public water supply system requirements; amendment Alaska Rule of Civil Procedure 82 regarding attorney's fees; and providing for an effective date

Dear Senator Mackie:

The above referenced bill was introduced by the Governor on behalf of the Department of Environmental Conservation on January 15. We would respectfully request that a hearing be scheduled on this legislation at your earliest convenience.

This bill will allow DEC to levy administrative penalties, as opposed to going through the court system, for violations of the state's drinking water regulations. This has been necessitated by changes made to the federal Safe Drinking Water Act (SDWA) by Congress in 1996.

As you know, the department has primacy for the drinking water program. That is, the state manages and enforces the terms of the SDWA in lieu of the federal government. Primacy affords us several benefits, including the ability to waive certain monitoring requirements for specific water systems. This has saved systems across the state millions of dollars in monitoring costs. Primacy also allows us to work one-on-one with systems on solving problems, and helping to ensure the delivery of safe water to the communities served.

Finally, the changes made by the 1996 Congress raised the stakes by requiring primacy for continued access to the millions of dollars it appropriates each year for construction of drinking water systems. Alaska's share of this appropriation is expected to be about \$27 million next fiscal year.

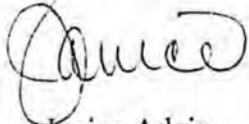
The Honorable Jerry Mackie

Page 2

January 22, 1997

A sectional analysis and the specific language from the changes made by Congress are enclosed. Please don't hesitate to call me if you have any questions or need further information. I look forward to your committee's favorable action on this legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janice", written in dark ink.

Janice Adair
Director

Enclosures:

- HB 71/Sectional Analysis (w/attachments)
- SDWA Language re: primacy
- SDWA Amendments/Language re: administrative penalties
- SDWA Amendments/Language re: State Revolving Loan Fund

TONY KNOWLES
GOVERNOR

P O Box 110001
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(907) 465-3500
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB50

January 15, 1997

The Honorable Mike Miller
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Miller:

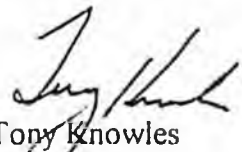
Safe drinking water is essential to the health and well-being of any community. As part of my ongoing effort to build healthy communities in Alaska, this administration is dedicated to ensuring our public water systems meet all health requirements. In order to meet that goal, it is important that the state retain control over enforcement of the federal drinking water program. Losing that control would lead to the loss of federal construction funds for drinking water systems -- something we cannot afford to see happen, particularly for rural Alaska.

This bill will guarantee the state maintains its control over drinking water programs by complying with a recent change to the federal Safe Drinking Water Act which mandates the state have administrative penalties for violations of public water supply system requirements. This bill appropriately places the administrative penalty authority with the Department of Environmental Conservation (DEC).

The authority to impose administrative penalties is a more efficient and cost-effective way to enforce important public health laws. Presently, the state must initiate a lawsuit in order to impose a civil assessment for a violation of requirements for public water supply systems. Legal costs for a court action potentially far exceed the costs involved in an administrative hearing and any related appeal.

Enacting administrative penalty authority is essential if the state is to receive this important federal funding for improvement of Alaska public drinking water systems. Maintaining Alaska's primary enforcement authority for the federal drinking water program provides maximum flexibility and local control over this program while at the same time working to ensure the safety of Alaska's public water supply systems.

Sincerely,


Tony Knowles
Governor

An Act relating to administrative penalties for violation of public water supply system requirements; amending Alaska Rule of Civil Procedure 82 regarding attorney's fees; and providing for an effective date.

Section 1. This section simply outlines the need for this legislation. Copies of the pertinent federal laws are attached.

Section 2. This section amends AS 46.03 by adding a new section giving the department authority to assess administrative penalties when drinking water system requirements are violated.

The section provides that the penalty may not exceed \$1,000 per day per violation if the public water system serves more than 10,000 people. In Alaska, those systems are:

- Municipality of Anchorage
- City of Juneau
- Fairbanks Municipal Utilities
- USAF Elmendorf
- US Army Ft. Richardson
- US Army Ft. Wainwright

For all other systems, the penalty may not exceed \$750 per day per violation.

The section provides that each violation of a term, condition or provision of the drinking water requirements would be a separate violation, and each day is a separate violation. This makes clear that violation of more than one requirement relating to a drinking water system subjects a persons to more than one civil penalty. Like other public health laws, separate violations are provided for each day a violation continues in order to ensure timely and consistent compliance with the health requirement.

The conditions to be considered when establishing the amount of the penalty are set out on page 2, lines 20-31, continuing on page 3, lines 1-4. The section also allows the department to work with the public through the regulatory process on any other factors that should be considered.

The process the department must follow in assessing a penalty and how a person can contest a proposed penalty is specified on page 3, lines 5 -31, continuing on page 4, lines 1-6. These are standard procedures, and assures that if a party feels the penalty has been unfairly or unduly assessed, there is an opportunity for both administrative and judicial review.

Section 3. This allows the department to start drafting regulations to implement this legislation after its passage but prior to its effective date that it outlined in Section 7. We plan to work with the public in developing consensus regulations. That will add time to completing the project, but we feel it is an important and necessary approach.

Section 4. This amends the Court Rule on attorney's fees. Under the existing Court Rules, the

prevailing party in a court action is entitled to a partial award of reasonable attorney's fees. Section 4 amends this provision to allow the court to award full reasonable attorney's fees to the department if a person does not pay the penalty after all administrative and court appeals are completed and the department is forced to go to court to collect the penalty and then succeeds in that collection action. An analagous provision exists in AS 46.03.763. The section also includes standard language regarding the need for two-thirds vote to amend the court rules.

Section 6. This is the effective date for Section 3. It will allow the department to immediately begin the process of regulatory development upon the signing of the legislation.

Section 7. This is the effective date for the remainder of the bill. Typically, primacy requirements come with an effective date from EPA giving the states some specific period of time by which it must have the necessary changes to its regulations or statutes completed. The effect of this section is to delay the actual effective date of the penalty authority until such time that EPA tells the state it must have administrative penalty authority to retain primacy for the drinking water program.

Public Water Systems
42 USC 300f to 300j-26
(Safe Drinking Water Act)

Primacy provision

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g-4 and 300g-5 of this title;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances; *and* →

(SEE SDWA Amendm)

(b)(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) of this section are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.

§ 300g-2. State primary enforcement responsibility; regulations; notice and hearing; publication in Federal Register; applications [PHSA § 1413]

(a) For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b) of this section) that such State—

(1) has adopted drinking water regulations which are no less stringent than the national primary drinking water regulations in effect under sections 300g-1(a) and 300g-1(b) of this title;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

(July 1, 1944, c. 373, Title XIV, § 1413, as added Dec. 16, 1974, Pub.L. 93-523, § 2(a), 88 Stat. 1665, as amended June 19, 1986, Pub.L. 99-339, Title I, § 101(c)(2), 100 Stat. 646.)

Administrative Penalty Language

F: MPB 1996 SDW SAFEDW.CNF

24

(iii) in subparagraph (C), by striking "paragraph exceeds \$5,000" and inserting "subsection for a violation of an applicable requirement exceeds \$25,000".

(4) By adding at the end the following:

"h) CONSOLIDATION INCENTIVE —

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located if the State has primary enforcement responsibility under section 1413, or to the Administrator if the State does not have primary enforcement responsibility, a plan including specific measures and schedules for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

"(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part."

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g-2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and", and

(3) by adding at the end the following:

"(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

"(A) in the case of a system serving a population of more than 10,000, that is not less than \$1,000 per day per violation; and

"(B) in the case of any other system, that is adequate to ensure compliance as determined by the State;

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation."

August 1, 1996 (5:17 p.m.)

State Revolving Loan Funds (See § F)

F: MPB 1996 SDW SAFEDW.CNF

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"A) in paragraph (1), by striking ", or" and inserting a semicolon;

"B) in paragraph (2), by striking the period at the end and inserting ", or"; and

"C) by adding at the end the following:

"(3) for the collection of a penalty by the United States Government and associated costs and interest against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 1429(b), to pay the penalty."

"(2) Subsection (b) of section 1449 (42 U.S.C. 300j-8(b)) is amended by striking the period at the end of paragraph (2) and inserting ", or" and by adding the following new paragraph after paragraph (2):

"(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency."

"(c) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j-6) is amended by adding at the end the following:

"(e) WASHINGTON AQUEDUCT.—The Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant."

SEC. 130. STATE REVOLVING LOAN FUNDS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section after section 1451:

STATE REVOLVING LOAN FUNDS

"SEC. 1452. (a) GENERAL AUTHORITY.—

"(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

"(A) IN GENERAL.—The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

"(B) ESTABLISHMENT OF FUND.—To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a 'State loan fund') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

"(C) EXTENDED PERIOD.—The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from

funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

"D. ALLOTMENT FORMULA.—Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

"(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

"(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

"E. REALLOTMENT.—The grants not obligated by the last day of the period for which the grants are available shall be reallocated according to the appropriate criteria set forth in subparagraph (D) except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallocated by the Administrator shall be reallocated to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

→ "F. NONPRIMACY STATES.—The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallocated to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Chairman: Health, Education,
and Social Services (HESS)
Vice Chairman: Transportation
Vice Chairman: Community and
Regional Affairs

Special Committee

Member: Administrative Regulation Review



During Session:
State Capitol, Room 510
Juneau, Alaska 99801-1182
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(907) 465-4714 (f)
[www: akrepublicans.org/wilken.htm](http://akrepublicans.org/wilken.htm)
E-mail: Senator_Gary_Wilken@legis.state.ak.us

Interior:
119 N. Cushman St., Room 213
Fairbanks, Alaska 99701
(907) 452-3421
Fax (907) 452-3426

Side-by-side Comparison of SB 50 [O-GS0009.A] and Blank CSSB 50 [O-GS0009B]

Headers: same

Titles: Blank CS adds a reference to the court rule change that relates to filing requirements for appeals so that district court can be used.

Section 1 same

Section 2

[amends AS 46.03 by adding 46.03.761. Administrative Penalties]

PENALTIES

OLD Section 2. provided for fines of up to \$1,000/day in communities over 10,000 and up to \$750/day for those under 10,000.

NEW Section 2. lowers the penalties possible for small communities [up to \$500/day for communities 1,000-10,000 and up to \$100 per day for communities under 1,000]. Penalty for communities over 10,000 are at the minimum allowed by the federal statute.

PLACE TO FILE APPEALS

OLD Section 2. limited filing of an appeal to Superior Court.

NEW Section 2. permits filing in District Court and requires such filings to be forwarded by District Court to Superior Court. {See subsection (f).}

NOTICE OF ALLEGED VIOLATION(S) AND APPELLATE PROCEDURES

OLD Section 2. provided for standard notice requirements.

NEW Section 2. provides for standard notice requirements and additional steps to be followed by the department to insure appropriate and timely notice before and administrative penalty is levied. {See subsection (b).}

TIME FOR FILING APPEALS

OLD Section 2. allows 30 days.

NEW Section 2. allows 45 days. {See subsection (c).}

Section 3

OLD Section 3. allows department to adopt regulations to implement this Act and provides for an effective date.

NEW Section 5. allows department to adopt regulations to implement this Act the same as OLD Section 3.

Additionally, NEW Section 5. requires the department to circulate copies of such regulations to all legislators at least 30 days prior to such regulations going into effect.

NEW Section 3. denotes the change required in Rule 602(b) of Alaska Rules of Appellate Procedure to permit filing an administrative appeal in District -- rather than Superior -- Court.

Section 4

No change

Section 5

OLD Section 5. same as NEW Section 8. Reference to AS 46.03.761(i) in OLD Section 5 is now AS 46.03.761(j) in NEW Section 7.

Section 6

OLD Section 6. is the same as NEW Section 9. except that the OLD Section 3 referred to in OLD Section 6 is NEW Section 5 in NEW Section 9.

Section 7

OLD Section 7 is the same as NEW Section 6.

NEW SECTIONS

PLEASE NOTE: The side-by-side correspondence has originated with the OLD version. The OLD version has 7 sections; the NEW version has 9 sections. NEW Sections 8 & 9 correspond to OLD Sections 5 & 6, respectively.

The two new sections in the NEW version are NEW Section 3 which changes the rules for filing an appeal, and NEW Section 7 having to do with the need for a two-thirds vote to change the rules of appellate procedure to implement section 3.

NEW Section 8 is the same as OLD Section 5 except that (i) in AS 46.03.761(i) is now (j)

0-GS0009B
Lauterbach
2/19/97

Sen Wilke

CS FOR SENATE BILL NO. 50()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to administrative penalties for violation of public water supply
2 system requirements; amending Rule 602(b), Alaska Rules of Appellate Procedure;
3 amending Rule 82, Alaska Rules of Civil Procedure; and providing for an
4 effective date."

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

6 * Section 1. FINDINGS. The legislature finds that

7 (1) the federal government has required, in the federal Safe Drinking Water
8 Act amendments of 1996 (P.L. 104-182), that states have administrative penalty authority in
9 order to maintain primary enforcement authority for the federal drinking water program (42
10 U.S.C. 300f - 300j-26);

11 (2) the state cannot receive federal money for construction of public drinking
12 water systems unless it maintains primacy under the federal program (sec. 130, P.L. 104-182);

13 (3) maintaining state primary enforcement authority for the federal program
14 is in the best interests of the state so as to provide maximum flexibility and local control of

1 this program and to ensure continued federal money for Alaska public water supply system
2 construction projects;

3 (4) ensuring public health through protection of public water supplies is of
4 fundamental importance to the people of the state;

5 (5) this Act is in the public interest by enacting administrative penalty authority
6 in order to meet the federal requirements for maintaining state primary enforcement authority
7 for the federal drinking water program.

8 * Sec. 2. AS 46.03 is amended by adding a new section to read:

9 Sec. 46.03.721. Administrative penalties. (a) After following the procedures
10 in this section, the department may assess an administrative penalty against a person
11 who violates or causes or permits to be violated a provision of AS 46.03.720(b) or a
12 term or condition of a regulation, order, permit, approval, or certificate of the
13 department issued or adopted under AS 46.03.720(b).

14 (b) Before assessing an administrative penalty under this section, the
15 department shall

16 (1) communicate about the alleged noncompliance with the owner or
17 operator of the public water system and the governing body of the community or
18 municipality whose residents are served by the system; communication under this
19 paragraph must be in language designed to be easily understood by the owner,
20 operator, and governing body and must clearly describe the nature of the alleged
21 noncompliance;

22 (2) offer technical assistance to aid in correcting the alleged
23 noncompliance when the department has reason to believe that the system owner and
24 operator may lack the resources or expertise to get technical assistance from other
25 sources; and

26 (3) unless the alleged noncompliance poses an immediate threat to the
27 public health, give the system's owner and operator a reasonable amount of time to
28 correct the alleged noncompliance after the department has complied with (1) and (2)
29 of this subsection.

30 (c) If, after complying with (b) of this section, the department determines that
31 noncompliance still exists and the violation is subject to a penalty under this section,

1 the department may assess the penalty. The department shall provide notice of the
2 assessment and instructions for contesting and appealing the assessment to the person
3 assessed by personal service or by certified mail, return receipt requested. The notice
4 must inform the person of the amount of the proposed penalty and that the person has
5 45 days within which to file a notice with the department contesting the proposed
6 penalty. If, within 45 days after the receipt of the notification issued by the
7 department, the person fails to file a notice contesting the proposed penalty, the
8 proposed penalty is considered a final order. The department may extend the time
9 periods specified in this subsection for good cause.

10 (d) If a person sends notice to the department contesting a proposed penalty
11 under (c) of this section, the department shall afford an opportunity for a hearing in
12 accordance with its adjudicatory hearing procedures. After an opportunity for a
13 hearing, the department shall issue an order, based upon findings of fact, affirming,
14 modifying, or rescinding the administrative penalty. The order is the final agency
15 action on the penalty.

16 (e) A person against whom an administrative penalty is assessed under this
17 section may obtain judicial review of the administrative penalty by filing a notice of
18 appeal in the superior court as provided by the Alaska Rules of Appellate Procedure.
19 An order of the department under (d) of this section becomes final and is not subject
20 to review by a court if a notice of appeal is not filed with the superior court within the
21 period provided for by the Alaska Rules of Appellate Procedure.

22 (f) Unless the notice of appeal is incomplete or otherwise not in conformance
23 with court rules, a notice of appeal under (e) of this section is considered to be filed
24 with the superior court on the day the person delivers the appropriate documents and
25 fee to either the appropriate superior court or to a district court within the area served
26 by the appropriate superior court. If a notice of appeal is delivered to a district court
27 under this subsection, the district court shall promptly forward it to the superior court.
28 The responsibility for determining whether the notice of appeal is complete and
29 otherwise in conformance with court rules is the responsibility of the superior court.

30 (g) An administrative penalty assessed under this section may not exceed (1)
31 \$1,000 a day for each violation if the affected public water supply system serves a

1 population of more than 10,000 persons; (2) \$500 a day for each violation if the
2 affected public water supply system serves a population of 10,000 or fewer persons but
3 more than 1,000 persons; and (3) \$100 a day for each violation if the public water
4 supply system serves 1,000 or fewer persons. Each provision, term, or condition
5 violated is a separate and distinct violation. If a violation of a provision, term, or
6 condition continues from day to day, each day is a separate violation.

7 (h) In determining the amount of a penalty assessed under this section, the
8 department shall consider

9 (1) the effect of the violation on the public health or the environment;

10 (2) reasonable costs incurred by the state in the detection, investigation,
11 and attempted correction of the violation;

12 (3) the economic savings realized by the person by not complying with
13 the requirement for which a violation is charged;

14 (4) any previous history of compliance or noncompliance with this
15 chapter, AS 46.04, AS 46.09, and AS 46.14;

16 (5) the need to deter future violations;

17 (6) the extent and seriousness of the violation, including the potential
18 for the violation to threaten public health or the environment;

19 (7) whether the person achieved compliance with the requirement
20 violated within the shortest feasible time; and

21 (8) other factors considered relevant to the assessment that are adopted
22 by the department in regulation.

23 (i) If a person fails to pay an administrative penalty assessed under this section
24 after the penalty becomes final, the department may bring an action to collect the
25 penalty. The amount of the penalty is not subject to review by the court in such an
26 action.

27 (j) If the department prevails in a collection action brought under (i) of this
28 section, the court shall order the person to pay full reasonable attorney fees and costs
29 incurred by the department in the collection action.

30 (k) Action under this section by the department does not limit or otherwise
31 affect the authority of the department to otherwise enforce this chapter, AS 46.04,

1 AS 46.08, AS 46.09, AS 46.14, or regulations adopted under those statutes, or to
2 recover damages, restoration expenses, investigation costs, court costs, attorney fees,
3 or other necessary expenses. The court shall set off against a judicial civil assessment
4 subsequently awarded under AS 46.03.760 an amount ordered to be paid under this
5 section by the same person for the same violation.

6 * Sec. 3. The provisions of AS 46.03.721(f), added by sec. 2 of this Act, have the effect
7 of amending Rule 602(b), Alaska Rules of Appellate Procedure, by providing that delivery of
8 a notice of appeal to a district court constitutes filing of the notice of appeal with the
9 associated superior court.

10 * Sec. 4. The provisions of AS 46.03.721(j), added by sec. 2 of this Act, have the effect
11 of amending Rule 82, Alaska Rules of Civil Procedure, by allowing the recovery of full
12 reasonable attorney fees and costs in certain actions.

13 * Sec. 5. TRANSITION: REGULATIONS. The Department of Environmental
14 Conservation may proceed to adopt regulations to implement changes made by this Act. The
15 department shall notify each legislator about its proposed regulations at least 30 days before
16 adopting the regulations. The regulations take effect under AS 44.62 (Administrative
17 Procedure Act), but not before the effective date of sec. 1 of this Act.

18 * Sec. 6. Except as provided in sec. 9 of this Act, this Act takes effect on the effective date
19 of regulations adopted by the United States Environmental Protection Agency implementing
20 the state administrative penalty requirement for state primary enforcement authority under 42
21 U.S.C. 300g-2 of the federal Safe Drinking Water Act or, if the Environmental Protection
22 Agency determines that regulations are not necessary, on the date the Environmental
23 Protection Agency requires under the authority of that statute that the state must have
24 administrative penalty authority to maintain its state primacy over the federal drinking water
25 program, whichever occurs first. The commissioner of environmental conservation shall notify
26 the lieutenant governor and the revisor of statutes of the effective date of the state
27 administrative penalty authority requirement.

28 * Sec. 7. AS 46.03.721(f), added by sec. 2 of this Act, takes effect only if sec. 3 of this
29 Act receives the two-thirds majority vote of each house of the legislature required by art. IV,
30 sec. 15, Constitution of the State of Alaska.

31 * Sec. 8. AS 46.03.721(j), added by sec. 2 of this Act, takes effect only if sec. 4 of this

- 1 Act receives the two-thirds majority vote of each house of the legislature required by art. IV,
- 2 sec. 15, Constitution of the State of Alaska.
- 3 * Sec. 9. Section 5 of this Act takes effect immediately under AS 01.10.070(c).

SB

52

Revision Date: _____ Dept. Affected: Revenue
 Title: Fisheries Business Tax Credits BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Senator Mackie
 Requestor: (S) CRA COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	(3,650-7,300)	(7,300-14,600)	(7,300-14,600)	(7,300-14,600)	(7,300-14,600)	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Brett Fried, Economist Phone: 465-3682
 Division: Income and Excise Audit Division Date: January 28, 1997
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 Agency: Department of Revenue

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DEPARTMENT OF REVENUE
Income and Excise Audit Division

Fisheries Business Tax Credit
SB 52
0-LS0352\A
January 28, 1997
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BILL ANALYSIS

Section 1 - Amends the Fisheries Business Tax statutes to provide a tax credit for capital expenditures. Expenditures qualify if they increase product diversity, increase production efficiency and capacity or improve product quality at a shore-based fisheries business facility in the state. Expenditures can also qualify if they contribute to the development of a cooperative seafood industrial park. A fisheries business may only claim credits for a maximum period of three consecutive years and may begin the three-year period for expenditures with any tax year from 1998 through 2000. Eligible tax credits that are not claimed in a single year can be carried forward a subsequent year as long as this falls within the three consecutive years the applicant has chosen.

The amount of the tax credit is limited to 50 percent of a capital expenditure, unless a municipality agrees to give up a portion or all of its share of tax revenue. If a municipality does opt to reduce its share then a business could claim up to 75 percent (depending on how much the municipality gives up) of its capital expenditure as a credit. The total tax credit for a tax year for capital expenditures and scholarship contributions may not exceed 50% of the taxpayer's fisheries business tax liability for that year. The department may not approve a tax credit for capital expenditures if the property for which the capital expenditure was made was subject to a previous capital expenditure under this section, the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership or the fisheries business claiming the credit is in arrears in the payment of its fisheries business taxes.

The department is required to prepare an application form for a credit and approve or disapprove an application for a credit under this section no later than 60 days after receiving the application. The Department of Revenue is also required to submit a report on the expenditures, and if possible increases in employment and processing capacity, for which a credit was approved (in conjunction with the Department of Commerce and Economic Development) on the fisheries business tax credit program by the 15th legislative day of each regular legislative session.

Section 2 - Amends the refund to local government section (AS 43.75.130) so that revenue collected from the fisheries business tax is calculated as if a fisheries business tax credit had not

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Fisheries Business Tax Credit

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been collected. This holds municipalities harmless from the credits. The municipality may adopt an ordinance directing the Department of Revenue to reduce the municipality's refund over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

Section 3 - Defines terms such as "capital expenditure", "cooperative", "product diversity", "product quality" and "seafood industrial park".

Section 4 - The first tax report of expenditures, for which credits were approved on and after July 1, 1997, is due February 1, 1998.

Section 5 - Repeals all sections of this Act on January 1, 2003 except for the reporting requirement (section 1 (j)).

Section 6 - Repeals section 1 (j), February 15, 2003.

Section 7 - Establishes an effective date of July 1, 1997.

OPERATING EXPENDITURES

The Income and Excise Audit Division would be required to expend audit staff time to implement the credit pre-approval process. In addition audit staff work would be required to review records of taxpayers actually applying the tax credits. This time would result in a reallocation of current staff time but does not justify a new position.

GENERAL FUND REVENUE EFFECT See page 4.

Other This bill fails to take into consideration the complementary landing tax. See Ch. 81, SLA 1996 ("The fisheries resource landing tax...is both designed and intended to be a compensatory tax that complements the fisheries business tax levied and collected under AS 43.75). The legislature in the the last session passed remedial legislation to insure equal treatment. Therefore, since the landing tax and the fisheries business tax are compensatory taxes, credits must be extended equally under both tax types. The department will have many other technical changes to this legislation based on problems experienced under the previous fisheries tax credit program.

Alaska Department of Revenue
Income and Excise Audit Division
Projected Revenue Decreases from the Fisheries Business Tax Credit

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Scenario A - All Qualifying Expenditures are Used: Assume that the exact same level of qualifying expenditures are made in the in the new Fisheries Business Tax Credit as were made in the original (1986-1989) Fisheries Business Tax Credit program. Total expenditures were \$146 million, and since 50% of these expenditures qualify for credit, total qualifying expenditures were \$73 million. Additionally, assume that these expenditures are spread evenly over the qualifying years except for year one where only 6 months are relevant.

	FY 98*	FY 99	FY 00	FY 01	FY 02	FY 03
Revenue under Scenario A	(\$7,300,000)	(\$14,600,000)	(\$14,600,000)	(\$14,600,000)	(\$14,600,000)	\$0

Scenario B - Half of All Qualifying Expenditures are Used: Assume that the exact same level of qualifying expenditures are made in the in the new Fisheries Business Tax Credit as were made in the original (1986-1989) Fisheries Business Tax Credit program. Total expenditures were \$146 million, and since 50% of these expenditures qualify for credit, total qualifying expenditures were \$73 million. Additionally, assume that the limitation that a credit can only reduce a taxpayers annual liability by 50% results in only half of these expenditures (\$36.5 million) being used. Additionally, assume that these expenditures are spread evenly over the qualifying years except for year one where only 6 months are relevant.

	FY 98*	FY 99	FY 00	FY 01	FY 02	FY 03
Revenue under Scenario B.	(\$3,650,000)	(\$7,300,000)	(\$7,300,000)	(\$7,300,000)	(\$7,300,000)	\$0

* Credits apply to 6 (not twelve months) in the first year.

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SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

SB 52, Fishery Business Tax Credit

I introduced SB 52 to help bring some economic stability and growth to Alaska's commercial fisheries industry. I think the best way to do this is through development incentives that increase operational efficiencies, improve product quality, or bring new products to market. The incentives are business tax credits, up to 50 % of a company's tax liability, for any capital investments in shore based facilities that achieve these goals.

Alaska's fishery resources provide nearly 70,000 jobs in the private sector, for more than any other industry. These are fishermen, processors and the processing labor force. For most of the state's coastal and river communities, commercial fishing is the dominant economic activity that sustains the community. Thus, when markets deteriorate and fish prices fall, as has happened with salmon, the effects can be immediate, wide spread, and devastating.

SB 52 is modeled after a similar program that was in effect from 1986 to 1991. This program was largely responsible for large investments in processing quality control in facilities throughout the state. It is also credited with stimulating Alaskan participation and expansion into the harvesting, processing, and marketing of new bottom fisheries.

The Alaskan fisheries industry needs a boost to improve the marketability of its traditional fishery products and to introduce new, value added products that appeal to consumers worldwide. This will require large investments in new and better equipment. I feel that the tax incentive program is the way to accomplish these improvements in the most direct and efficient manner. The benefits will accrue to both resident commercial fishermen as well as the processing labor force through increased fishing opportunities and increased processing jobs.



SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SECTIONAL

SB 52, Fisheries Business Tax Credit

Section 1. A new section AS 43.75.035, Tax credits for certain capital expenditures, is added.

Subsection (a) establishes a fisheries business tax credit for certain kinds of capital expenditures a business makes to improve production or product. The maximum credit allowed is 50% of the business' raw fish tax liability (AS 43.75.015). The credit must have advanced approval by the Department of Revenue.

Subsection (b) limits the application of the investment credits to three consecutive years maximum for a particular business beginning in any year between 1998 and 2000.

Subsection (c) limits the amount of the credit to 50% of the actual value of the investment itself unless a municipality where the facility is located acts to increase this limit under subsection (d).

Subsection (d) allows a municipality to offer an increased credit to a business within its boundaries. The added credit is offset from the municipality's portion of shared fishery tax revenues under AS 43.75.130(h) [See *Sec. 2.]. The total amount of the increased credit under this subsection is limited to 25% of the investment value in the three year period.

Subsection (e) prohibits carrying an eligible credit back to a prior year. An eligible credit may be carried forward to the next tax year within the allowed three duration year period.

Subsection (f) requires a tax credit applicant to notify in the municipality, if any, of the location of the capital investment and a send a copy of the credit application.

Subsection (g) caps the combined credits from scholarship contributions under AS43.75.032 (Winn Brindle) and the investment credit under this section to 50% of total tax liability.

Subsection (h) prohibits (1) multiple tax credits on the same capital expenditure, (2) credits on capital expenditures between businesses having substantial common ownership, and (3) tax credits for businesses who are in arrears in the payment of fishery taxes.

Subsection (i) gives the department authority to prepare the credit application form. The department has 60 days after reception to approve or reject an application.

Subsection (j) requires annual reports to the legislature on the activities of the tax credit program. The report must describe certain results that have occurred because of the program.

Section 2. Two new subsections are added to AS 43.75.130. Subsection (g) holds a municipality's revenue sharing harmless from the state's allowance of a credit. Subsection (h) requires a municipality to adopt an ordinance directing the department to reduce its fish tax revenue share commensurate with any additional tax credit that is allowed under AS 43.75.035 (d).

Section 3. AS 43.75.290 is amended to add definitions for "capital expenditure", "cooperative", "product diversity", "product quality" and "seafood industrial park".

Section 4. The date of the first report to the legislature on the programs experience is set for February 1998.

Section 5 and 6. Repealer sections terminate the tax credit program on January 1, 2003 and the legislative report on February 15, 2003.

Section 7. July 1, 1997 effective date.

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

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OFFICE OF THE COMMISSIONER

FISHERIES BUSINESS TAX CREDIT STUDY

EXECUTIVE SUMMARY

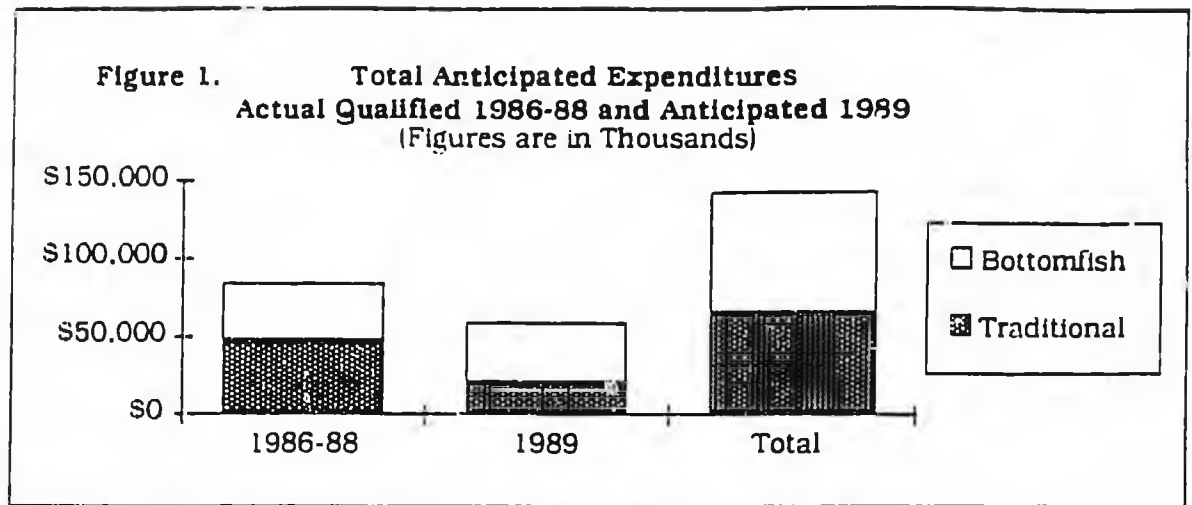
Purpose. This report addresses the effects of the Fisheries Business Tax Credit Program, and its stimulus to investments and employment. An attempt is also made to address several questions of interest: what types of investments are being made, where, and by what types of companies; what have the costs to the state been; and how much more will the existing program cost.

The tax credit program. The program offers a tax credit for capital expenditures that increase processing capacity, product quality, and value-added production. Credits are limited to 50% of a firm's tax liability and to 50% of qualified expenditures. It is scheduled to run for five years (1986-1991), with regulations defining 1986-1989 as the three year period during which qualifying expenditures must be made. Companies can elect to start their three year window of eligibility at any time during that period. Thus all projects must have been preapproved and substantially completed at this time. Credits can now be carried forward by companies who started their eligibility period in 1988 or 1989.

Expenditures. There is no uniform correlation between actual qualifying expenditures as reported on tax forms, expenditures preapproved by the Department of Revenue, total expenditures actually made and tax credits taken. Generally, actual qualifying expenditures are a minimum figure for total investment. For most firms, the limiting factor was 50% of their tax liability, not 50% of the qualifying expenditures. Overall, credits are expected to total about 35% of qualifying expenditures.

Actual qualifying expenditures reported on tax forms during the period 1986-1988 totaled \$83.4 million. The Department of Revenue has preapproved expenditures of about \$92.0 million for 1989, the last year that expenditures could be made and still qualify for credit. Since fisheries tax returns for 1989 are not due until March 31st, the actual dollar amounts will not be known for several months.

Using the experience of the previous two years, actual expenditures reported for credit will be approximately \$60 million, 65% of the amount preapproved. Total reported, qualifying expenditures are expected to total over \$140 million, but this is a minimum number for actual investment, as some



companies only report enough expenditure to match their tax liability, and some expenditures are disqualified for items such as bunkhouses, which are essential parts of the operations.

Increase in Shorebased Plant Value. Current estimates put the total insured or assessed value of seafood processing plants and equipment in Alaska at \$800 million to \$1 billion (Alaska Seafood Industry Study, 3/89). Estimated qualifying expenditures made during the past three years represent an increase of more than 15% of the total value of all active processing facilities in the state.

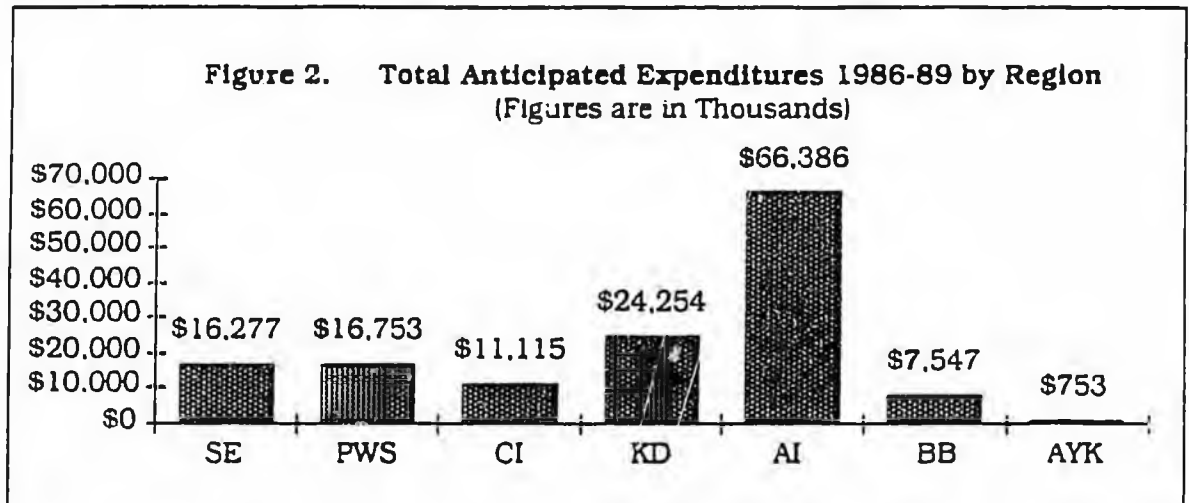
Number of participants. Sixty-seven firms representing 96 Alaska processing facilities have or intend to participate in the fisheries tax credit program. Expenditures actually qualifying for credit during the 1986-1988 period were made at 76 plants. Applications for expenditures during 1989 at an additional 13 facilities have been approved by the Department of Revenue. Credits only were taken on taxes generated by 7 facilities (and applied to expenditures at other plants owned by the same firm).

Table 1. Size and Number of Facilities' Expenditures by Region

Size of Expenditure (in thousands)	South East	Prince Will	Cook Inlet	Kod/ Chig	Aleut. Is.	Bristol Bay	AYK	Total
Less than \$10.0	2		1		1			4
\$10.0 - 100.0	7	1	2			2	2	14
\$100.0 - 500.0	8	3	3	5	1	2		22
\$500.0 - 1,000.0	1		3	5	2	3	1	20
\$1,000.0 - 2,000.0	4	2	4	2	1	1		14
\$2,000.0 - 5,000.0	2	2		3	1	1		9
\$5,000.0 - 10,000.0		1		1				2
\$10,000.0 - 20,000.0					4			4
Total	24	9	18	16	10	9	3	89

Concentration of Major Investments. It is estimated that through 1989, 22 firms will have made investments of more than \$1 million at each of 28 plants. This category of large investments will total about \$128 million or 89 percent of the total estimated expenditures of all participating firms.

The approximate size of expenditures and number of plants involved in each area of the state are outlined in Table 1. The expenditures column represents actual expenditures reported through 1988 plus 65% of 1989 expenditures preapproved by the Department of Revenue.



Expenditures by Region. The statewide total of estimated expenditures over the life of the tax credit program is put at \$143 million. Expenditures in the Aleutian Islands area are estimated at \$66 million or 46% of the total. The bulk of expenditures in the Aleutian Islands area are related to the construction of four very large bottomfish plants used for the manufacture of surimi, fillets and meal. See Figure 2.

Comparatively few expenditures were made in the Bristol Bay area (\$8 million) and AYK area (\$1 million).

Credits Taken. Reported expenditures totaled \$83 million during the 1986-1988, generating \$42 million in potential credits. Only about \$23 million in actual credits were applied, and the credit carry forward is about \$19 million. Generally, the credits taken by most major firms are limited by their tax liability and not by the size of their qualified expenditures.

Credits Outstanding. Theoretically, outstanding credits could equal \$66 million (half of the 1989 preapproved amount plus the amount carried forward). Estimating 65% of the preapproved amount as the actual qualifying expenditures that will be reported yields an estimated potential credit outstanding \$49 million, and a total potential credit figure of \$71 million.

The carryforward of most firms will be exhausted by 1990, so credits taken are expected to be higher 1988-1990, and lower in 1987 and 1991. Also, the record high ex-vessel prices of 1988 and the large volume of claims are likely to make that year the peak. Credits are likely to decline steadily after 1988, and to total between \$48 and \$55 million over the life of the program.

Ownership. Of the 89 facilities where expenditures have or will be made, on the order of 44 are owned by Alaska residents or Alaska-based corporations, 24 by foreign entities, and 21 by U.S. citizens or corporations headquartered outside of the state.

Forty-one percent of the credits actually applied through 1988 were taken by Alaskan firms, 29% by US firms, and 31% by foreign firms. Based on the tax liabilities of the companies involved, the 1989 approved expenditures and the amount of credits carried over from prior years, this ratio is not expected to change appreciably in the future.

Value of the Tax Credit Program. It is not possible to determine what investments in plant expansion and new equipment would have been made in the absence of a tax credit program. However, it is clear that the program is responsible for a substantially increased volume of capital investments in shorebased facilities, and probably in the ability of Alaskan and US firms to participate in shorebased bottomfish operations.

Six facilities with over \$5 million expended make up 45% of the total anticipated qualifying expenditures. Four are for new plants, with three bottomfish operations and one cannery. Two are major expansions of existing plants, both into surimi, fillet and meal production. The two Alaskan and one US firm involved all concentrated extensive tax credits from floating operations to build their plant. Principals in each firm report that the tax credit program was a major factor in their decision to invest onshore. The program was of lesser importance to the other three Japanese owned plants, who have very large fishing companies behind them, and who are constrained by law from investing in factory trawlers.

Of the total \$143 million in expected qualifying expenditures, \$79 million was spent on bottomfish facilities, and \$44 million on traditional species. The traditional species investments have considerably increased production capacity, especially refrigeration capacity, and have contributed substantially to production efficiencies.

Increase in Employment. It is not possible to determine the total increase of employment which was generated by plant expansions, because most were incremental expansions or improvements of existing facilities. More efficient equipment and production systems may even have resulted in the elimination of a few jobs. However, four new surimi plants alone which have already been completed or are in the final stages of construction will employ about 750 people full time. Another new facility constructed to handle more seasonal "traditional" species is expected to employ 200. Employment increases associated with firms participating in the tax credit program probably exceed 1,000 persons.

FISHERIES BUSINESS TAX CREDIT PROGRAM REPORT

Type of investments made

Actual qualifying expenditures as reported on 1987-1988 tax returns were analyzed in detail. These expenditures were classified as being in support of either bottomfish processing or the processing of "traditional" species such as salmon, halibut, herring, and crab. Within those two categories the following classifications were established:

Dock/building repair or expansion: Minor and major expansion of existing processing buildings; utilities maintenance and upgrade (water, power, communications, waste disposal, outfalls); general plant wiring, plumbing, heating and other systems maintenance and upgrade; support facilities and equipment such as office, lunch room, generator shed, shop, supplies storage space, or loading dock.

New plant construction: Construction of a totally new building where one did not previously exist. Construction in association with an existing plant was included in this category if it involved the construction of a new building designed to handle products not previously processed.

Fish Handling equipment: Equipment and closely associated structures for moving, transferring and handling fish. Expenditures in this category were heavily weighted toward fish pumps, fork lifts and cranes, and also included conveyors, pallet jacks, trucks, hoists, elevators, carts, vans, and flumes.

Refrigeration/Ice: Refrigeration equipment, compressor buildings, freezers, refrigerated product storage facilities, refrigerated seawater holding systems, ice manufacturing equipment, and ice storage and delivery systems.

Salmon canning equipment ("Traditional" category only): Equipment used specifically in traditional salmon canning operations: Holding bins, weighing systems, fillers, seamers, can forming machinery, and steam production equipment. The efficiency of traditional canning facilities was substantially increased by the installation of equipment such as automated weighing and patching systems. A number of firms added one-quarter and one-half pound canning lines, which will increase the final product value.

Surimi/fillet equipment (bottomfish category only): Machinery for raw product buffer storage, heading, gutting, skinning, filleting, mincing, dewatering, mixing ingredients, candling, trimming and packaging products. Meal and oil plants associated with bottomfish surimi and fillet operations were included in this classification.

General processing equipment: Equipment usually associated with the processing of traditional species and products - salmon, herring, halibut, shellfish: Raw product holding and distribution systems, scales, tables, totes, headers and gutters, fish washing, glazing, strapping machines, crab cookers, herring graders, and equipment for egg processing (brine tanks, agitators).

Added value equipment ("Traditional" category only): Equipment specifically used in the production of value added products: Skinless/boneless canned salmon, retortable pouch products, fish meal and oil not especially related to bottomfish operations, smoking, salmon fillets and fillet log products, and equipment to facilitate air fresh operations.

Traditional Species Investments.

During the 1986-1988 period, \$45.8 million of the \$83.4 million total reported on tax returns was invested in facilities and equipment devoted primarily to the processing of traditional species. About half of that amount was invested in the improvement and expansion of existing buildings and docks and the installation of new freezing, cold storage and ice making capacity.

Of the \$92 million in expenditures preapproved for 1989, \$29 million will be devoted to the production of traditional species. About 65% of that amount, or \$19 million, is expected to be reported as qualified expenditures on tax returns. Over the life of the program, \$65 million in qualifying, reported expenditures will be invested. Further details about traditional species expenditures are provided in Table 2 and Figure 3.

Figure 3. Actual Qualified Expenditures for Traditional Species 1986-1988
Total \$45,836.9 Thousand

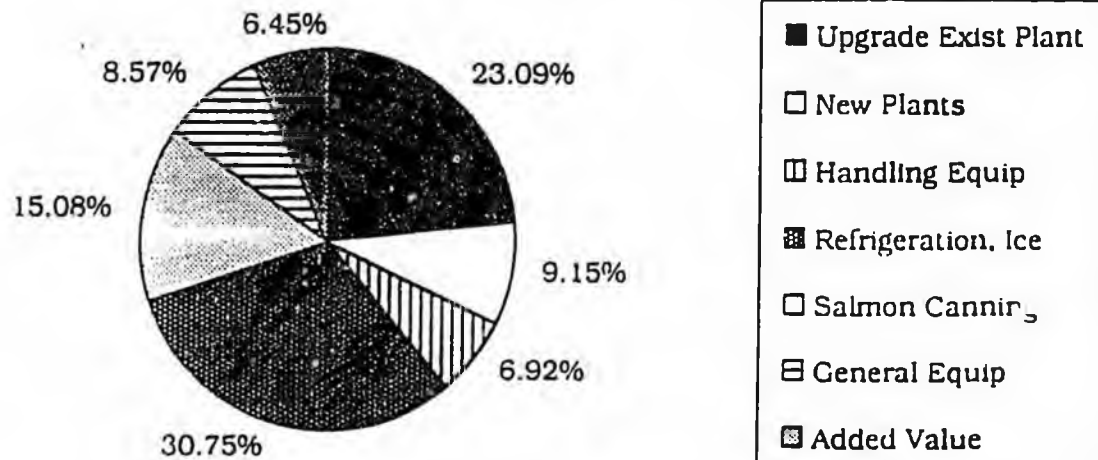


Table 2. Actual Qualified Expenditures 1986-1988 on Traditional Species

	Utilities, buildings	New Plants	Handling Equipment	Refrig. Ice, Freezing	Salmon Canning	General Equipment	Added Value	Total
Southeast	\$2,133.1	\$0.0	\$580.7	\$2,814.9	\$3,518.8	\$695.2	\$912.9	\$10,655.6
Prince William Sd	\$1,007.3	\$4,169.7	\$1,555.8	\$1,672.6	\$2,854.8	\$738.1	\$1,663.7	\$13,662.0
Cook Inlet	\$2,904.9	\$0.0	\$481.8	\$3,170.9	\$4.1	\$1,304.8	\$71.0	\$7,937.5
Kodiak	\$1,083.9	\$23.8	\$265.6	\$2,415.9	\$174.4	\$903.7	\$0.0	\$4,867.3
Aleutian Islands	\$2,387.7	\$0.0	\$43.5	\$129.4	\$0.0	\$0.0	\$300.0	\$2,860.6
Bristol Bay	\$1,042.8	\$0.0	\$238.3	\$3,839.8	\$357.9	\$267.9	\$0.0	\$5,746.7
Arclic-Yuk-Kusk	\$22.5	\$0.0	\$6.0	\$49.1	\$0.0	\$20.3	\$9.3	\$107.2
Total	\$10,582.2	\$4,193.5	\$3,171.7	\$14,092.6	\$6,910.0	\$3,930.0	\$2,956.9	\$45,836.9

Table 3. Actual Qualified Expenditures 1986-1988 on Bottomfish

	Utilities, buildings	New Plants	Handling Equipment	Refrig. Ice, Freezing	Surimi, Fillet	General Equipment	Total
Southeast	\$33.6	\$0.0	\$8.9	\$63.0	\$0.0	\$18.8	\$124.3
Prince Will Sd	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Cook Inlet	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$14.0	\$14.0
Kodiak	\$720.8	\$1,789.0	\$388.8	\$1,775.7	\$8,417.6	\$391.9	\$13,486.8
Aleutian Islands	\$8,839.2	\$3,755.0	\$440.8	\$59.7	\$10,767.1	\$87.5	\$23,949.3
Bristol Bay	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Arc-Yuk-Kus	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Total	\$9,593.6	\$5,544.0	\$838.5	\$1,898.4	\$19,184.7	\$515.2	\$37,574.4

Table 4. Total Actual Qualified Expenditures 1986-88 and Estimated Qualifying Expenditures for 1989*

	Traditional Species			Bottomfish			Grand Total
	1986-88	'89 Est*	Total	1986-1988	'89 Est*	Total	
Southeast	\$10,655.6	\$5,224.2	\$15,879.8	\$124.3	\$272.7	\$397.0	\$16,276.8
Prince Will Sd	\$13,662.0	\$2,613.1	\$16,275.1	\$0.0	\$477.8	\$477.8	\$16,752.9
Cook Inlet	\$7,937.5	\$3,163.6	\$11,101.1	\$14.0	\$0.0	\$14.0	\$11,115.1
Kodiak	\$4,867.3	\$3,400.3	\$8,267.6	\$13,486.8	\$2,499.3	\$15,986.1	\$24,253.7
Aleutian Is.	\$2,860.6	\$1,719.9	\$4,580.5	\$23,949.3	\$37,856.3	\$61,805.6	\$66,386.1
Bristol Bay	\$5,746.7	\$1,799.9	\$7,546.6	\$0.0	\$0.0	\$0.0	\$7,546.6
Arc-Yuk-Kus	\$107.2	\$645.3	\$752.5	\$0.0	\$0.0	\$0.0	\$752.5
Total	\$45,836.9	\$18,566.2	\$64,403.1	\$37,574.4	\$41,106.0	\$78,680.4	\$143,083.5

Bottomfish Expenditures.

Bottomfish investments for the 1986-88 period totalled \$37.6 million. About three-quarters of the amount was invested in new plant construction and specialized equipment for the production of fillets, surimi and meal. Preapproved 1989 expenditures total \$63 million for bottomfish. If 65% of the amounts preapproved are actually reported for credit, 1989 qualified expenditures for bottomfish would be \$41 million. (Table 3 and Figure 4.)

Combining expenditures reported in 1987 and 1988 and 65% of the amounts preapproved in 1989 indicate that during the life of the tax credit program Alaska processors will spend at least \$79 million to initiate the production of bottomfish. See Table 4.

Note that qualifying expenditures represent a minimum figure for investment. Some expenditures are disqualified, and some companies only report enough expenditures to match their anticipated tax liability. For example, one new surimi plant has preapproved expenditures under the tax credit program of about \$11 million. This amount is apparently sufficient to maximize the firm's potential credits given its expected tax liability. However, reliable information indicates that the company will actually spend nearly \$60 million on the project.

