

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

April 15, 2002

3:31 p.m.

MEMBERS PRESENT

Representative Gary Stevens, Co-Chair
Representative Peggy Wilson, Co-Chair
Representative Drew Scalzi
Representative Fred Dyson
Representative John Coghill
Representative Mary Kapsner
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 456

"An Act relating to the commercial fishing loan program; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 456

SHORT TITLE:COMMERCIAL FISHING LOAN PROGRAM

SPONSOR(S): REPRESENTATIVE(S)COGHILL

Jrn-Date	Jrn-Page		Action
02/19/02	2311	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2311	(H)	FSH, RES, FIN
02/19/02	2311	(H)	REFERRED TO FISHERIES
04/15/02		(H)	FSH AT 3:30 PM CAPITOL 124

WITNESS REGISTER

ED CRANE, President
Alaska Commercial Fishing and Agriculture Bank (CFAB)
2550 Denali Street, Number 1201
Anchorage, Alaska 99503

POSITION STATEMENT: Testified in support of HB 456 and gave specific information on behalf of CFAB.

GREG WINEGAR, Director
Division of Investments
Department of Community & Economic Development
P.O. Box 34159
Juneau Alaska 99803-4159

POSITION STATEMENT: Testified against HB 456 on behalf of the Division of Investments.

JAMIE ROSS, Fisherman
(No address provided)
Homer, Alaska

POSITION STATEMENT: Testified against HB 456, saying he would not want to see the state loan program changed.

JERRY SPENCER, Fisherman
2142 Trent Avenue
Tucson, Arizona 85716

POSITION STATEMENT: Testified on HB 456, saying the state should see the value in getting some loan payments instead of none.

CORA CROME
Petersburg Vessel Owners Association
P.O. Box 232
Petersburg, Alaska 99833

POSITION STATEMENT: Testified against HB 456, saying the state loan fund helps bring new fishermen into the business.

PAUL SEATON
58395 Bruce Street
Homer, Alaska 99603

POSITION STATEMENT: Testified against HB 456.

KENNETH MACK, SR., Fisherman
5301 Trena Street
Anchorage, Alaska 99507

POSITION STATEMENT: Testified against HB 456.

BRUCE MARIFERN, Fisherman
P.O. Box 917
Petersburg, Alaska 99833

POSITION STATEMENT: Testified against HB 456.

MIKE HEIMBUCH

4540 Anderson Street
Homer, Alaska 99603

POSITION STATEMENT: Testified against HB 456 as a participant
in state and CFAB loans.

MARILYN MENISH MEUCCI, Fisherman
P.O. Box 1076

Petersburg, Alaska 99833

POSITION STATEMENT: Testified against HB 456.

STEVE BROWN, Fisherman
35717 Park Road

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to HB 456.

ALAN OTNESS, Fisherman;
CFAB Board Member

P.O. Box 317

Petersburg, Alaska 99833

POSITION STATEMENT: Testified in support of HB 456.

BRUCE HENDRICKSON, Fisherman

P.O. Box 1439

Homer, Alaska 99603

POSITION STATEMENT: Testified on HB 456.

SUE ASPELUND

Cordova District Fishermen United

P.O. Box 939

Cordova, Alaska 99574

POSITION STATEMENT: Testified against HB 456.

GERALD (JERRY) McCUNE, Lobbyist
for United Fishermen of Alaska (UFA)

211 Fourth Street, Suite 110

Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 456, saying that trading
one loan for another will not help the industry.

ACTION NARRATIVE

TAPE 02-10, SIDE A
Number 0001

CO-CHAIR GARY STEVENS called the House Special Committee on
Fisheries meeting to order at 3:31 p.m. Members present at the
call to order were Representatives Stevens, Wilson, Scalzi,

Coghill, and Kerttula. Representatives Kapsner and Dyson arrived as the meeting was in progress.

HB 456-COMMERCIAL FISHING LOAN PROGRAM

[Contains discussion relating to SB 329]

CO-CHAIR STEVENS announced that the matter before the committee was HOUSE BILL NO. 456, "An Act relating to the commercial fishing loan program; and providing for an effective date."

Number 0105

REPRESENTATIVE COGHILL, sponsor of HB 456, presented the bill. He said during a time when there are such significant issues in the fishing industry, this bill would create no small stir. It asks a fundamental question: "At what point does government compete with another private entity; at what point do we subsidize." He told the committee there are fishermen who are servicing debt with private banks or the Commercial Fishing and Agriculture Bank (CFAB). Others within the fleet have the same types of loans with the state, and under certain conditions have been allowed to extend or delay some of the servicing of their debt. This situation puts certain fishermen at a disadvantage.

REPRESENTATIVE COGHILL informed members that HB 456 would limit the scope of loans in the [Commercial Fishing Revolving Loan Fund], reduce the prequalifying loan fee from \$200 to \$50, and limit the amount that could be borrowed to \$35,000. He said the bill was not brought forth with the intention of hurting people, and it would be wrong to change the terms of existing loans. The industry has a growing liability and is overcapitalized. He made it clear that CFAB would be able to buy [the loans], but that it would not be mandated.

Number 0544

ED CRANE, President, Alaska Commercial Fishing and Agriculture Bank (CFAB), testified that CFAB supports the bill. First, the bill is good fiscal policy. Some basic problems of the fishing industry in general, and the salmon fishery in particular, are overcapitalization and excess effort. He cited specific legislation that had gone through the House Special Committee on Fisheries and other efforts to reduce the number of fishermen on the grounds. He said buybacks and similar programs make no sense when the state continues to "pour public money in [to the fishing industry] on an indiscriminate basis."

Number 0782

MR. CRANE referred to page 7, Section 12, line 13, of the bill. He said that portion would mandate the liquidation of existing loans. He assured the committee that the liquidation would not be a "fire sale." The intent is to turn [the loans] into cash as the cash becomes available. He gave the example of a loan with 12 years of payments outstanding; it would take 12 years to liquidate the loan. He assured the committee that those people with loans outstanding are constitutionally protected from their loan's terms being changed.

Number 0970

MR. CRANE noted that Section 12 specifies that the liquidation process may include the negotiated sale of loans and other assets; CFAB is listed because it is the only private entity that can take or enforce a lien on a limited entry permit. Mr. Crane said CFAB had no interest in buying the Division of Investments' loan portfolio, because of a lack of staff required for such a task; furthermore, CFAB's lender would not be quick to provide the money. If the Division of Investments were to approach CFAB with specific loans for sale, however, CFAB might consider buying them upon close consideration. He said CFAB wasn't coveting the state's loan portfolio.

MR. CRANE pointed out that paragraph (2) of Section 12 allows for a financial institution to be an agent to "do the job for the Division of Investments." He said he could see CFAB filling that role. Nothing [in the bill] mandates that appointment of agency, but it does mandate the orderly liquidation process. Section 11 requires the Commercial Fishing Revolving Loan Fund to make an annual report to the legislature on the state of its finances. He remarked, "It is time to change public policy to deal with today's realities."

Number 1300

MR. CRANE explained that the second reason the bill is attractive to [CFAB] is the equitability it promotes among commercial fishermen. He characterized commercial fishing as competitive. He posited that the state loans have created a privileged class with tremendous advantages. He said the fund has failed to require interest payments by approximately a third of its borrowers; in at least a couple of cases, as many as four years' interest hasn't been paid. In the past five years, the

fund has only collected approximately 80 percent of interest due. Mr. Crane remarked, "Before the most recent payment season, they had over \$7 million in this so-called deferred-interest account - this total of interest that has not been paid by borrowers over the last several years."

Number 1467

MR. CRANE offered a hypothetical election funding analogy, as well as an anecdote about a fisherman who was not paying interest but who'd been successful enough in his fishing to take his family to Disneyland.

Number 1715

MR. CRANE addressed a third issue, how he believes the loan fund has actually been a grant fund. He characterized some of the credit data CFAB had procured from the fund through the Freedom of Information Act as "shocking." As commercial fishing has gotten tougher, [the fund's] procedures have been liberalized without analysis or discussion. He called it "outrageous" and "disruptive to the market." He said it is hard for other lenders to determine "who the survivors might be when we have the Commercial Fishing Revolving Loan Fund out there doing irrational things." There is an examination of every financial institution in the state, but not for the fund.

Number 1871

MR. CRANE noted that his final point dealt with the relationship between the Commercial Fishing Revolving Loan Fund and CFAB. Created by the legislature, CFAB initially was funded by \$32 million of state money, which was to be returned by the fishermen with whom CFAB does business. He said CFAB now has \$20 million of equity that belongs to fishermen. Mr. Crane said it is his job to protect that equity, but also said the legislature has a responsibility in that task. He called the state a predator, and said CFAB is being damaged by the Division of Investments. He said CFAB pays state and federal taxes, while the Division of Investments doesn't even pay filing fees. The bill does not dismantle the Division of Investments, he said. Rather, it would bring [it into a position where it was not competing with private enterprise].

Number 2160

GREG WINEGAR, Director, Division of Investments, Department of Community & Economic Development, testified before the committee. He said the loan fund has a very long track record of helping harvesters in the state, and has been successful financially. The division has had to do some innovative things, and the statutes were crafted with flexibility built in so that the mission of promoting a predominantly resident fishery could be achieved. He said the fund's policies have been implemented to deal with a dramatically changed marketplace. The program does not directly compete with CFAB, and most of the borrowers would not qualify for CFAB or other private-lender loans.

MR. WINEGAR noted that there is a small amount of overlap [between CFAB and the loan fund] because CFAB is the only private lender that can secure a loan with a limited entry permit. He told the committee the fund has a tremendous amount of oversight; he spoke of the yearly audits the fund undergoes. Mr. Winegar said the fund hasn't received any complaints from harvesters about unfair advantage amongst their ranks. The fund has been concentrating on its mission: promoting a predominantly resident fishery. Pulling the plug on individuals would not be a service to that mission. He said the bill would adversely affect existing and future borrowers.

Number 2382

JAMIE ROSS, Fisherman, testified via teleconference. He voiced strong opposition to the bill. He told the committee he had taken five loans with the state, two of which had been paid off. His boat was financed through CFAB. He said Mr. Crane failed to stress that the only two financial entities that can collateralize commercial entry permits are the State of Alaska and CFAB. The state program was set up because of the special nature of permits, which are use privileges, not property. If the state program were taken out of that unique group of two, CFAB would be the only entity entitled to finance those loans. He said the state gives a better interest rate than CFAB, and that is just good business.

MR. ROSS said he could appreciate Mr. Crane's trying to operate his business in a competitive manner, but fishermen must do the same. Fishermen would not be making a wise business decision to pay high interest rates with shorter terms while the state provides the opportunity to get extensions and survive the tough times. He warned of the consequences for fishermen being forced out of business. He told the committee of the success that the Commercial Fishing Revolving Loan Fund helped bring him, and

said he would hate to see it changed in form. He said it is the time to help people, and not look for ways to hurt them.

Number 2653

JERRY SPENCER, Fisherman, testified via teleconference. He said he bought his Bristol Bay permit in 1997 for \$180,000, but it has since devalued to \$20,000. He told the committee he didn't make his state loan payment this year after making a gross of \$16,000. He said the state is charging late fees and a higher interest percentage. He said some money coming back [to the state] is better than none. He shared his assumption that the state is "turning this over to CFAB to wash [its] hands of it." He told of the hard times being experienced by Bristol Bay gillnet fishermen. He expressed his wish to see some help from the state.

Number 2825

CORA CROME, Petersburg Vessel Owners Association, testified via teleconference. She expressed her organization's opposition to HB 456. She told the committee that the fund provides entry-level opportunities to those who want to get involved, and it also helps people expand their businesses. Commercial fishing is the primary - and in some cases, the only - industry in many coastal communities. The loan program is funded by the interest paid by fishermen. Even with Mr. Crane's number of 80 percent of interest collected, it is not a grant program.

MS. CROME said fishermen are using this opportunity and helping the economy of the state. Limiting the state loan to \$35,000 would make CFAB the only lender for permits for the following fisheries: herring seine; Southeast Dungeness crab, king, and tanner crab; or salmon gillnet. That would not be good for fishermen. She said the program has an admirable purpose, and it shouldn't be modified. She characterized the bill as a step in the wrong direction.

Number 2970

PAUL SEATON testified via teleconference, noting that he had neither a CFAB nor a state loan. He stated his opposition to the \$35,000 limit on loans as written in HB 456.

TAPE 02-10, SIDE B
Number 2998

MR. SEATON expressed concern about CFAB's having a monopoly on loans. He raised the issue of SB 329 and its allowance of Community Development Quota (CDQ) corporations to purchase limited entry permits. He said CDQ groups currently have the ability under the state fund to be able to deposit, and loan money to keep boats and permits within the state. This bill would eliminate that possibility and allow CDQ corporations to own permits - a circumstance he opposes. He said he wasn't averse to lowering the amount of loans from 90 percent to 80 percent of value, as stated in the bill on page 4, line 6. He suggested that in cases of foreclosure on non-performing loans, perhaps the permits should be retired instead of reissued.

Number 2857

KENNETH MACK, SR., Fisherman, testified via teleconference. A member of CFAB, he said the provision in Section 12 "that the state would liquidate all loans" made it appear to him that the whole portfolio would have to go. He said [the money made from his halibut fishing] was keeping him in the salmon fishery; the same is true for many people in his area. He told the committee that \$35,000 would not purchase very much [Individual Fishery Quota (IFQ) for halibut]. He said he was currently trying to refinance his vessel with a state loan because it is smart business to take advantage of the low interest rates.

Number 2698

BRUCE MARIFERN, Fisherman, testified via teleconference. He said he had a couple of loans through the Division of Investments, one of which he'd paid off already. The other loan was for a Prince William Sound permit bought a week before the Exxon Valdez oil spill [ruined the fishery]; it was an expensive permit, and the state was very helpful to him by allowing him to make payments on the interest only. He said capping the loan at \$35,000 or even \$75,000 would effectively eliminate a source of money. The effect on the 2,000 fishermen who use the loan fund would be tremendous if it were taken away. He characterized it as a bad time to call all the notes, when so many fishermen need help. He said he was not in support of HB 456.

Number 2621

MIKE HEIMBUCH testified via teleconference, noting that he is a state and CFAB loan participant. He expressed his understanding that the loan was instituted to shield [fishermen] from financial institutions, and to promote resident fisheries. Even

with [CFAB's] reformed amortization policies, many people in the state have a distaste for CFAB. He said he did not see CFAB as a good alternative to the state loan program. This bill is set up to push and enhance [CFAB's] reputation at the expense of the state loan program; it is a bad deal.

Number 2555

MARILYN MENISH MEUCCI, Fisherman, testified via teleconference. She told the committee she and her husband had paid off their Bristol Bay permit loan, but still have a loan outstanding for their boat. She voiced opposition to HB 456. She said the [legislature] had not thought out clearly how the bill would affect fishing families and their communities. Now is the time to think of how to help fishing families. She said her family does not take vacations, and her husband has taken jobs outside of fishing in order to survive. She pointed out how Congress stands behind farmers with money and loans. She said Alaska should stand behind its fishermen and fishing communities.

Number 2497

STEVE BROWN, Fisherman, testified via teleconference, saying he would echo many of the previous testifier's comments against HB 456. The \$35,000 limit on the loan would not be much of a help; it might as well be zero. He expressed concern about the statutory changes regarding interest rates. Eliminating the state's flexibility in modifying loans [would be a poor action]. He told the committee that an extension for a person isn't an unfair advantage because those with their loans paid off are tying their boats up and leaving the fisheries. Those who got in at an unfortunate time are still working hard and trying to survive. He said these fishermen appreciate the flexibility being given by state, and the state should be applauded for that, not punished.

Number 2365

ALAN OTNESS, Fisherman; CFAB Board Member, testified via teleconference. He expressed concern for the longevity of [CFAB] programs and members' equity. He characterized these as trying times in the salmon industry. He extended his sympathy for those affected, but said there are two groups: those with CFAB loans and those with loans from the Division of Investments. He said both groups are in trouble.

MR. OTNESS told the committee CFAB should not be punished by what he considered the Division of Investments' predatory practices. He said discrediting the \$20 million in CFAB equity was disconcerting to him. He said the issue was making things equitable between both groups. The loan policies for the Division of Investments haven't been consistent, and they need to be examined and changed. If changes are not made, CFAB's equity will go away as well. He expressed support for HB 456.

Number 2226

BRUCE HENDRICKSON, Fisherman, testified via teleconference. He told the committee that the gillnet operation which he took out a state loan to finance was worth ten cents on the dollar for what he'd paid for it; if HB 456 is passed, he expects to see CFAB attempt to take away his permit. He said, "House Bill 456 will be used to steal from those who have paid the largest share of their life's earnings to acquire formerly overvalued assets." The Division of Investments has done a good job carrying out a mission far different from CFAB's.

MR. HENDRICKSON said he was encouraged by "former director Richardson" to take out a loan from the state. Loan extensions and modifications have helped to avert disaster in fishing towns all over the state. He said CFAB hasn't granted extensions as frequently because it is more oriented toward profits. Mr. Hendrickson expressed his wish that if CFAB needs an infusion of capital, it would get it from somewhere other than those with the least to give. He suggested that the bill might be looked at as a request [for the state] to help CFAB in some way.

Number 2072

REPRESENTATIVE DYSON expressed understanding that people have strong feelings on the issue, but he warned that equating not giving an extension on a loan with stealing is an overstatement. He said people who issue loans should not be accused of being thieves unless someone is willing to bring an indictment.

Number 1996

SUE ASPELUND, Cordova District Fishermen United, testified via teleconference. She told the committee that her organization could not support the legislation. She said HB 456 "guts" a program upon which thousands of fishing families depend. An evaluation of the program is appropriate, but she said this isn't the appropriate time to make such wholesale changes to a

program with such huge ramifications to so many people. She said "forced economic attrition" was not a prudent response to the industry's crisis.

Number 1931

GERALD (JERRY) McCUNE, Lobbyist for United Fishermen of Alaska (UFA), testified before the committee. He characterized [both CFAB and Division of Investments loans] as very important to the fishing industry. He reminded the committee that the loans apply to residents only. He said many people are in trouble because of failing fisheries. He gave examples of fisheries composed of hardworking people who want to make their payments; they have no recourse and no way to make money. He said trading one loan for another would not help [the industry]. He concluded, "If they are a little bit creative on one side or the other, ... so be it. Let's try to keep these permits in the hands of residents."

Number 1749

REPRESENTATIVE SCALZI said everything about commercial fisheries must be looked at, including loans. He asked if the CFAB board was in support of the bill, and if it was behind the drafting of the bill.

MR. CRANE said the board was behind the bill, but it was not behind its drafting.

REPRESENTATIVE SCALZI referred to Mr. Crane's comment that "the commercial fishing industry effort is a bad risk." He asked if eliminating the Division of Investment loans would make CFAB less likely to invest in the commercial fishing industry.

MR. CRANE stressed that neither the bill nor CFAB was intent on dismantling the Division of Investments. He clarified that he did not believe financing commercial fishermen was a bad thing to do "in a general sense." To continue to put public money into an activity that is supposed to be giving money back makes no sense, however. He asked that the legislature not call it a loan program because [the division] does not make decisions like a loan program would.

Number 1477

REPRESENTATIVE SCALZI asked why the issue had come to a head recently, after 20 years of success.

MR. CRANE said the business of CFAB and the state's loan fund have gotten tougher. He posited that as things have gotten tougher, the division has gotten more "innovative" from a credit standpoint. In the last four or five years, both the loan fund and the industry have experienced more problems.

REPRESENTATIVE SCALZI asked Mr. Crane to validate some of the improprieties he'd spoken of earlier, by sending some evidence in writing. He asked specifically what was meant by the "one-third getting the 'special deal.'"

Number 1358

MR. CRANE said there were 2,100 borrowers from the state fund; 700 of them have not paid interest for up to four years. He said with government loan programs, "nobody knows what's there."

REPRESENTATIVE SCALZI asked if things were so subversive that an audit was in order.

MR. CRANE said he'd been "an examiner" and that what he'd seen in the division files was "outrageous."

REPRESENTATIVE SCALZI said he was informed by the division that approximately 22 percent of its loans were in arrears because of [the fishing industry's problems] in recent years. He asked the amount of CFAB loans in arrears.

MR. CRANE replied that it was probably close to that same amount. He said he didn't understand [Representative Scalzi's figure] because the division was quoted a few weeks prior as saying that only 3.5 percent of its loans were in default. He expressed skepticism about such statistics that come from the division, saying the way it accounts for delinquencies is unorthodox.

Number 1187

REPRESENTATIVE DYSON agreed that for fishing to survive, it will take more efficient effort and fewer boats. Fishermen will also have to be able to move quickly from one fishery to another. He said if all that is true, \$35,000 doesn't seem helpful. He asked how the figure was arrived at.

MR. CRANE said \$35,000 is provided for certain kinds of loans in the existing statute. He reminded the committee that the bill

provides for up to two loans for a total of \$70,000. He said, "That ... is within the context of the mission statement, ... that they are to do business in those areas not adequately served by the private sector." He told the committee that anybody who is creditworthy can borrow from CFAB as far as permits are concerned, and many institutions will finance vessels.

Number 1027

CO-CHAIR STEVENS voiced his concern about the difference of opinion between Mr. Crane and Mr. Winegar as to what the meaning of "orderly liquidation" really is.

REPRESENTATIVE COGHILL said he'd gone to the drafter for a legal opinion. He offered to amend [the bill] to clarify intent. He asked Mr. Crane where he got his figure of \$22 million on hand at the [Division] of Investments.

Number 0950

MR. CRANE answered that the division had reported, as of September 30, [2002], that it had \$18 million cash on hand. He offered his assumption that the division would receive combined interest and principal payments of \$10 million to \$15 million dollars in October. He said he would expect the division to have \$25 million or more in cash.

REPRESENTATIVE SCALZI asked if an applicant had to be turned down by at least two lending institutions before the state would pick up a loan.

MR. CRANE said that was no longer correct. The statute says [the division] cannot make a quota-share loan to someone who is eligible to borrow from another financial institution. He said that policy is violated routinely.

Number 0762

REPRESENTATIVE SCALZI said it is a contradiction that [the division and CFAB] are competing in the private sector. He told Mr. Crane it seems it was set up statutorily that there is a distinction between the private sector and people who cannot qualify for other loan programs.

MR. CRANE said that only applies to quota-share loans.

Number 0692

REPRESENTATIVE COGHILL requested that the committee allow some more hearings of the bill. The health of the fishing industry is a broader discussion. He said stealing from people was not his intention, but he'd like to limit [the state's involvement] to those places where it is clearly outside of a competitive area. He stated his openness to discussion on the \$35,000 limit, but said there must be a discussion on capitalizing a fishing industry when there isn't room for everybody. He said he had no intention to cut anyone off. The bill would simply say, "From this day forward ... we just can't afford to go down this road any further." [HB 456 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 5:03 p.m.