

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11237 SENATE LABOR & COMMERCE

We also support a mandatory .3% fisheries resource tax to be collected from the processors as a source of funding for ASMI and the continuation of a salmon marketing tax at the current level, both of which are included in SB 273.

At this time, however, we are reluctant to support the expansion of the salmon marketing tax to a seafood marketing tax for all species. While that achieves a laudable goal of increasing the total annual budget for ASMI by several million dollars per year, we would prefer that the Legislature wait until the ASMI board size has been reduced, and the new appointees have had a chance to discuss a revised marketing plan before making a decision as to the optimum size of the ASMI budget and best way to collect the taxes necessary to fund that level. In the meantime, a portion of the special federal funds will likely flow to ASMI in addition to the budget based on the current tax structure.

We understand that the federal emergency funds will not continue indefinitely and that ASMI will be the long term focal point for a State marketing program. We encourage you to support SB 273 with amendment.

Thank you for considering our views.

Sincerely,

A handwritten signature in cursive script that reads "Bill Terhar". To the right of the signature is a small, circular handwritten mark or initials.

Bill Terhar
Ocean Beauty Seafoods, Inc.

February 3, 1004

**Testimony of Terry Gardiner
President, NorQuest Seafoods
Before the Senate Labor and Commerce Committee
Regarding SB 273**

Dear Chairman Bunde,

NorQuest Seafoods supports the overall goals of the proposed legislation. We are long time and enthusiastic supporters of ASMI. We see on a routine basis the benefits of having a statewide generic seafood marketing program such as ASMI. In our opinion, there is no doubt about the effect of ASMI's efforts on customer enthusiasm for Alaska seafood.

We support reducing the current ASMI board of 25 members to 9 members. This reduction in numbers is likely to improve the quality of Board deliberations and in so doing attract senior corporate personnel back volunteering their time to ASMI. With a smaller board, the costs of board meetings will fall and the need for an Executive Committee may be eliminated.

On the matter of increasing revenues, it is very important for marketing operations such as ASMI to have a dependable predictable source of revenue. Successful marketing requires a continued presence which in turn requires predictable funding. The revenue goal should be to supply ASMI with a stable source of funds in the range of \$7-9 million annually. ASMI has a tremendous track record of leverage industry funds with matching federal funds. A strong level of industry support enables ASMI to compete effectively for federal marketing funds.

Processors currently assess themselves 0.3% on all products they buy from fishers; salmon, halibut, crab, etc. We support the proposed language that leaves that rate unchanged but makes that payment mandatory.

As I understand the bill, catcher/processors buying whitefish species, mainly Pollock, would see an increase in their marketing tax. If this is so, we would suggest that the intent language of this bill include direction to the Governor to appoint a representative of that sector to the new ASMI board. Taxation requires representation. That intent language might also express the legislature's desire that ASMI put more effort into marketing whitefish products in light of that sector's increased contributions to ASMI's marketing budget. The whitefish production in Alaska is vital to our fishing and coastal economics and ASMI needs to put a proportional effort into marketing whitefish products.

The bill recommends changes to the way fishers are taxed to support ASMI's effective marketing programs. We believe that \$7-9 million dollars is the threshold

funding level for any organization with the responsibility to promote Alaska's billion dollar seafood industry on a global basis. A 50/50 split of funding responsibilities between fishers and processors is warranted. We do believe that ASMI programs benefit all industry participants, fishers and processors, so both have a responsibility to support those programs. In our opinion those benefits and responsibilities are roughly 50/50 between the two sectors. The harvesting sector should speak directly on how they want to come up with their contributions to marketing Alaska seafood.

Thank you very much for the opportunity to present this statement

Terry Gardiner
President
NorQuest Seafoods, Inc.



February 2, 2004

Senator Gary Stevens
State Capitol
Juneau, AK 99801

RE: SB 273/ relating to the ASMI Board and proposed Seafood Marketing Tax

Dear Senator Stevens:

I would like to address the concerns of the Prince William Sound Aquaculture Corporation (PWSAC) regarding SB 273, which, in addition to changing the representation to the Alaska Seafood Marketing Institute (ASMI) board, creates a new funding source for ASMI from a seafood marketing tax collected on cost recovery salmon.

Although PWSAC has been very supportive of the Joint Legislative Salmon Industry Task Force in its effort to improve the working climate for the commercial salmon industry in Alaska, we take issue with the imposition of changes in SB 272 that create a new tax that will come out of the income of struggling fishermen. As you are aware, cost recovery salmon, which fund the operation of our hatchery, come directly out of the harvest available to the fishermen in our area. The outlay of any new tax will be passed directly on to our fishermen through a decrease in their available salmon harvest. This is the only financial mechanism currently available to PWSAC to capture revenues.

As was mentioned at one of the Task Force meetings, some fishermen in the state feel that cost recovery fish should be taxed to help pay for additional ASMI efforts. Our fishermen are now assessed a 2% salmon enhancement tax to help pay for the production of fish in our area, and processors already pay a .3% ASMI tax on all cost recovery fish which they purchase from PWSAC.

In light of the state of the salmon industry and the current availability of federal funding to ASMI, we would prefer the status quo remain in effect and the ASMI funding issues be revisited in the future when fishermen and the industry can better afford to pay new taxes.

Thank you, Senator, for all of your hard work on behalf of our beleaguered salmon industry. Your efforts are appreciated by the thousands of people in Cordova and the Prince William Sound area whose lives depend on commercial fishing for a living.

Sincerely,

Dave Reggiani
General Manager

PRINCE WILLIAM SOUND AQUACULTURE CORPORATION

Corporate Office • P. O. Box 1110, Cordova, AK 99574

Office: 907/424-7511 • Fax: 907/424-7514

Website: www.ctcak.net/~pwsac • Email: pwsac@ctcak.net

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 273
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title ASMI Board/Seafood Taxes RDU Revenue Programs & Services
& Assessments Component Tax Division
 Sponsor Sen. Gary Stevens/JT Salmon Task Ft
 Requester Senate Labor and Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	102.9	102.9	102.9	102.9	102.9	102.9
Travel						
Contractual	20.9	6.9	6.9	6.9	6.9	6.9
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	16.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	141.8	111.8	111.8	111.8	111.8	111.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	2,750.0	2,750.0	2,750.0	2,750.0	2,750.0	2,750.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	141.8	111.8	111.8	111.8	111.8	111.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	141.8	111.8	111.8	111.8	111.8	111.8

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2 for analysis.

Prepared by: Chuck Harlamert
 Division: Tax Division
 Approved by: Steve Porter, Deputy Commissioner
 Agency: Department of Revenue

Phone 465-2320
 Date/Time 2/3/04 9:49 AM
 Date 2/3/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 273

ANALYSIS CONTINUATION

Revenue Analysis

The two components of the revenue increase are as follows: (1) the new tax of .3% tax on all non-salmon fishery resources (\$2,600,000) and (2) the inclusion of "hatchery permit" fish (\$150,000). The current 1% tax on salmon remains in place and the current "seafood marketing assessment" is replaced by a "seafood products tax" that would raise the equivalent amount of revenue. Both of these taxes currently raise about \$4.4 million. Total ASMI funding under the bill is estimated at \$7.15 million annually.

Cost Analysis

The Department will stop processing annual returns for the Seafood Marketing Assessment and instead, handle monthly Seafood Product Tax returns. In addition the Department will process combined Salmon Enhancement and Seafood Marketing Tax returns for an additional 345 taxpayers based of FY03 activity. We project that our return volume will increase by 3,300 returns per year.

We request funding for an additional tax technician and a clerk to perform initial processing, examination and accounting functions in support of the programs. Contractual costs for FY05 include the cost of building the two new forms into our date entry, examination, and posting application.

Subject: [Fwd: S.B. 273- Support]

Date: Tue, 03 Feb 2004 08:25:12 -0900

From: Katrina Matheny <Katrina_Matheny@legis.state.ak.us>

To: jane_alberts@legis.state.ak.us

Subject: S.B. 273- Support

Date: Mon, 02 Feb 2004 13:55:01 -0800

From: Gig Decker <gigdecker@gci.net>

To: Katrina_Matheny@legis.state.ak.us

CC: Williams Bill <Representative_Bill_Williams@legis.state.ak.us>

Dear Senator Stevens and Committee, My name is Gig Decker. I've fished in Alaska for 31 years from Nome to Southeast using nets, pots, long lines, trawls and dive gear. I'm very pleased to say that I've been involved in just about every fishery Alaska has had to offer and I greatly appreciate what Alaska has done for myself and my family. I believe the role that ASMI plays is absolutely necessary to the future of all Alaskan fisheries. This bill will do a lot for the stable funding platform which is so critical to effective management of this type of endeavor. I don't mind paying my share. Many of the fisheries out side of salmon will soon be facing our present predicament and will welcome the efforts ASMI can make for them. On board size, I've been on the ASMI board for two and one half years now and I feel the large size of the board complicates it's effectiveness in several ways. Many times it is difficult to have a discussion with such a large number and important issues become befuddled in endless opinions. Accountability can be lost while disgruntled political sore feelings waste time being manipulated into the process. A smaller board and more evenly distributed assessment are good steps toward a more accountable and effective effort. Thanks for your consideration, Gig Decker, Wrangell Alaska.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB273
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title An Act relating to the Alaska RDU Executive Operations
Seafood Marketing Institute Component Executive Office
 Sponsor Senate Labor and Commerce
 Requester Senate Labor and Commerce Component No. 6

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact for the Office of the Governor.

Prepared by: Linda J. Perez, Administrative Director
 Division: Office of the Governor, Administrative Services
 Approved by: Michael A. Nizich, Deputy Chief of Staff
 Agency: Office of the Governor

Phone 465-3876
 Date/Time 2/2/04 3:42 PM
 Date 2/2/2004

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
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Senator Gary Stevens

Alaska State Legislature

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112 Mill Bay Road
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SPONSOR STATEMENT – SB 273

SB 273, "An act relating to the Alaska Seafood Marketing Institute (ASMI), the seafood marketing assessment, the seafood marketing tax, and the seafood product tax", reduces the size of the ASMI board and makes changes to its existing tax structure.

As Chair of the Marketing/Quality Subcommittee of the Salmon Industry Task Force, my main focus was to look at possible restructuring of the organization. The reoccurring theme that I heard over and over again was the need to reduce the size of the board to a more manageable level and provide a stable funding source for the agency. This bill addresses both of those concerns.

This legislation would reduce the size of the ASMI board from 25 members to nine members, consisting of three large processors, one small processor, four commercial fishermen and one public member.

Secondly, this bill changes the tax structure so that additional revenues are available for marketing Alaska seafood. Following is the difference between the current tax structure vs. the proposed tax structure:

Current Tax Structure:

Salmon Marketing Tax on harvesters – 1%
Voluntary Seafood Marketing Assessment on the processors - .3%

Proposed Tax Structure:

Seafood Marketing Tax on harvesters, including hatcheries – 1% on salmon and .3% on all other seafood, including mariculture
Mandatory Seafood Product Tax on processors - .3%
Voluntary Seafood Marketing Assessment on processors - up to .4% (in current statute)

Under this proposal, ASMI would receive approximately \$2.8 million in additional funds.

Alaska needs a strong and adequately funded marketing organization in order to compete in the world marketplace and assist in revitalizing the industry. This bill is a step in that direction and I encourage you to support this important piece of legislation.

SPONSOR STATEMENT

LEGAL SERVICES

JAN 29 2004

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 29, 2004

SUBJECT: Sectional summary of SB 273; an Act relating to the Alaska Seafood Marketing Institute, the seafood marketing assessment, the seafood marketing tax, and the seafood product tax (SB 273)

TO: Senator Gary Stevens
Attn: Katrina Matheny

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 273; an Act relating to the Alaska Seafood Marketing Institute, the seafood marketing assessment, the seafood marketing tax, and the seafood product tax.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.43.160(e)(2)(A)(ix) to provide that the Alaska Commercial Fisheries Entry Commission shall consider the cost to the state of operating the seafood product tax program and the seafood marketing tax program in setting the amount of the fee to be charged to nonresident fishermen for interim-use permits and entry permits.

Sections 2 and 3 of the bill amend AS 16.51.020(a) and (b) to reduce the size of the board of directors of the Alaska Seafood Marketing Institute from 25 persons to nine persons and to eliminate the requirement that the number of fishermen members of the board be appointed from regions in the state in the same proportion that those regions account for the total amount of tax collected under the former salmon marketing tax.

Section 4 of the bill amends AS 16.51.050 to establish the quorum of the Alaska Seafood Marketing Institute board of directors as five members.

Section 5 of the bill amends AS 37.05.146(c)(25) to provide that an appropriation of receipts from the seafood product tax or the seafood marketing tax is not made from unrestricted general funds.

Section 6 of the bill adds a new article to AS 43.76 to provide for the establishment and collection of a 0.3 percent seafood product tax to be paid by seafood processors on the

Sectional Analysis

Senator Gary Stevens
January 29, 2004
Page 2

value of fishery resources that they acquire to produce seafood products. The fishery resources on which the tax is to be paid include the traditional salmon, halibut, herring, etc., as well as *aquatic farm products and salmon sold by hatcheries*.

Sections 7 - 9 of the bill amend AS 43.76.110, 43.76.120, and 43.76.130 to replace the current salmon marketing tax with the seafood marketing tax. The new tax is to be paid by all fishermen who hold a limited entry permit, interim-use permit, *special harvest permit, landing permit, an aquatic farm permit, or a federal commercial fishing license permit or quota share* and who sell or transfer fishery resources to a buyer in the state. The amount of the tax to be paid is one percent of the value of salmon and 0.3 percent of the value of all other fishery resources. The fishery resources on which the tax is to be paid include the traditional salmon, halibut, herring, etc., as well as *aquatic farm products and salmon sold by hatcheries*.

Section 10 of the bill provides for the repeal of the seafood product tax and the seafood marketing tax on June 30, 2008.

Section 11 of the bill repeals obsolete provisions relating to the repeal of the former salmon marketing tax.

Section 12 of the bill repeals miscellaneous provisions related to the salmon marketing tax.

Section 13 of the bill sets out transitional provisions relating to the reduction of the size of the board of directors of the Alaska Seafood Marketing Institute and to provide for the collection of the seafood marketing assessment for 2004 that may be owed by seafood processors after the assessment is terminated on December 31, 2004.

Section 14 of the bill terminates the current seafood marketing assessment paid by seafood processors under AS 16.51. The amount that seafood processors pay under the current seafood marketing assessment is supplanted by the new seafood product tax that is established under sec. 6 of the bill. The seafood processors will still have the option to reestablish a seafood marketing assessment if they follow the procedures set out under AS 16.51.

Sections 15 and 16 of the bill set out the effective dates for the various sections of the bill.

If I may be of further assistance, please advise.

GU:med
04-107.med

SB

276

*passed out
2/17*

23-GS2105VH.1
Bullock
2/17/04

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BUNDE

TO: CSSB 276(L&C), Draft Version "H"

1 Page 5, following line 30:

2 Insert a new bill section to read:

3 **"* Sec. 4.** AS 44.88.080 is amended by adding a new paragraph to read:

4 (27) to guarantee loans made to the Alaska Insurance Guaranty
5 Association (AS 21.80.040), with these guarantees limited to loans necessary to make
6 the association financially able to meet cash flow needs up to a maximum outstanding
7 principal balance at any time of \$30,000,000."

8

9 Renumber the following bill section accordingly.

passed out 2/17

23-GS2105H
Bullock
2/15/04

CS FOR SENATE BILL NO. 276(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Insurance Guaranty Association; relating to the powers
2 of the Alaska Industrial Development and Export Authority concerning the association;
3 and providing for an effective date."

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

5 * Section 1. AS 21.80.060(a) is amended to read:

6 (a) The association

7 (1) is obligated to pay covered claims existing before the order of
8 liquidation and arising within 30 days after the order of liquidation, or before the
9 policy expiration date if less than 30 days after the order of liquidation, or before the
10 insured replaces the policy or causes its cancellation if the insured does so within 30
11 days after the order of liquidation, but this obligation includes only that amount of
12 each covered claim that is less than \$500,000, except that a covered claim for return of
13 unearned premium may not exceed \$10,000 for each policy, and except that the
14 association shall pay the full amount of any covered claim arising out of a workers'

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compensation policy; the association is not obligated

(A) to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises; or

(B) to pay a claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer;

(2) is considered the insurer to the extent of its obligation on the covered claims and to that extent has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) shall allocate claims paid and expenses incurred among the three accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligation of the association under (1) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and other expenses authorized by this chapter; under this paragraph,

(A) the assessments of each member insurer must initially be based on a uniform percentage, as determined by the association, of the net direct written premiums of each member insurer for the last year for which annual statements have been filed on the kinds of insurance in the account; this initial assessment shall be adjusted by applying the same uniform percentage as initially used to each member insurer's net direct written premiums for the calendar year following the year in which the initial assessment was issued; any difference between the initial assessment amount and the adjusted assessment amount allocated to a member insurer shall be levied against or credited back to the member insurer, as appropriate, by the association; the association shall calculate and issue all appropriate levies and credits as soon as practical after all member insurers have filed their annual statements for the calendar year following the year in which the initial assessment was issued;

(B) on an annual basis, the association shall determine if funding is required for any of the three accounts; based on this determination, the association shall, during November of each year, issue initial assessments

1 as may be necessary to cover the projected reasonable costs of claims and
2 expenses to administer the association for the following year; under this
3 subparagraph,

4 (i) the association shall use the services of an
5 independent actuary to assist the association to evaluate and make the
6 projection;

7 (ii) an initial assessment may be made at any other time
8 if the association determines funding is necessary, except that a
9 member insurer may not be assessed initial assessments on any account
10 in an amount greater than two percent of the member insurer's net
11 direct written premiums for the applicable calendar year;

12 (C) the association may pay claims in any order that it
13 determines reasonable, including the payment of claims as they are received
14 from claimants or in groups or categories of claims; however, if the maximum
15 of all assessments made under this section [ASSESSMENT], together with
16 the other assets of the association in any account, does not provide, in any one
17 year, in any account, an amount sufficient to make all necessary payments
18 from that account, the funds available shall be prorated, and the unpaid portion
19 shall be paid as soon thereafter as funds become available;

20 (D) the association may defer, in whole or in part, an
21 assessment of any member insurer if the assessment would endanger the ability
22 of the member insurer to fulfill the insurer's contractual obligations or cause
23 the member insurer's financial statement to reflect amounts of capital or
24 surplus less than the minimum amounts required for a certificate of authority
25 by any jurisdiction in which the member insurer is authorized to transact
26 insurance; however, during the period of deferment, the member insurer may
27 not pay dividends to shareholders or policyholders; a deferred assessment may
28 only be paid when the payment does not reduce capital or surplus below
29 minimums required by law; a member insurer who pays a larger assessment as
30 a result of a deferment given to another member insurer shall receive a refund
31 when the deferment ends or, at the election of the member insurer, receive a

1 credit against future assessments;

2 (E) each member insurer may set off against an assessment
3 authorized payments made on covered claims and expenses incurred in the
4 payment of these claims by the member insurer if they are chargeable to the
5 account for which the assessment is made;

6 (4) shall investigate claims brought against the association, adjust,
7 compromise, settle, and pay covered claims to the extent of the association's
8 obligation, and deny all other claims, and may review settlements, releases, and
9 judgments to which the insolvent insurer or its insureds were parties to determine the
10 extent to which settlements, releases, and judgments may be properly contested;

11 (5) may, subject to AS 21.89.100, appoint, substitute, or direct legal
12 counsel retained under an insurance policy for the defense of a covered claim;

13 (6) shall handle claims through its employees or through one or more
14 insurers or other persons designated as servicing facilities; a servicing facility shall
15 operate and maintain its principal office in this state unless the use of a servicing
16 facility located outside of the state would result in operating cost savings of at least 10
17 percent and would not result in material delay in claim payments; designation of a
18 servicing facility is subject to the approval of the director, but designation may be
19 declined by a member insurer;

20 (7) shall reimburse each servicing facility for obligations of the
21 association paid by the facility and for expenses incurred by the facility while handling
22 claims on behalf of the association and shall pay the other expenses of the association
23 authorized by this chapter.

24 * Sec. 2. AS 21.80.060(b) is amended to read:

25 (b) The association may

26 (1) employ or retain those persons necessary to handle claims and
27 perform other duties of the association;

28 (2) borrow funds necessary to effect the purposes of this chapter in
29 accord with the plan of operation and secure guarantees from the Alaska Industrial
30 Development and Export Authority for association loans that are necessary to
31 make the association financially able to meet cash flow needs;

- 1 (3) sue or be sued;
- 2 (4) negotiate and become a party to those contracts that are necessary
- 3 to carry out the purposes of this chapter;
- 4 (5) perform all other acts necessary or proper to carry out the purposes
- 5 of this chapter;
- 6 (6) retain amounts excess of claims, expenses, credits, and other
- 7 liabilities in any account to be applied to reduce future assessments in that account,
- 8 except that, if, in any year, the association determines that significant funds in excess
- 9 of projected claims, expenses, credits, and other liabilities exist in an account, the
- 10 association shall return amounts to policyholders, through procedures established by
- 11 the association, whereby the association reimburses member insurers for providing
- 12 uniform credits against rates and premiums charged for all policies applicable to the
- 13 account issued during the next calendar year.

14 * Sec. 3. AS 21.80.080(b) is amended to read:

15 (b) The director may

16 (1) suspend or revoke, after notice and hearing, the certificate of

17 authority to transact insurance in this state of any member insurer that fails to pay an

18 assessment when due or fails to comply with the plan of operation; as an alternative,

19 the director may levy a fine on any member insurer that fails to pay an assessment

20 when due; this fine may not exceed five percent of the unpaid assessment per month or

21 portion of a month, except that a fine may not be less than \$250 a month;

22 (2) revoke the designation of any servicing facility upon a finding that

23 claims are being handled unsatisfactorily;

24 (3) upon a finding by the superior court that the board of governors has

25 failed to comply with a requirement of this chapter or the plan of operation, assume

26 the powers of the board of governors under AS 21.80.060;

27 (4) subject to an appropriation by the legislature from the

28 earnings reserve account established under AS 37.13.145, make a grant or grants

29 to the association as may be required to ensure the long-term solvency of the

30 association.

31 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE
COMMITTEE
Amendment Number: # 1
Bill Number: SB 276
Sponsor: Bunde Date: 2/27/04
Logged In By: Mindy

23-GS2105V.1
Bullock
2/26/04

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 276(L&C)

BY SENATOR BUNDE

1 Page 5, line 28:

2 Delete "earnings reserve account established under AS 37.13.145"

3 Insert "Alaska Municipal Bond Bank Authority not set aside for bond issue
4 reserves"

5

6 Page 6, following line 4:

7 Insert new bill sections to read:

8 "* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 CONTINGENT EFFECT. Section 3 of this Act takes effect only if the Twenty-Third
11 Alaska State Legislature appropriates \$13,500,000 from the Alaska Municipal Bond Bank
12 Authority not set aside for bond issue reserves, for the purpose of making a grant or grants to
13 the Alaska Insurance Guaranty Association.

14 * Sec. 6. If, under sec. 5 of this Act, sec. 3 of this Act takes effect, it takes effect on the
15 effective date of the appropriation described in sec. 5 of this Act."

16

17 Renumber the following bill section accordingly.

18

19 Page 6, line 5:

20 Delete "This"

21 Insert "Except as provided in sec. 6 of this Act, this"

Alaska State Legislature

Senator Con Bunde

District P

Chair: Senate Labor & Commerce Committee

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

Letter of Intent

Alaska's Workers Compensation Program has been left with a deficit in excess of \$20 million dollars due to the unexpected insolvency of the Fremont Indemnity Company in 2003.

Deeming pro-rating and increased assessments in the program as detrimental to injured workers and businesses, it is the *intent* of the legislature to use 13.5 million dollars from the Alaska Municipal Bond Bank Authority, that has not been reserved for bond issue, to partially alleviate this financial crisis.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB 276(L&C) draft
(H) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: AK Insurance Guaranty Association BRU: AK Mun. Bond Bank Auth
Sponsor: Governor Component: _____
Requester: Senator Con Bunde (L&C Chair) Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1032 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1104 AK Municipal Bond Bank Auth.						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 13,500.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Jane Alberts Phone 465-3844
Labor and Commerce Committee Aide
Representative Senator Con Bunde, Date 2/26/2004
Chair, Senate Labor and Commerce

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

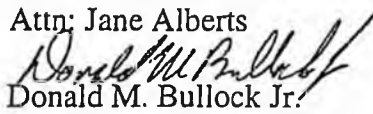
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 26, 2004

SUBJECT: Amendment to CSSB 276(L&C)
(Work Order No. 23-GS2105)

TO: Senator Con Bunde
Attn: Jane Alberts

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed with this memorandum is the amendment you requested for CSSB 276(L&C).

As requested, I deleted the reference to the earnings reserve account in AS 21.80.080(b)(4) and replaced it with a reference to the Alaska Municipal Bond Bank Authority (AMBBA). I added a contingent effective date that makes sec. 3 contingent upon the appropriation of \$13,500,000 from the AMBBA. The Act has an immediate effective date, except as provided in the contingent effective date sections.

I urge you to consult bond counsel about the effect of appropriating money from the AMBBA. The AMBBA has responsibilities to bondholders and political subdivisions that may be affected by an appropriation from AMBBA funds, even considering the limitation "not set aside for bond issue reserves." For example, such an appropriation may violate the state's pledge in AS 44.85.130(b) not to interfere with the operation of the AMBBA in such a way to prevent the authority from fulfilling any agreement made with bond holders.

If I may be of further assistance, please advise.

DMB:mdr
04-071.mdr

Enclosure



333 Willoughby Avenue, 11th floor
P.O. Box 110405
Juneau, Alaska 99811-0405

Tel (907) 465-2388
FAX (907) 465-2902
E-mail: ambba@revenue.state.ak.us

February 26, 2004

Senator Con Bunde
Chair, Labor and Commerce Committee
State Capitol, Room 506
Alaska State Legislature
Juneau, AK 99801

Dear Senator Bunde,

We are writing to provide additional detail on your questions related to appropriating funds from the Alaska Municipal Bond Bank Authority for other purposes. An appropriation of funds from the Bond Bank Authority's custodian account would restrict the ability of some communities to finance future capital projects at the local level, it would increase community and state cost of financing other capital projects, and send a negative message to national rating agencies that are tracking the State's credit.

The Alaska Municipal Bond Bank Authority was created in 1975 to assist Alaska municipalities issue bonds for local projects. The Bond Bank Authority is able to realize savings for municipalities by pooling bonds in large numbers and obtaining lower interest rates that result in reduced costs, and often better terms overall, than municipalities could obtain on their own. You may recall some of the community and administrative support shown in 2003 when the Legislature passed SB 51 increasing the borrowing authority of the Bond Bank from \$300 million to \$500 million to respond to increased borrowing at the municipal level to fund capital projects.

The average total annual return to the State of Alaska net of operations over the last three years has been approximately \$4.8 million. This represents over an 11.6% average annual return on the total net assets of the Bond Bank Authority. Savings generated by reduced issuance costs and lower interest rates on borrowed money to Alaska's communities from fiscal years 2001 through 2003 have been \$10.6 million or an average of \$3.5 million annually. Approximately 50% of these savings go directly to the State's bottom line due to reimbursement programs the state funds. At the same time the Bond Bank Authority has provided direct cash transfers to the State of almost \$4 million, or on an annual basis \$1.3 million.

The Bond Bank Authority is an example of efficiency in State government. Funding for the annual budget is provided through the gross revenue of the Bond Bank, and there is only one partially funded position in the Bond Bank's budget, otherwise all operations are contracted out on a demand basis. As borrowing activity levels go up there are increased costs, and as they go down costs are reduced. With

efficiencies and competitive contract awards the Bond Bank Authority's budget has remained flat for the last eight years.

The Bond Bank Authority's issuing bonds does not have a fiscal impact on the state's General Fund. Bond Bank debt is not a direct liability of the state, and the municipalities that use the Authority pay all of the debt service on the bonds.

A transfer of funds from the Bond Bank Authority will limit the ability to issue additional bonds for community capital projects. The current assets of the Bond Bank are estimated to be sufficient to reach the statutory cap for issuing bonds of \$500 million. If funds are removed the cap will effectively be reduced as the Bond Bank Authority will no longer have the means of funding mandatory reserve amounts. The Bond Bank Authority currently has four applications pending that are scheduled for issuance before the end of the calendar year, and there are several additional communities that have indicated that bond issuance in 2004 is likely. The Bond Bank will not have the resources available to issue these bonds if funds are transferred out.

A transfer of assets from the Bond Bank Authority may have a negative rating impact for the Bond Bank. The reserves of the Bond Bank and the implied confidence in the State's support for the program by never having appropriating from those amounts available for appropriation are cited in rating reports. By removing the reserves and reducing confidence in the State's support there may be ramifications for maintenance of the Bond Bank Authority's rating.

The national rating agencies have expressed their concern about the State of Alaska's short to mid-term outlook on several occasions. Excerpts from recent reports follow:

Moody Investors Service: "The outlook for the State of Alaska remains negative, given its sizable structural deficit and continued reliance on reserve fund drawdowns to fully fund its operations. . .Based on current state estimates relative to the timing of final reserve balance depletion, the state must begin to take meaningful steps towards achieving fiscal balance to avoid any further negative downward pressure on its credit rating."

Fitch: "Continued expectations for depletion of the constitutional budget reserve. . .emphasize the need to continue working toward having sufficient recurring revenues to ensure structural balance."

Standard & Poor's: "The 'AA' rating on Alaska's GO bonds reflects the state's strong general credit characteristics. . .A somewhat offsetting medium term concern is the state's structural budget gap, which is currently addressed on an annual basis with the use of the state's Constitutional Budget Reserve Fund (CBRF) which is projected to be depleted in approximately 2006."

With this backdrop, all actions of the State are closely monitored with a slightly negative eye at this time. The use of public corporation assets that otherwise provide annual long-term fiscal benefit to the State for a one time budget measure will almost certainly be added to the negative column and increase the likelihood of a credit downgrade for the State.



Alaska Chapter

March 1, 2004

Senator Con Bunde
State Capitol, Room 506
Juneau, AK 99801

Dear Senator Bunde:

ABC of Alaska's Legislative Review Task Force has reviewed HB 403 and trusts that your committee will address a significant concern about the impact of this legislation on the construction industry. While we have identified no reluctance on the part of the industry to support an increase in assessments to cover shortfall in the Alaska Insurance Guaranty Association pool, the timing of implementation on any assessment increase will be critical.

Contractors are now bidding their work for the prime construction season which will run from spring through the end of the year. Bids consider existing Worker's Compensation rates to be static until each employer's renewal. If rates increase in the midst of an insurance year, contractor margins, already slim, will be significantly impacted.

In the construction industry, Worker's Compensation costs can be averaged from 10% to 12% of payroll costs. Last year's construction payroll was \$881 million and the Alaska Department of Labor Research & Analysis Division estimates a 3-5% increase this year. If we estimate a 4% increase, we are looking at total construction payroll of \$916 million in 2004. At 10%, the total worker's compensation rate for the industry can be estimated at \$91.6 million for 2004. A two percent increase will be \$1.8 million for the year. If we assume that by June the balance of the season's work has been awarded and contracted, then the industry will absorb up to a \$900,000 dollar hit on projects already bid and contracted for the year. Where in a normal environment costs are shared with construction buyers, in this scenario, the full brunt of the cost increase will be born by the industry.

The simple way to avoid this impact is to ensure that the change to the Worker's Compensation fee structure is a "new and renewal change" rather than an "in force" change. If increases are incorporated in Worker's Compensation fees at renewal, the contractor is already looking ahead to increases or adjustments in that expense as he or she is bidding.

If you have any questions on this issue, or if I can be of assistance in any other way, please do not hesitate to contact me at 565-5600.

Sincerely,

Eden Larson
President & CEO

cc: Senate Labor & Commerce Committee, Senate Finance Committee

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BUNDE

TO: CSSB 276(L&C), Draft Version "H"

1 Page 5, following line 30:

2 Insert a new bill section to read:

3 "* Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:

4 (27) to guarantee loans made to the Alaska Insurance Guaranty
5 Association (AS 21.80.040), with these guarantees limited to loans necessary to make
6 the association financially able to meet cash flow needs up to a maximum outstanding
7 principal balance at any time of \$30,000,000."

8

9 Renumber the following bill section accordingly.

23-GS2105H
Bullock
2/15/04

CS FOR SENATE BILL NO. 276(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Insurance Guaranty Association; relating to the powers
2 of the Alaska Industrial Development and Export Authority concerning the association;
3 and providing for an effective date."

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

5 * Section 1. AS 21.80.060(a) is amended to read:

6 (a) The association

7 (1) is obligated to pay covered claims existing before the order of
8 liquidation and arising within 30 days after the order of liquidation, or before the
9 policy expiration date if less than 30 days after the order of liquidation, or before the
10 insured replaces the policy or causes its cancellation if the insured does so within 30
11 days after the order of liquidation, but this obligation includes only that amount of
12 each covered claim that is less than \$500,000, except that a covered claim for return of
13 unearned premium may not exceed \$10,000 for each policy, and except that the
14 association shall pay the full amount of any covered claim arising out of a workers'

1 compensation policy; the association is not obligated

2 (A) to a policyholder or claimant in an amount in excess of the
3 obligation of the insolvent insurer under the policy from which the claim
4 arises; or

5 (B) to pay a claim filed with the association after the final date
6 set by the court for the filing of claims against the liquidator or receiver of an
7 insolvent insurer;

8 (2) is considered the insurer to the extent of its obligation on the
9 covered claims and to that extent has all rights, duties, and obligations of the insolvent
10 insurer as if the insurer had not become insolvent;

11 (3) shall allocate claims paid and expenses incurred among the three
12 accounts separately, and assess member insurers separately for each account amounts
13 necessary to pay the obligation of the association under (1) of this subsection
14 subsequent to an insolvency, the expenses of handling covered claims subsequent to
15 an insolvency, and other expenses authorized by this chapter; under this paragraph,

16 (A) the assessments of each member insurer must initially be
17 based on a uniform percentage, as determined by the association, of the net
18 direct written premiums of each member insurer for the last year for which
19 annual statements have been filed on the kinds of insurance in the account; this
20 initial assessment shall be adjusted by applying the same uniform percentage
21 as initially used to each member insurer's net direct written premiums for the
22 calendar year following the year in which the initial assessment was issued;
23 any difference between the initial assessment amount and the adjusted
24 assessment amount allocated to a member insurer shall be levied against or
25 credited back to the member insurer, as appropriate, by the association; the
26 association shall calculate and issue all appropriate levies and credits as soon
27 as practical after all member insurers have filed their annual statements for the
28 calendar year following the year in which the initial assessment was issued;

29 (B) on an annual basis, the association shall determine if
30 funding is required for any of the three accounts; based on this determination,
31 the association shall, during November of each year, issue initial assessments

1 as may be necessary to cover the projected reasonable costs of claims and
2 expenses to administer the association for the following year; under this
3 subparagraph,

4 (i) the association shall use the services of an
5 independent actuary to assist the association to evaluate and make the
6 projection;

7 (ii) an initial assessment may be made at any other time
8 if the association determines funding is necessary, except that a
9 member insurer may not be assessed initial assessments on any account
10 in an amount greater than two percent of the member insurer's net
11 direct written premiums for the applicable calendar year;

12 (C) the association may pay claims in any order that it
13 determines reasonable, including the payment of claims as they are received
14 from claimants or in groups or categories of claims; however, if the maximum
15 of all assessments made under this section [ASSESSMENT], together with
16 the other assets of the association in any account, does not provide, in any one
17 year, in any account, an amount sufficient to make all necessary payments
18 from that account, the funds available shall be prorated, and the unpaid portion
19 shall be paid as soon thereafter as funds become available;

20 (D) the association may defer, in whole or in part, an
21 assessment of any member insurer if the assessment would endanger the ability
22 of the member insurer to fulfill the insurer's contractual obligations or cause
23 the member insurer's financial statement to reflect amounts of capital or
24 surplus less than the minimum amounts required for a certificate of authority
25 by any jurisdiction in which the member insurer is authorized to transact
26 insurance; however, during the period of deferment, the member insurer may
27 not pay dividends to shareholders or policyholders; a deferred assessment may
28 only be paid when the payment does not reduce capital or surplus below
29 minimums required by law; a member insurer who pays a larger assessment as
30 a result of a deferment given to another member insurer shall receive a refund
31 when the deferment ends or, at the election of the member insurer, receive a

1 credit against future assessments;

2 (E) each member insurer may set off against an assessment
3 authorized payments made on covered claims and expenses incurred in the
4 payment of these claims by the member insurer if they are chargeable to the
5 account for which the assessment is made;

6 (4) shall investigate claims brought against the association, adjust,
7 compromise, settle, and pay covered claims to the extent of the association's
8 obligation, and deny all other claims, and may review settlements, releases, and
9 judgments to which the insolvent insurer or its insureds were parties to determine the
10 extent to which settlements, releases, and judgments may be properly contested;

11 (5) may, subject to AS 21.89.100, appoint, substitute, or direct legal
12 counsel retained under an insurance policy for the defense of a covered claim;

13 (6) shall handle claims through its employees or through one or more
14 insurers or other persons designated as servicing facilities; a servicing facility shall
15 operate and maintain its principal office in this state unless the use of a servicing
16 facility located outside of the state would result in operating cost savings of at least 10
17 percent and would not result in material delay in claim payments; designation of a
18 servicing facility is subject to the approval of the director, but designation may be
19 declined by a member insurer;

20 (7) shall reimburse each servicing facility for obligations of the
21 association paid by the facility and for expenses incurred by the facility while handling
22 claims on behalf of the association and shall pay the other expenses of the association
23 authorized by this chapter.

24 * Sec. 2. AS 21.80.060(b) is amended to read:

25 (b) The association may

26 (1) employ or retain those persons necessary to handle claims and
27 perform other duties of the association;

28 (2) borrow funds necessary to effect the purposes of this chapter in
29 accord with the plan of operation and secure guarantees from the Alaska Industrial
30 Development and Export Authority for association loans that are necessary to
31 make the association financially able to meet cash flow needs;

- 1 (3) sue or be sued;
- 2 (4) negotiate and become a party to those contracts that are necessary
3 to carry out the purposes of this chapter;
- 4 (5) perform all other acts necessary or proper to carry out the purposes
5 of this chapter;
- 6 (6) retain amounts excess of claims, expenses, credits, and other
7 liabilities in any account to be applied to reduce future assessments in that account,
8 except that, if, in any year, the association determines that significant funds in excess
9 of projected claims, expenses, credits, and other liabilities exist in an account, the
10 association shall return amounts to policyholders, through procedures established by
11 the association, whereby the association reimburses member insurers for providing
12 uniform credits against rates and premiums charged for all policies applicable to the
13 account issued during the next calendar year.

14 * Sec. 3. AS 21.80.080(b) is amended to read:

15 (b) The director may

16 (1) suspend or revoke, after notice and hearing, the certificate of
17 authority to transact insurance in this state of any member insurer that fails to pay an
18 assessment when due or fails to comply with the plan of operation; as an alternative,
19 the director may levy a fine on any member insurer that fails to pay an assessment
20 when due; this fine may not exceed five percent of the unpaid assessment per month or
21 portion of a month, except that a fine may not be less than \$250 a month;

22 (2) revoke the designation of any servicing facility upon a finding that
23 claims are being handled unsatisfactorily;

24 (3) upon a finding by the superior court that the board of governors has
25 failed to comply with a requirement of this chapter or the plan of operation, assume
26 the powers of the board of governors under AS 21.80.060;

27 (4) subject to an appropriation by the legislature from the
28 earnings reserve account established under AS 37.13.145, make a grant or grants
29 to the association as may be required to ensure the long-term solvency of the
30 association.

31 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Senator Con Bunde

District P

Chair: Senate Labor & Commerce Committee

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

Letter of Intent

It is the *intent* of the legislature to use the earnings of the Permanent Fund to cover the deficit left in the Workers' Compensation program ensuing from the unexpected insolvency of the Fremont Indemnity Company in 2003.

In order to minimize the impact upon the business community and employees, and by using sound insurance principles, it is our intent to spread the costs associated with this crisis over the greatest number of Alaskans who stand to benefit from workers comp...those that currently are employed and those that will be employed in the future.

It is also the intent of the legislature to spread out these appropriations to the Workers' Compensation Program over the course of 5 years to cover the projected shortfalls:

2004~ \$5,828,460
2005~ \$8,890,657
2006~ \$3,825,191
2007~ \$1,406,865
2008~ \$ 263,998

Total: \$20,215,171

FISCAL NOTE

STATE OF ALASKA
2004 Legislative Session

Fiscal Note Number: _____
 Bill Version: CS SB 276 draft
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title AK Insurance Guaranty Assn. BRU AK Permanent Fund Corporation
 Component Earnings Reserve
 Sponsor Governor
 Requester Senate Labor and Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	2005	2006	2007	2008	2009	2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1041 PF Earnings	8,890.7					
TOTAL	8,890.7	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 5,828.5
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jane Alberts Phone 465-3844
 Division Labor & Commerce Committee Staff Date/Time 2/10/04 10:30 AM
 Approved by: Senator Con Bunde, L&C Chair Date 2/10/2004
 Agency Legislature

23-GS2105D
Bullock
2/9/04

CS FOR SENATE BILL NO. 276(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Insurance Guaranty Association; and providing for an**
2 **effective date."**

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

4 *** Section 1.** AS 21.80.060(a) is amended to read:

5 (a) The association

6 (1) is obligated to pay covered claims existing before the order of
7 liquidation and arising within 30 days after the order of liquidation, or before the
8 policy expiration date if less than 30 days after the order of liquidation, or before the
9 insured replaces the policy or causes its cancellation if the insured does so within 30
10 days after the order of liquidation, but this obligation includes only that amount of
11 each covered claim that is less than \$500,000, except that a covered claim for return of
12 unearned premium may not exceed \$10,000 for each policy, and except that the
13 association shall pay the full amount of any covered claim arising out of a workers'
14 compensation policy; the association is not obligated

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(A) to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises; or

(B) to pay a claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer;

(2) is considered the insurer to the extent of its obligation on the covered claims and to that extent has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) shall allocate claims paid and expenses incurred among the three accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligation of the association under (1) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and other expenses authorized by this chapter; under this paragraph,

(A) the assessments of each member insurer must initially be based on a uniform percentage, as determined by the association, of the net direct written premiums of each member insurer for the last year for which annual statements have been filed on the kinds of insurance in the account; this initial assessment shall be adjusted by applying the same uniform percentage as initially used to each member insurer's net direct written premiums for the calendar year following the year in which the initial assessment was issued; any difference between the initial assessment amount and the adjusted assessment amount allocated to a member insurer shall be levied against or credited back to the member insurer, as appropriate, by the association; the association shall calculate and issue all appropriate levies and credits as soon as practical after all member insurers have filed their annual statements for the calendar year following the year in which the initial assessment was issued;

(B) on an annual basis, the association shall determine if funding is required for any of the three accounts; based on this determination, the association shall, during November of each year, issue initial assessments as may be necessary to cover the projected reasonable costs of claims and

1 expenses to administer the association for the following year; under this
2 subparagraph,

3 (i) the association shall use the services of an
4 independent actuary to assist the association to evaluate and make the
5 projection;

6 (ii) an initial assessment may be made at any other time
7 if the association determines funding is necessary, except that a
8 member insurer may not be assessed initial assessments on any account
9 in an amount greater than two percent of the member insurer's net
10 direct written premiums for the applicable calendar year;

11 (C) the association may pay claims in any order that it
12 determines reasonable, including the payment of claims as they are received
13 from claimants or in groups or categories of claims; however, if the maximum
14 of all assessments made under this section [ASSESSMENT], together with
15 the other assets of the association in any account, does not provide, in any one
16 year, in any account, an amount sufficient to make all necessary payments
17 from that account, the funds available shall be prorated, and the unpaid portion
18 shall be paid as soon thereafter as funds become available;

19 (D) the association may defer, in whole or in part, an
20 assessment of any member insurer if the assessment would endanger the ability
21 of the member insurer to fulfill the insurer's contractual obligations or cause
22 the member insurer's financial statement to reflect amounts of capital or
23 surplus less than the minimum amounts required for a certificate of authority
24 by any jurisdiction in which the member insurer is authorized to transact
25 insurance; however, during the period of deferment, the member insurer may
26 not pay dividends to shareholders or policyholders; a deferred assessment may
27 only be paid when the payment does not reduce capital or surplus below
28 minimums required by law; a member insurer who pays a larger assessment as
29 a result of a deferment given to another member insurer shall receive a refund
30 when the deferment ends or, at the election of the member insurer, receive a
31 credit against future assessments;

1 (E) each member insurer may set off against an assessment
2 authorized payments made on covered claims and expenses incurred in the
3 payment of these claims by the member insurer if they are chargeable to the
4 account for which the assessment is made;

5 (4) shall investigate claims brought against the association, adjust,
6 compromise, settle, and pay covered claims to the extent of the association's
7 obligation, and deny all other claims, and may review settlements, releases, and
8 judgments to which the insolvent insurer or its insureds were parties to determine the
9 extent to which settlements, releases, and judgments may be properly contested;

10 (5) may, subject to AS 21.89.100, appoint, substitute, or direct legal
11 counsel retained under an insurance policy for the defense of a covered claim;

12 (6) shall handle claims through its employees or through one or more
13 insurers or other persons designated as servicing facilities; a servicing facility shall
14 operate and maintain its principal office in this state unless the use of a servicing
15 facility located outside of the state would result in operating cost savings of at least 10
16 percent and would not result in material delay in claim payments; designation of a
17 servicing facility is subject to the approval of the director, but designation may be
18 declined by a member insurer;

19 (7) shall reimburse each servicing facility for obligations of the
20 association paid by the facility and for expenses incurred by the facility while handling
21 claims on behalf of the association and shall pay the other expenses of the association
22 authorized by this chapter.

23 * Sec. 2. AS 21.80.080(b) is amended to read:

24 (b) The director may

25 (1) suspend or revoke, after notice and hearing, the certificate of
26 authority to transact insurance in this state of any member insurer that fails to pay an
27 assessment when due or fails to comply with the plan of operation; as an alternative,
28 the director may levy a fine on any member insurer that fails to pay an assessment
29 when due; this fine may not exceed five percent of the unpaid assessment per month or
30 portion of a month, except that a fine may not be less than \$250 a month;

31 (2) revoke the designation of any servicing facility upon a finding that

1 claims are being handled unsatisfactorily;

2 (3) upon a finding by the superior court that the board of governors has
3 failed to comply with a requirement of this chapter or the plan of operation, assume
4 the powers of the board of governors under AS 21.80.060;

5 (4) subject to an appropriation by the legislature from the
6 earnings reserve account established under AS 37.13.145, make a grant or grants
7 to the association as may be required to ensure the long-term solvency of the
8 association.

9 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



Kodiak Island Borough

Managers Office
710 Mill Bay Road
Kodiak, Alaska 99615

Phone (907) 486-9300 Fax (907) 486-9374

February 10, 2004

The Honorable Con Bunde
Chairman, Senate Labor & Commerce Committee
State Capitol, Room 506
Juneau, AK 99801-1182

RE: SB276

Dear Senator Bunde:

The Kodiak Island Borough opposes SB276 as an unfunded mandate. The bill imposes a fee on local governments, school districts, and self-insured, including the State of Alaska, for a service that they did not receive.

This bill proposes a two percent assessment on all workers' compensation expenses paid by a joint insurance arrangement or self-insured employer. Neither joint insurance arrangements like the AML/JIA nor self-insured employers like the State of Alaska are eligible to receive any benefit from the fund.

Our authority to operate the AML/JIA comes from AS 21.76 which permits public entities to form joint insurance arrangements. One reason local government entities are permitted to pool is because they have taxing authority. If additional funds are needed to pay for claims of injured workers in the pool, school and municipal members of the joint insurance association would be assessed a fee to cover these expenses.

Ultimately, workers' compensation is an obligation of the employer. This is an obligation the members of the AML/JIA take very seriously. We have been working diligently to adequately fund our program. In the unlikely event of financial problems, the AML/JIA does not expect, nor are we entitled to, financial help from the Guaranty Fund.

There is no question that the Alaska Guaranty Fund is in desperate straits. If joint insurance arrangements and self-insured must be called upon to pay into a fund that we have no access to, please consider a sunset provision in four years.

Thank you for your consideration of our comments.

Sincerely,

Patrick Carlson, Borough Manager

Cc: Borough Mayor & Assembly
Senator Gary Stevens

Subject: SB276: Alaska Guaranty Association Legislation

Date: Mon, 9 Feb 2004 11:39:56 -0900

From: "Rick Gifford" <rgifford@cityofseward.net>

To: <Senator_Con_Bunde@legis.state.ak.us>

CC: <Senator_Gary_Stevens@legis.state.ak.us>, <Representative_Paul_Seaton@legis.state.ak.us>, <edgar_blatchford@dced.state.ak.us>, "Philip Shealy" <citymgr@cityofseward.net>, "Bob Valdatta" <clerk@cityofseward.net>, <dmcb1@ak.net>, <kevinc@seward.net>, <sewardinsurance@alaska.com>, "Margaret Branson" <mabranson@wildbear.net>, "Vanta Shafer" <vshafer@provak.org>, <wilnbev@ak.net>

Senator Con Bunde

Chairman, Senate Labor & Commerce Committee

Dear Senator Bunde:

The City of Seward is concerned about the budget implications for the City and other municipalities in Alaska with Senate Bill 276. We understand that SB276 is the proposed bailout for the Alaska guaranty fund made necessary by the recent insolvencies of several workers' compensation insurers. The bill is sponsored by the Governor and imposes a "non-user fee" on local governments, school districts, and self-insureds, including the State of Alaska.

The bill proposes a two percent assessment on all workers comp. expenses paid out annually by a joint insurance arrangement or self-insured employer. The City of Seward is a member of the Alaska Municipal League Joint Insurance Association (AML/JIA) and as a member would be subject to the assessment proposed by SB276. Neither joint insurance arrangements like the AML/JIA nor self-insured employers are eligible to receive any benefit from the fund.

As a member of the AML/JIA, the City can be assessed additional monies in the event that the pool's reserves are needed to protect injured workers. SB276 amounts to a subsidy by local governments of the private insurance industry that engaged in poor business practices. It is nothing more than a new tax, which will result in an automatic increase in premiums for local governments on top of other anticipated workers' comp. increases, which NCCI already estimates could average 22-32% for 2004.

The provisions assessing self-insureds and pools are projected to generate about \$1 million. Removing self-insureds and pools from the bill will have only a minor impact on the bill's revenue raising provisions, and will not undermine the bill's primary purpose, to put significant additional funds into the guaranty fund. Although the assessment on public entities under the bill is small relative to the other bill provisions, the City of Seward is already dealing with other budget issues resulting from increased insurance and employee benefit costs to unfunded mandates from the federal and state governments.

Self-insureds and joint insurance arrangements get no protections under the guaranty fund. Thus, local governments are being asked to pay for something with public funds, while receiving no benefits. The City believes that private insurers rightfully should be paying for the fund, since they are essentially paying for a service.

The City of Seward respectfully requests that the provisions of SB276 assessing self-insureds and joint insurance arrangements be removed from the bill.

Thank you for your consideration.

Sincerely,

City of Seward

Rick Gifford, CGFM
Assistant City Manager
City of Seward
P.O. Box 167
410 Adams Street
Seward, AK 99664
Phone: 907-224-4074
Fax: 907-224-4038
Email: rgifford@cityofseward.net

--
Outgoing mail is certified Virus Free.
Checked by AVG Anti-Virus (<http://www.grisoft.com>).
Version: 7.0.211 / Virus Database: 261.8.3 - Release Date: 2/6/2004

D-2



Pam Roope wrote:

Please do not pass the proposed bailout for the Alaska guaranty fund. The private insurance industry needs to be held accountable for their poor business practices and not expect to be bailed out by the public. The increase costs to cover this will be felt by local school districts already treading water to stay afloat we do not need another wave of insurance increases to come crashing down on us. We have already anticipated increased costs for worker's comp of at least 22%, 18% for health care, and additional costs placed on us to cover the teacher and public employee retirement systems. We are being over whelmed with all these additional costs please do not add to them by bailing out the private insurers.

Thank you,

Pamela K. Roope
Business Manager
Wrangell Public Schools

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217 Second Street, Suite 200 Juneau, AK 99801

T 907.586.3222 F 907.463.5480 Toll Free in AK 1.800.337.3682 www.amljia.org

January 30, 2004

The Honorable Con Bunde
Chairman, Senate Labor & Commerce Committee
State Capitol, Room 506
Juneau, AK 99801-1182

RE: SB276

Dear Senator Bunde:

The Alaska Municipal League Joint Insurance Association (AML/JIA) opposes SB276 as currently drafted. The bill imposes a "non-user fee" on local governments, school districts, and self-insureds, including the State of Alaska.

In addition to other, more lucrative provisions, the bill proposes a two percent assessment on all workers' comp. expenses paid out annually by a joint insurance arrangement or self-insured employer. Neither joint insurance arrangements like the AML/JIA nor self-insured employers like the State of Alaska are eligible to receive any benefit from the fund.

AS21.76 permits public entities to form joint insurance arrangements. One reason local government entities are permitted to pool is because they have taxing authority. If additional monies are needed to protect injured workers in the pool, school and municipal members of the joint insurance association would be tapped to replenish the pool's reserves much as the private sector members of the Alaska Guaranty Fund are assessed to replenish their fund.

Ultimately, workers' compensation is an obligation of the employer. This is an obligation the 140 municipal and school district members of the AML/JIA take very seriously. We have been working diligently to adequately fund our program. In the unlikely event of financial problems, the AML/JIA does not expect, nor are we entitled to, a bail-out from the Guaranty Fund.

There is no question that the Alaska Guaranty Fund is in desperate straits. If joint insurance arrangements and self-insureds must be called upon to pay into a fund which we have no access to, please consider a sunset provision in four years.

Thank you for your consideration.

Sincerely,

Kevin Smith
Executive Director

Alaska Municipal League Joint Insurance Association, Inc.

FY2004 Participants

127 Adak (PPL)* - B	4 Golovin	85 Nulato
7 Akutan	60 Goodnews Bay	152 Nunam Iqua
89 Alakanuk *	134 Haines Borough/Schools* - CI	146 Nunapitchuk
86 Aleknagik	157 Homer * - A	53 Old Harbor
82 Aleutians East Borough	160 Hoonah * - SG	19 Ouzinkie
88 Aleu. East Borough Schools	67 Hoonah Schools	20 Palmer * - WA
118 Ambler*	13 Hooper Bay *	57 Pelican
147 Anch.SD/Aquarian Chtr - WA	41 Houston	72 Pilot Point
148 Anch.SD/FamilyPartnership Chtr - WA	130 Hughes	43 Pilot Station
175 Anch.SD/Frontier Chrt - WA	31 Huslia	68 Point Hope
172 Anch.SD/Highland Tech High Chtr	84 Hydaburg	119 Port Alexander
164 Anch.SD/Village Chtr - WA	124 Iditarod Area Schools - RL	144 Port Heiden - BIA
99 Anderson	171 Kachemak - A	23 Port Lions
9 Angoon	92 Kake * - SG	156 Pribilof School District - WA
55 Aniak	173 Kake City School District - SG	163 Ruby/Ruby Electric - WF
81 Anvik	153 Kaktovik	59 Russian Mission
46 Atka	107 Kaltag	87 St. George
50 Atqasuk	69 Kasaan	32 St. Mary's *
10 Barrow	154 Kenai Pen. Boro/Schools - WA	145 St. Michael
100 Bettles	48 Kiana	35 Sand Point *
101 Brevig Mission	38 King Cove *	108 Savoonga
74 Bristol Bay Borough/Schools *	78 Kobuk	106 Saxman
91 Buckland	93 Kodiak *	96 Selawik
103 Cheformak	102 Kodiak Island Borough/Schools	83 Scammon Bay
104 Chevak	39 Kotlik *	138 Seldovia * - A
80 Chignik	15 Kotzebue *	34 Seward *
37 Chuathbaluk	165 Koyuk	25 Shishmaref*
167 Clark's Point	155 Koyukuk	1 Soldotna *
112 Coffman Cove	97 Lake & Peninsula Borough	126 Stebbins - RL
47 Cold Bay	62 Larsen Bay	94 Tanana
131 Copper River Schools - RL	168 Manokotak	161 Tanana School District - WF
66 Craig Schools	128 Marshall *	27 Tenakee Springs
52 Deering	110 McGrath	28 Thorne Bay
141 Delta Junction - WF	16 Mountain Village *	65 Togiak *
90 Denali Borough	44 Napakiak	77 Toksook Bay - RL
36 Dillingham *	176 Napaskiak Utility	8 Unalakleet *
109 Dillingham Schools	2 Nenana *	14 Upper Kalskag
11 Eagle	121 Nenana City Schools - WF	122 Valdez/Valdez Schools * - WF
70 Eek	45 Newhalen	6 Wainwright
113 Egegik *	166 New Stuyahok	132 Wales
151 Ekwok	17 Nikolai	49 White Mountain
12 Elim	33 Nome *	21 Whittier *
5 Emmonak	42 Noorvik	76 Yakutat, City & Borough *
75 Fairbanks - WF	30 Northwest Arctic Borough - WF	139 Yakutat Schools - SG
170 Fairbanks NS Borough/Schools - WF	169 North Pole (PPL)* - WF	64 Yukon-Koyukuk Schools - WF
61 False Pass	150 North Slope Borough (PPL)* - B	
73 Fort Yukon *	63 Nuiqsut	
142 Galena * - WF		
		140 Total Participants



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

2600 South River Road, Des Plaines, IL 60018-3286

February 2, 2004

The Honorable Tom Anderson, Chair
House Labor and Commerce Committee
State Capitol, Room 432
Juneau, AK 99801-1182

The Honorable Con Bunde, Chair
Senate Labor and Commerce Committee
State Capitol, Room 506
Juneau, AK 99801-1182

Dear Representative Anderson and Senator Bunde:

RE: Opposition to HB 403 and SB 276

The Property Casualty Insurers Association of America (PCI) is an association of property/casualty insurance companies, with more than 1,000 member companies across the country. PCI members are responsible approximately 35 percent of the property/casualty insurance premiums written in Alaska.

PCI recognizes the serious problems that the insolvencies of workers' compensation insurers have created for the Alaska guaranty fund. These problems must be addressed, however we believe that the solutions put forward in **HB 403** and **SB 276** are the wrong answers.

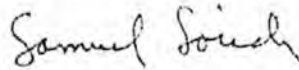
Three aspects of the bills are particularly troublesome. First, **HB 403** and **SB 276** would increase the assessment on a workers' compensation insurer from two percent of net direct written premium to four percent of net direct written premium. The bills provide no time limit on this proposed assessment increase. The higher assessment would add to workers' compensation costs at a time when Alaska employers are already confronted with difficulties related to the availability and cost of workers' compensation insurance. The current capacity problems of the Alaska guaranty fund are temporary due to the unusual concentration of business in some current insolvencies. A permanent increase in the cap on assessments goes beyond what is needed to solve the issue at hand and will make it difficult for Alaska to attract new insurers and other businesses to the state. No other state has a guaranty fund assessment level as high as four percent.

Second, **HB 403** and **SB 276** would require an insurer that does not write workers' compensation insurance to pay a two percent assessment which would be used to pay the guaranty fund's workers' compensation claims. The bills provide no time limit on this additional assessment and there are no provisions for repayment by the workers' compensation account. Ultimately, these new assessment costs will be borne by Alaska drivers and homeowners who have no relationship to the workers' compensation system. PCI believes that it is unfair to impose higher costs on drivers and homeowners in order to resolve problems to which these consumers had no connection. It is unwise to seek to solve problems in one line of insurance by creating new problems in other lines. The solution to workers' compensation issues should be focused on the providers and purchasers of workers' compensation insurance.

Third, the bills would alter the composition of the state guaranty fund board to include representatives of employers, labor and brokers. We fail to see what this will accomplish. The duties of the guaranty fund are statutory, and the board cannot accept and pay claims or otherwise act outside of its statutory boundaries. The guaranty fund is best served by the oversight of those whose dollars are directly at stake through guaranty fund assessments as they have the most incentive to keep a careful eye on the process.

PCI urges your Committees to consider all other possible alternatives before adopting the proposals put forth in **HB 403** and **SB 276**.

Sincerely,



Samuel Sorich
Vice President, Western Regional Manager

SS:tac

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
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January 22, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill aimed at a crisis in the Alaska Workers' Compensation insurance industry. Resolving this issue is vitally important to Alaska's employers and employees. Specifically, this bill deals with the after-effects of Fremont Insurance Company's insolvency (Fremont). Fremont was a California based workers compensation insurer. It was writing about 27 percent of the workers' compensation insurance policies in Alaska by the year 2000.

Fremont was heavily involved in California's workers' compensation price wars. These price wars occurred after California deregulated its insurance market in 1995. Insurers like Fremont cut prices and scrambled for market share. The result was that 41 workers' compensation carriers in California went insolvent or quit doing business in the state to avoid insolvency. Fremont joined the group of failed insurers when it was declared insolvent in July, 2003. Fremont left Alaska employers and employees "holding the bag" with liability for claims worth approximately \$60 million.

The Alaska Insurance Guaranty Association Fund (Fund) is set up to pay uncovered claims. The Fund pays claims in situations where insurance is unavailable to pay claims. The goal is to minimize losses to employers and employees. Association members are insurers that are authorized to write property and casualty insurance Alaska. An assessment is made based on the amount of premiums the member writes in this state. Current statutes cap the assessment at two percent of premiums written each year.

The Fremont insolvency and the amount of claims left over is so large, the Fund cannot cover the claims. If the difference is not made up, Alaska employers and employees alike will suffer. Employers will be held liable for claims they paid Fremont to cover. Some businesses will simply not be able to afford to pay the claims and will have to go out of business. Many other claims

GOVERNOR'S TRANSMITTAL LETTER

The Honorable Gene Therriault
January 22, 2004
Page 2

will be delayed or settled for less than their full value as employers and employees litigate or dispute liability and the value of a claim.

Statutory changes are necessary to address the Fund's substantial cash deficits and to provide for greater equity in times of crisis among all persons covering an employer's liability for workers' compensation, whether through insurance, self-insurance, or a pooling arrangement. A brief description of these changes follows.

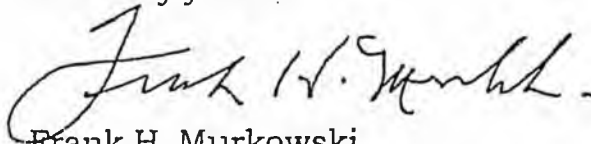
Under the bill, the insurance code (AS 21) would be amended to raise the cap on member assessments by the association from two percent to four percent of written premiums and to provide for excess assessments on member insurers if there is a shortage of money in an association account. The bill would also authorize the association to assess employers that are self-insured for workers' compensation and assess joint insurance arrangements that insure an employer's workers' compensation liability. This assessment applies only when insurer assessments are insufficient in any one year to cover workers' compensation claims payments by the association and is limited to a maximum of two percent of all payments reported to the Alaska Workers' Compensation Board under the Alaska Workers' Compensation Act (AS 23.30).

The bill also includes a provision to authorize the Alaska Industrial Development and Export Authority (AIDEA) to guarantee loans to the association that are needed to make the association financially able to meet cash flow needs. While current law allows the association to borrow money, the association is not a viable prospect for traditional commercial loans. Loan guarantees from AIDEA would permit the association to obtain loans on favorable terms. The bill, however, would limit AIDEA guarantees for association loans to a maximum outstanding principal balance at any time on all loans of \$30,000,000.

The bill provides for an immediate effective date.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 276
(S) Publish Date: 1/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to AK Guaranty Assoc. BRU Risk Management
and new fee assessments Component Risk Management
Sponsor _____
Requester _____ Component No. 71

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	372.9	439.9	519.0	612.4	722.5	852.4
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	372.9	439.9	519.0	612.4	722.5	852.4

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1007 I/A Receipts	372.9	439.9	519.0	612.4	722.5	852.4
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	372.9	439.9	519.0	612.4	722.5	852.4

Estimate of any current year (FY2004) cost: 316.1

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates an increased cost to Risk Management operating expenses as it requires an assessment fee for all self insured employers. The bill includes an immediate effective date, therefore it is assumed that an assessment will be applied in FY2004 for calendar 2003 payments reported 3/1/2004.

Applying the 2% rate to the projected workers' compensation claims experience is projected, although future loss experience will determine actual costs incurred.

As Risk Management is funded solely through inter-agency receipts, this additional expense will require increased cost of risk allocations (premium assessments) to all state agency operating budgets.

Prepared by: J. Brad Thompson, Director Phone _____
Division: Risk Management Date/Time 1/23/04 7:17 AM
Approved by: Mike Miller, Commissioner Date 1/23/2004
Agency: Administration

FN #1 - SB 276

Calendar Year annual report	Total W/C benefits paid (excluding Second Injury Fund - SIF)	% Increase	Estimated Assessment Owed
CY2000	\$9,625,032		
CY2001	\$11,165,023	16.00%	
CY2002	\$13,166,038	17.92%	
CY2003 (11 mo. Exp. Proj. 12 mo)	\$15,802,514	20.02%	\$316,050
	3 year average increase	17.98%	

	Estimated Future W/C Benefits to be Paid w/avg. % increase	
CY2004	\$18,644,167	\$372,883
CY2005	\$21,996,814	\$439,936
CY2006	\$25,952,343	\$519,047
CY2007	\$30,619,167	\$612,383
CY2008	\$36,125,193	\$722,504
CY2009	\$42,621,328	\$852,427

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 276
 (S) Publish Date: 1/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title AIGA Assessment RDU _____
 Component Alaska Railroad Corporation
 Sponsor Rules
 Requester By Request of the Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Alaska Railroad Corp Revenues						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Alaska Railroad Corporation (ARRC) is a public corporation wholly supported by revenues generated through freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements from the State.

It is estimated that \$1,560,000 of the railroad's operating expenses will be expensed to workers compensation in 2003. The fiscal impact on ARRC related to the assessment fees (an incremental 2% of all payments reported to the Workers Compensation Board) associated with the proposed bill are as follows:

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 265-2498
 Division Alaska Railroad Corporation Date/Time 12/24/03 10:54 AM
 Approved by: Edgar Blatchford, Commissioner Date 12/24/2003
 Agency Department of Community & Economic Development

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 276

ANALYSIS CONTINUATION

FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
\$31.2	\$31.2	\$31.2	\$31.2	\$31.2	\$32.2	\$31.2

This assumes that ARRC's workers compensation expenses, which increased significantly from 2000 to 2002, will return to the fairly stable level experienced between 1987 and 1999. Future workers compensation expenses will fluctuate from year to year based on the performance of ARRC's safety and injury record, which is estimated to stabilize in future years.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 276
(S) Publish Date: 1/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title AIGA Assessment RDU Insurance (116)
Component Insurance
Sponsor Rules
Requester By Request of the Governor Component No. 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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 ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation increases the Alaska Insurance Guaranty Association's (AIGA) ability to pay Alaska claims of insurers who become insolvent. It raises the current assessment limit for insurance companies from two percent to four percent of the member insurers net direct written premiums for a calendar year (AS 21.80). Based on 2001 premium activity for workers compensation insurance, an increase to four percent could generate a maximum assessment of approximately \$6 million annually. In addition to the assessment on insurance company premiums, the legislation also expands the assessment pool to include joint insurance arrangements (Alaska Municipal League Joint Insurance Association, Inc. and the Alaska Public Entity Insurance) as well as self-insurers (some large Alaska employers including the State of Alaska). They are to be assessed an amount not to exceed two percent of the payments reported to the Alaska Workers Compensation Board for a calendar year. This bill has no fiscal impact on the operations of the division.

Prepared by: Linda S. Hall, Director Phone (907) 269-7900
Division Insurance Date/Time 12/24/03 9:54 AM
Approved by: Edgar Blatchford, Commissioner Date 12/24/2003
Agency Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: SB 276
(S) Publish Date: 1/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title AIGA Assessment RDU AIDEA (125)
Component AIDEA
Sponsor Rules
Requester By Request of the Governor Component No. 1234

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation authorizes Alaska Industrial Development and Export Authority (AIDEA) to guarantee loans to the Alaska Insurance Guaranty Association (AIGA) needed to make the association financially able to meet cash flow needs. AIDEA guarantees for association loans are limited to a maximum outstanding principal balance at any time of \$30 million on all loans. There is no financial impact on the operations of AIDEA.

Prepared by: Ron Miller, Executive Director Phone (907) 269-3000
Division AIDEA/AEA Date/Time 12/24/03 9:00 AM
Approved by: Edgar Blatchford, Commissioner Date 12/24/2003
Agency Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: SB 276
(S) Publish Date: 1/23/04

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: "An Act relating to the RDU: Workers' Compensation
Alaska Insurance Guaranty Association..." Component: Workers' Compensation
Sponsor: Rules Committee
Requester: Governor Component Number: 344

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Paul Grossi, Director Phone 465-2790
Division: Workers' Compensation Division Date/Time 12/31/03 9:17 AM
Approved by: Greg O'Claray, Commissioner Date 12/31/2003
Agency: Department of Labor and Workforce Development

SB

278

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB278-DOLWD-MI-02-05-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Labor & Workforce Development Fees BRU: Labor Standards & Safety
Component: Mechanical Inspection
Sponsor: Rules Committee
Requester: Senate L&C Component Number: 346

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	80.8	80.8	80.8	80.8	80.8	80.8
Travel	22.0	22.0	22.0	22.0	22.0	22.0
Contractual	24.1	24.1	24.1	24.1	24.1	24.1
Supplies	15.1	15.1	15.1	15.1	15.1	15.1
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	142.0	142.0	142.0	142.0	142.0	142.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1172)	218.4	218.4	218.4	218.4	218.4	218.4
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1172 Building Safety Account	142.0	142.0	142.0	142.0	142.0	142.0
TOTAL	142.0	142.0	142.0	142.0	142.0	142.0

Estimate of any current year (FY2004) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: Grey Mitchell, Director Phone 465-4855
Division: Labor Standards & Safety Date/Time 2/5/04 8:41 AM
Approved by: Greg O'Claray, Commissioner Date 2/5/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: SB278-DOLWD-MI-02-05-04

ANALYSIS: (continued)

The bill creates two new fees and increases an existing fee charged by the department:

Section 1: This section creates a \$200.00 fee for amusement devices inspected by the department. This fee is intended to cover costs associated with inspector certification and travel. Estimated receipts are \$10.0 annually.

Section 2: This section creates a \$200.00 certification fee for boiler operator licenses. This fee is intended to cover existing administrative costs associated with issuing the licenses. Positions have currently been held vacant due to lack of revenue. Estimated receipts are \$76.4 annually.

Section 3: This section increases the fees for electrical and plumbing certificates of fitness from \$160.00 to \$200.00. This increase is expected to generate sufficient revenues to add an Electrical Inspector position and associated costs to enforce certificate of fitness requirements and perform inspections. Estimated receipts are \$132.0 annually.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB278-DOLWD-WH-02-05-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Labor & Workforce Development Fees BRU: Labor Standards & Safety
 Component: Wage and Hour
 Sponsor: Rules Committee
 Requester: Senate L&C Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (1005)	24.0	24.0	24.0	24.0	24.0	24.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(24.0)	(24.0)	(24.0)	(24.0)	(24.0)	(24.0)
1005 GF/Program Receipts	24.0	24.0	24.0	24.0	24.0	24.0
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 4 of this bill creates a non-refundable \$100.00 fee for processing and filing a voluntary flexible work hour plan. This fee will cover the administrative and enforcement expenses associated with flexible work hour plans. The costs associated with these plans are currently funded with general funds that will be replaced by the receipts from this fee. Estimated receipts are \$24.0 annually.

Prepared by: Grey Mitchell, Director Phone 465-4855
 Division: Labor Standards & Safety Date/Time 2/5/04 8:40 AM
 Approved by: Greg O'Claray, Commissioner Date 2/5/2004
 Agency: Department of Labor and Workforce Development

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/23/04

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 2/19/04

Labor and Commerce Committee considered SENATE BILL NO. 278

SB 278 LABOR & WORKFORCE DEVELOPMENT FEES

"An Act relating to fees for the inspection of recreational devices, for certificates of fitness for electrical wiring and plumbing, for filing voluntary flexible work hour plans, and for licenses for boiler operators; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 278 (LEC)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

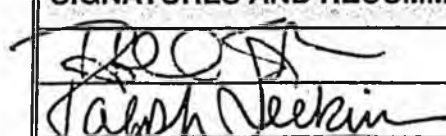
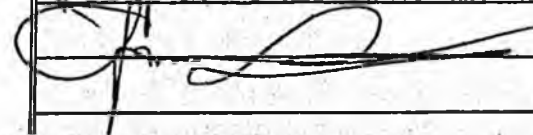
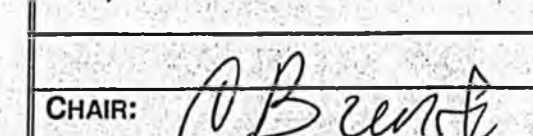
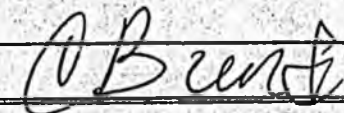
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LWF	2/5/04			✓	#3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LWF	2/5	✓			1
LWF	2/5	✓			#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
			X	
	✓			
	X			
CHAIR: 	✓			

SB278

FRANK H. MURKOWSKI
GOVERNOR
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to fees for the inspection of recreational devices, for inspection and issuance of certificates of fitness for electrical wiring and plumbing, for filing of voluntary flexible work hour plans, and for licenses for boiler operators. The Department of Labor (Department) spends time and state funds inspecting, reviewing, approving, or denying all of the above activities. It is only fair that the individuals receiving the benefit of the Department's efforts pay for those services.

Under AS 05.20.060, the Department conducts inspections of recreational devices to ensure public safety. Recreational devices include, but are not limited to, ski tows, roller coasters, merry-go-rounds, and ferris wheels. If an inspection reveals a defect that is an immediate safety hazard, the Department can shut down the device until the problem is fixed. This bill would allow the Department to collect an inspection fee of \$200 from the owner or operator for each recreational device inspected.

Under AS 18.60.395, a person can apply to the Department for a boiler operator license. The Department reviews the application for compliance with its regulations and standards for boiler operators. This bill would allow the Department to collect an application fee of \$200 when a person applies for a boiler operator license.

Under AS 18.62.030, except in limited situations, a person is required to obtain a certificate of fitness from the Department before the person can perform work under AS 18.50.580 (Electrical Safety Code) or AS 18.60.705 (Plumbing Code). Currently, an applicant for a certificate of fitness must pay a biennial application fee of \$160. This bill would increase the fee to \$200.

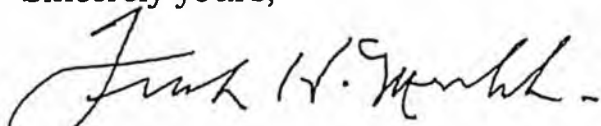
GOVERNOR'S TRANSMITTAL LETTER

The Honorable Gene Therriault
January 22, 2004
Page 2

Under AS 23.10.060(d)(14), an employer is required to obtain Department approval of the employer's proposed voluntary flexible work hour plan. Flexible work hour plans, for example, allow an employee to work 4 days of 10 hours each rather than 5 days of 8 hours each without additional overtime expense to the employer. The Department reviews the plan to make sure it meets certain requirements of Alaska's wage and hour laws. The bill would require an employer to pay a \$100 fee when it files a plan for Department approval.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

SB

286

**Summary of Committee Substitute
Senate Labor and Commerce Committee
SB 286
by Senator Stedman**

P. 3 lines 10-14

The phrasing of this part of the bill has been changed in the CS to recognize the role of custom processing in the overall picture of direct marketing. Some vessels typically contract with small custom processing operations to work on their product. The catcher still maintains ownership of the resource and then sells the finished product. Through the process of working on this bill with the Salmon Task Force there was no intent to change this relationship. The language change in the CS will ensure that direct marketers may continue to use custom processing, benefiting both the quality of the product and the business operations of custom processors. This change will have no revenue impact to the state.

23-LS0738VB
Utermohle
2/4/04

CS FOR SENATE BILL NO. 286()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS STEDMAN BY REQUEST OF THE JOINT LEGISLATIVE SALMON INDUSTRY
TASK FORCE, Ben Stevens, Elton

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to direct marketing fisheries businesses, to the fisheries business tax,
2 and to liability for payment of taxes and assessments on the sale or transfer of fishery
3 resources; and providing for an effective date."

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

5 * Section 1. AS 43.75.015(c) is amended to read:

6 (c) A person engaging or attempting to engage in a fisheries business who first
7 actually and physically processes the fishery resource, or a person who purchases a
8 fishery resource that is processed [FROZEN] from a person excluded by
9 AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the
10 entire tax imposed by this section. In determining this tax liability, the person may
11 deduct from the value of the fishery resources processed the value of fishery resources
12 that are canned or processed for other fisheries businesses. A person taking the
13 deduction authorized by this subsection shall report all information relating to the
14 deduction in accordance with regulations adopted by the department.

1 * Sec. 2. AS 43.75.015 is amended by adding new subsections to read:

2 (d) Instead of the taxes levied under (a) or (b) of this section, a person who
3 processes a fishery resource under a direct marketing fisheries business license is
4 liable for and shall pay a tax equal to

5 (1) one percent of the value of the developing commercial fish species
6 processed during the year; and

7 (2) three percent of the value of a commercial fish species not subject
8 to (1) of this subsection.

9 (e) For purposes of determining the value of a fishery resource on which a tax
10 is levied under this section, the department may establish a presumption of market
11 value for a fishery resource in a region or market area based on a volume weighted
12 average of market values for the fishery resource reported on returns filed under this
13 chapter by fisheries businesses operating in the region or market area. A taxpayer who
14 appeals an assessment of taxes based on a presumption of market value determined by
15 the department under this subsection may rebut the presumption with substantial
16 evidence of

17 (1) the prevailing price paid to fishermen for the fishery resource of the
18 same kind and quality by fisheries businesses in the same region or market area where
19 the fishery resource was taken, if the taxpayer holds a direct marketing fisheries
20 business license under AS 43.75.020(c) and the fishery resource on which the tax is
21 levied is processed under that license; or

22 (2) the true market value of the fishery resources if the taking of the
23 fishery resource is done in a company-owned or company subsidized boat operated by
24 employees of a fisheries business, a subsidiary of the fisheries business, or a parent
25 company of the fisheries business.

26 * Sec. 3. AS 43.75.017 is amended to read:

27 **Sec. 43.75.017. Exclusion from fisheries business tax.** A person is not liable
28 for the fisheries business tax under AS 43.75.015 when the fishery resource is
29 processed [FROZEN] aboard a fishing vessel if

30 (1) the vessel is operated as a commercial fishing vessel under a valid
31 commercial fishing license;

1 (2) the fishery resource is not processed beyond heading, gutting or
2 cleaning, freezing, and glazing;

3 (3) the fishery resource was caught by the vessel; and

4 (4) the fishery resource is sold [BY THE PERSON CLAIMING AN
5 EXCLUSION FROM THE TAX] to a fisheries business licensed under this chapter.

6 * Sec. 4. AS 43.75.020 is amended by adding a new subsection to read:

7 (c) Instead of a license issued under (a) of this section, the department may
8 issue a direct marketing fisheries business license to a licensed commercial fisherman
9 who processes fishery resources caught using a vessel that does not exceed 65 feet in
10 overall length and is owned or leased by the commercial fisherman. The licensee may
11 place into commerce in the state and outside of the state processed or unprocessed
12 fishery resources caught using the vessel described in the license. Fishery resources
13 that are caught using the vessel and owned by the licensee from the time of harvest
14 through sale, as defined by the department by regulation, may be processed by the
15 licensee on the vessel, at a shore-based facility, or by means of custom processing
16 services obtained by the licensee. An application for a direct marketing fisheries
17 business license shall be filed with the department and accompanied by an annual fee
18 of \$25. A separate direct marketing fisheries business license and annual license fee
19 are required for each vessel on which processing is performed. The application must
20 state the name and address of the applicant, the fishery resources for which the
21 applicant holds a commercial fishing entry permit or interim-use permit or quota
22 share, a description of the vessel and each shore-based facility where the applicant will
23 process fishery resources, and other information that the department prescribes by
24 regulation. The application must state that the applicant agrees to pay the tax imposed
25 by AS 43.75.015(d) or 43.75.100, and that the applicant will make a return and pay the
26 tax at the time provided by law. A person who holds a direct marketing fisheries
27 business license may not under that license (1) purchase fishery resources for resale or
28 processing for sale; or (2) process fishery resources for another licensed commercial
29 fisherman or for a fisheries business licensed under this chapter. In this subsection,
30 "licensed commercial fisherman" means a natural person who holds a commercial
31 fishing entry permit or interim-use permit issued under AS 16.43 or a quota share

issued under federal law.

* Sec. 5. AS 43.75.290(7) is amended to read:

(7) "value" means

(A) the market value of the fishery resource as determined by the prevailing price paid to fishermen for the fishery resource of the same kind and quality by fisheries businesses in the same region or market area where the fishery resource was taken if

(i) the taking of the fishery resource is done in a boat owned or leased by a person who holds a direct marketing fisheries business license under AS 43.75.020(c); and

(ii) the fishery resource was sold to a buyer other than a fishery business licensed under AS 43.75.020(a);

(B) for fisheries resources other than those described in (A) of this paragraph, the market value of the fishery [FISHERIES] resource if the taking of the fishery [FISHERIES] resource is done in company-owned or company-subsidized boats operated by employees of the company or in boats that are operated under lease to or from the company or other arrangement with the company and if the fishery [FISHERIES] resource is delivered to the company; in this subparagraph, "company" means a fisheries business, a subsidiary of a fisheries business, or a subsidiary of a parent company of a fisheries business; "company" does not include a direct marketing fisheries business licensed under AS 43.75.020(c); or

(C) [(B)] for fishery [FISHERIES] resources other than those described in (A) or (B) of this paragraph, the actual price paid for the fishery [FISHERIES] resource by the fisheries business to the fisherman, including indirect consideration and bonus amounts paid for fuel, supplies, gear, ice, handling, tender fees, or delivery, whether paid at the time of purchase of the fishery [FISHERIES] resource or tendered as a deferred or delayed payment; in this subparagraph, "delivery" means

(i) transportation of the fishery [FISHERIES] resource from the boat or vessel on which the product was taken to a tender; or

1 (ii) if delivery was not to a tender, transportation of the
2 fishery [FISHERIES] resource from the boat or vessel on which the
3 product was taken to a shore-based facility in which delivery of the
4 fishery [FISHERIES] resource is normally accepted.

5 * Sec. 6. AS 43.76.025(a) is amended to read:

6 (a) Except as otherwise provided under (d) of this section, a [A] buyer who
7 acquires fishery [FISHERIES] resources that are subject to a salmon enhancement tax
8 imposed by AS 43.76.010, 43.76.011, or 43.76.012 shall collect the salmon
9 enhancement tax at the time of purchase, and shall remit the total salmon enhancement
10 tax collected during each month to the Department of Revenue [DEPARTMENT] by
11 the last day of the next month.

12 * Sec. 7. AS 43.76.025 is amended by adding a new subsection to read:

13 (d) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
14 commercial fisherman who transfers possession of salmon to a buyer who is not a
15 fisheries business licensed under AS 43.75 is liable for the payment of a salmon
16 enhancement tax imposed by AS 43.76.010, 43.76.011, or 43.76.012 if, at the time
17 possession of the salmon is transferred to a buyer, the salmon enhancement tax
18 payable on the salmon has not been collected. If a direct marketing fisheries business
19 or commercial fisherman is liable for payment of the salmon enhancement tax under
20 this subsection, the direct marketing fisheries business or commercial fisherman shall
21 comply with the requirements of (b) of this section to maintain records and to report
22 the liability for payment of the tax. Notwithstanding (a) of this section, a person
23 subject to this subsection shall remit the total salmon enhancement tax payable during
24 the calendar year to the Department of Revenue before April 1 after close of the
25 calendar year.

26 * Sec. 8. AS 43.76.120(a) is amended to read:

27 (a) Except as otherwise provided under (e) of this section, a [A] buyer who
28 acquires salmon that is subject to a salmon marketing tax imposed by AS 43.76.110
29 shall collect the salmon marketing tax at the time of purchase and shall remit the total
30 salmon marketing tax collected during each month to the Department of Revenue by
31 the last day of the next month.

1 * Sec. 9. AS 43.76.120 is amended by adding a new subsection to read:

2 (e) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
3 commercial fisherman who transfers possession of salmon to a buyer who is not a
4 fisheries business licensed under AS 43.75 is liable for the payment of a salmon
5 marketing tax imposed by AS 43.76.110 if, at the time possession of the salmon is
6 transferred to a buyer, the salmon marketing tax payable on the salmon has not been
7 collected. If a direct marketing fisheries business or commercial fisherman is liable
8 for payment of the salmon marketing tax under this subsection, the direct marketing
9 fisheries business or commercial fisherman shall comply with the requirements under
10 (b) of this section to maintain records and to make reports to the Department of
11 Revenue. Notwithstanding (a) of this section, a person subject to this subsection shall
12 remit the total salmon marketing tax payable during the calendar year to the
13 Department of Revenue before April 1 after close of the calendar year.

14 * Sec. 10. AS 43.76.190(a) is amended to read:

15 (a) Except as otherwise provided under (e) of this section, a [A] buyer who
16 acquires a fishery resource that is subject to a dive fishery management assessment
17 levied under AS 43.76.150(b), (c), (d), or (e) shall collect the dive fishery management
18 assessment at the time of purchase and shall remit the total dive fishery management
19 assessment collected during each calendar quarter to the Department of Revenue by
20 the last day of the month following the end of the calendar quarter. In this subsection,
21 "calendar quarter" means each of the three-month periods ending March 31, June 30,
22 September 30, and December 31.

23 * Sec. 11. AS 43.76.190 is amended by adding a new subsection to read:

24 (e) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
25 commercial fisherman who transfers possession of a fishery resource to a buyer who is
26 not a fisheries business licensed under AS 43.75 is liable for payment of a dive fishery
27 management assessment levied under AS 43.76.150(b), (c), (d), or (e) if, at the time
28 possession of the fishery resource is transferred to a buyer, the dive fishery
29 management assessment payable on the fishery resource has not been collected. If a
30 direct marketing fisheries business or commercial fisherman is liable for payment of a
31 dive fishery management assessment under this subsection, the direct marketing

1 fisheries business or commercial fisherman shall comply with the requirement to
2 maintain records under (b) of this section. Notwithstanding (a) of this section, a
3 person subject to this subsection shall remit the total dive fishery management
4 assessment payable during the calendar year to the Department of Revenue before
5 April 1 after close of the calendar year.

6 * Sec. 12. AS 43.76.260(a) is amended to read:

7 (a) Except as otherwise provided under (f) of this section, a [A] buyer who
8 acquires salmon that is subject to a salmon fishery assessment levied under
9 AS 43.76.220 shall collect the salmon fishery assessment at the time of purchase and
10 shall remit the total salmon fishery assessment collected during each month to the
11 Department of Revenue [DEPARTMENT] by the last day of the next month.

12 * Sec. 13. AS 43.76.260 is amended by adding a new subsection to read:

13 (f) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
14 commercial fisherman who transfers possession of salmon to a buyer who is not a
15 fisheries business licensed under AS 43.75 is liable for the payment of a salmon
16 fishery assessment levied under AS 43.76.220 if, at the time possession of the fishery
17 resource is transferred to a buyer, the salmon fishery assessment payable on the
18 salmon has not been collected. If a direct marketing fisheries business or commercial
19 fisherman is liable for payment of the salmon fishery assessment under this
20 subsection, the direct marketing fisheries business or commercial fisherman shall
21 comply with the requirement under (b) of this section to maintain records.
22 Notwithstanding (a) of this section, a person subject to this subsection shall remit the
23 total salmon fishery assessment payable during the calendar year to the Department of
24 Revenue before April 1 after close of the calendar year.

25 * Sec. 14. AS 43.76.310(a) is amended to read:

26 (a) Except as otherwise provided under (f) of this section, a [A] buyer who
27 acquires fish that are subject to a permit buy-back assessment imposed by
28 AS 43.76.300 shall collect the permit buy-back assessment at the time of purchase and
29 shall remit the total permit buy-back assessment collected during each month to the
30 Department of Revenue [DEPARTMENT] by the last day of the next month.

31 * Sec. 15. AS 43.76.310 is amended by adding a new subsection to read:

1 (f) A direct marketing fisheries business licensed under AS 43.75.020(c) or a
2 commercial fisherman who transfers possession of fish to a buyer who is not a
3 fisheries business licensed under AS 43.75 is liable for the payment of a permit buy-
4 back assessment imposed by AS 43.76.300 if, at the time possession of the fish is
5 transferred to a buyer, the permit buy-back assessment payable on the fish has not
6 been collected. If a direct marketing fisheries business or commercial fisherman is
7 liable for payment of a permit buy-back assessment under this subsection, the direct
8 marketing fisheries business or commercial fisherman shall comply with the
9 requirements under (b) of this section to maintain records and report the value of fish
10 acquired during the preceding year. Notwithstanding (a) of this section, a person
11 subject to this subsection shall remit the total permit buy-back assessment payable
12 during the calendar year to the Department of Revenue before April 1 after close of
13 the calendar year.

14 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 ADOPTION OF REGULATIONS. The Department of Revenue shall adopt
17 regulations it considers necessary for the administration of this Act, but the regulations may
18 not take effect until January 1, 2005.

19 * Sec. 17. Section 16 of this Act takes effect immediately under AS 01.10.070(c).

20 * Sec. 18. Except as provided under sec. 17 of this Act, this Act takes effect January 1,
21 2005.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 286
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Direct Marketing Fisheries Business RDU Revenue Programs & Services
Component Tax Division
Sponsor Sen. Stedmar./ Salmon Taskforce
Requester Senate Labor and Commerce Component No. 2176

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services		24.6	49.2	49.2	49.2	49.2
Travel						
Contractual						
Supplies		0.5	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING		25.1	50.2	50.2	50.2	50.2

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		25.1	50.2	50.2	50.2	50.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL		25.1	50.2	50.2	50.2	50.2

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time		1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** See page 2

Prepared by: Chuck Harlamert Phone 465-2320
Division Tax Division Date/Time 2/10/04 2:05 AM
Approved by: Steve Porter, Deputy Commissioner Date 2/10/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 286

ANALYSIS CONTINUATION

Revenue Analysis

Fisheries Business Tax

We estimate that during the calendar year 2002 there were 120 fisheries business taxpayers who would have operated under the direct marketing fisheries business license authorized by the bill. Together this group reported taxable value of just over \$2.4 million with a combined tax liability of just over \$120,000 at current rates. Existing rates for floating processors are 5% for established species and 3% for developing species. Based on their 2002 activity, the tax liability of this group would be approximately \$70,000 at the 3% and 1% rates established by this bill. The impact of the lower tax rates, standing alone, would have been to decrease revenue to the state and local governments by approximately \$50,000. Nevertheless we expect the overall revenue impact of the bill to be neutral or positive.

We believe that the impact of the rate reductions will be offset by the effect of other provisions within the bill. The "exclusion" under AS 43.75.017 is not in fact an exclusion from taxation. The "exclusion" merely transfers the responsibility for the tax to the licensed fisheries business who purchase processed fish from the fisherman. By making the exclusion mandatory the bill will reduce confusion over who is the taxpayer under the law. We expect that the definition of taxable value will be perceived by the affected taxpayers as more fair than existing law. The bill also simplifies enforcement of the complex issue of taxable value. These factors strongly influence tax compliance, accordingly we expect revenue from improved compliance to offset the reduced tax rates.

Salmon Enhancement & Marketing Taxes

Current law places the burden for collection of salmon enhancement and marketing taxes solely on the buyer. Buyers in casual sales are often unaware of the requirement which is impractical to enforce. The bill addresses this issue by requiring fishermen who sell salmon to unlicensed buyers to pay their salmon enhancement and marketing taxes directly on a single annual return. We expect between 300 and 400 additional returns as a result of this change but are unable to estimate associated revenues.

Cost Analysis

For 2003 we issued 310 fisheries business licenses to fishermen who we believe will qualify for the direct marketing fisheries business license under this bill. Many of these fishermen did not engage in taxable activity, but obtained the license in the event that an opportunity or need to process or export their catch arose during the year. Of these 310 licensees, 194 provided security for estimated tax totaling just over \$129,000. This data implies that direct marketing activity in 2003 was higher than in 2002. We expect that the bill will further increase the number of fishermen who participate in processing and direct marketing activity. The number of license applications and fisheries business tax returns will increase proportionately.

The bill authorizes direct marketers to report taxable value at the prevailing price in the region or market area. The prevailing price is used to prevent the taxation of value added by the direct marketer and thus to measure their tax base consistent with the rest of the industry. The bill provides the department with authority to restate taxable value consistent with market transactions in the market area where the reported value is inconsistent with values reported by other taxpayers. The department must compare values reported by these taxpayers to those reported in arms length transactions within the area to ensure compliance.

The overall number of fishermen who are responsible for filing returns will increase by three to four hundred based on 2003 Catcher Seller permits issued by ADF&G. Existing direct marketers will file fewer returns. We estimate that the net increase in salmon enhancement and marketing tax returns will be between 150 to 250 annually based on current activity.

We request funding of a Tax Technician II position beginning the second half of FY06 representing the combined efforts for licensing, compliance, and return processing under the bill.

THE
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DOCUMENT(S)
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FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 286

ANALYSIS CONTINUATION

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ALASKA STATE LEGISLATURE

SESSION

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SENATOR BERT K. STEDMAN

SPONSOR STATEMENT

SB 286

"An Act relating to direct marketing fisheries businesses"

Senate Bill 286, recommended by the Joint Legislative Salmon Industry Task Force, will provide fairness in the taxation of small-business commercial fishermen.

In today's marketplace of lower salmon prices and a demand for high-quality product, many fishermen are choosing to sell their catch directly to restaurants, grocery stores and consumers. In doing so, these entrepreneurial fishermen often freeze or otherwise process their fish, thus adding value to Alaska's fishery resources. Unfortunately, Alaska's current tax structure actually penalizes this market-driven business decision. The Fisheries Business Tax, or FBT (AS 43.75.015), requires small boat fishermen who process only their own catch to pay a 5% tax, the same tax rate as large industrial-scale floating processors that process a much higher volume of fish.

Furthermore, the current structure taxes small boat fishermen at an improperly high point of sale. Shore-based processors pay their FBT at 3% of the "grounds price" which is the price paid to fishermen for raw fish delivered to the processor. However, a small direct marketer must now pay their 5% FBT based on the price at their first point of sale which is usually much higher because it is a wholesale or retail price. In effect, this means that Alaska currently penalizes "value adding" to our fishery resources when done by small catcher/processors and direct marketers.

By creating a "Direct Marketing Fisheries Business License," SB 286 recognizes the important distinction between large and small floating processors and will end the disincentive Alaska currently places on direct marketers. The bill is unanimously supported by the Joint Legislative Salmon Industry Task Force and will provide fair tax relief to these Alaskan small businessmen.



Cordova District Fishermen United

P.O. Box 939
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(907) 424-3447 FAX (907) 424-3430

Senator Con Bunde, Chair, Labor & Commerce
State Capitol, Room 506
Juneau, AK 99801-1182
Cc: Senator Bert Stedman

RE: Testimony on SB 286, Feb. 12th 1:30pm


Mr. Chairman, Members of the Committee,

I am Page Herring, Executive Director of Cordova District Fishermen United.

CDFU representing the fishing fleet of Area E, the Copper River Flats and PWS is pleased to testify today in **support** of SB 286. Direct marketers are a growing part of the seafood industry and exemplify the "can do" attitude of Alaskan small businesses. SB 286, if passed will result in a win-win situation for both the State and the fishing industry in that the tax liability for seafood will be clarified and provide fairness in taxation. Under the current structure, the State penalizes the direct marketer by taxing them at 5% of the point of sale value. Point of sale values are significantly higher because they reflect a wholesale or retail value added price not the "grounds price" paid by a processor. Shore-based processors pay 3% on the grounds price and are therefore not penalized for value adding.

SB 286 also provides for a new Direct Marketing Fisheries Business License to be administered by the Dept. of Revenue. This makes an important distinction between large and small floating operators and remedies the inequity of the current tax structure. The new license will also allow small boat fishermen (65 ft or less) to catch, process and sell their fish products in Alaska or to out of state markets. This is a much-needed tool for the fisherman who wants to expand his or her small business.

On behalf of CDFU I would like to thank you for the opportunity to testify in support of SB 286.


Page Herring,
Executive Director
Cordova District Fishermen United



Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

February 13, 2004

Senate Labor & Commerce Committee
Senator Con Bunde, Chair
Alaska State Legislature
State Capitol, Mail Stop 3100
Juneau, AK 99801

RE: Support SB 286 – Direct Marketers Legislation

Dear Senator Bunde,

Southeast Conference supports SB 286 that corrects the inequities in the current tax structure for the individual fisherman working to market their own catch. Southeast Conference is the State-designated Alaska Regional Development Organization (ARDOR), the federally-designated Economic Development District (EDD), and the federally-designated Resource Conservation and Development Council (RC&D) for Southeast Alaska. The mission of Southeast Conference is to undertake and support activities that promote strong economies, healthy communities, and a quality environment in Southeast Alaska. Our over 130 Southeast Alaska members include nearly every community in the region, every chamber of commerce, every major economic development organization, 20 transportation organizations, 10 Alaska Native organizations, and more than 50 other organizations.

Direct marketing is very important to a segment of the commercial fishing industry in Southeast Alaska. Individual fishermen direct marketing their products are producing high quality products that enhance the value of Alaska's seafood in the market. A lot of the direct market products from Southeast Alaska enters the fresh market or the frozen at sea marketplace.

This legislation will provide a fair tax basis for the direct marketer, which is strictly defined as a fisherman marketing their own catch – they cannot buy, or custom process for another fisherman and must be on a vessel 65 feet or less in length. This legislation does not prevent a fisherman from pursuing these activities under current regulations and statutes they just would not qualify as a direct marketer.

The Southeast Conference recognizes that this legislation is legislation that was worked on by a committee representing various interests and agencies and that they all support SB 286 as a good and fair piece of legislation for all involved. We encourage you to pass this legislation out of committee. Thank you for your interest and support of the commercial fishing industry.

Sincerely,

Meilani Schijvens
Southeast Conference Executive Director