

ALASKA STATE LEGISLATURE  
**SENATE LABOR & COMMERCE COMMITTEE**

April 12, 2001  
1:37 pm

**MEMBERS PRESENT**

Senator Randy Phillips, Chair  
Senator Loren Leman  
Senator Bettye Davis

**MEMBERS ABSENT**

Senator Alan Austerman  
Senator John Torgerson

**COMMITTEE CALENDAR**

SENATE BILL NO. 138

"An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

MOVED CSSB 138 (L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 81(FIN)

"An Act extending the termination date of the Board of Dental Examiners; relating to the Board of Dental Examiners and regulation of the practice of dentistry; and relating to dental hygienists and dental assistants."

MOVED CSHB 81 (FIN) OUT OF COMMITTEE

SENATE BILL NO. 165

"An Act imposing a tax on employment; and providing for an effective date."

MOVED SB 165 OUT OF COMMITTEE

SENATE BILL NO. 170

"An Act relating to wage and hour protections for employees of the Alaska Railroad Corporation."

MOVED CSSB 170 (L&C) OUT OF COMMITTEE

SENATE BILL NO. 168

"An Act relating to loans made by the commercial fishing loan program."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

SB 138 - See Labor and Commerce minutes dated 3/20/01 and 4/10/01.

HB 81 - No previous action to consider.

SB 165 - No previous action to consider.

SB 170 - No previous action to consider.

SB 168 - No previous action to consider.

**WITNESS REGISTER**

Mr. Bob Lohr, Director  
Division of Insurance  
Department of Community and Economic Development  
3601 C Street, Ste. 1324  
Anchorage AK 99503

**POSITION STATEMENT:** Commented on SB 138.

Mr. John George  
American Council of Life Insurance  
National Association of Independent Insurers  
3328 Fritz Cove Rd.  
Juneau AK 99801

**POSITION STATEMENT:** Commented on SB 138.

Mr. Steve Conn, Executive Director  
Alaska Public Interest Research Group (AKPIRG)  
P.O. Box 101093  
Anchorage AK 99503

**POSITION STATEMENT:** Commented on SB 138 and opposed Opt out policy.

Ms. Suzanne Hancock  
Staff to Senator Alan Austerman  
State Capitol Bldg.  
Juneau AK 99811

**POSITION STATEMENT:** Commented on SB 138.

Representative Hugh Fate  
State Capitol Bldg.

Juneau AK 99811

**POSITION STATEMENT:** Sponsor of HB 81.

Mr. Sean Riley  
Staff to Senator Alan Austerman  
State Capitol Bldg.  
Juneau AK 99811

**POSITION STATEMENT:** Commented on SB 165.

Mr. Mike Milligan  
12056 Gara Dr.  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Mr. Richard Walberts  
310 Maple Ave.  
Kodiak AK 99615

**POSITION STATEMENT:** Opposed SB 165.

Mr. Ben Ardinger  
1323 Mill Bay Rd.  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Mayor Gabrielle Ledoux  
Kodiak Island Borough  
219 Mill Bay Rd.  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Mr. Gregory P. Razo  
Kodiak Island Borough Assembly  
P.O. Box 4186  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Ms. Marilyn Davidson  
Kodiak Island Borough  
P.O. Box 8903  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Mr. David Jones, Director  
Division of Finance for the Kodiak School District  
Kodiak Island Borough  
P.O. Box 8635  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Ms. Pat Branson  
Kodiak Island Borough Assembly

P.O. Box 3888  
Kodiak AK 99615

**POSITION STATEMENT:** Supported SB 165.

Mr. Mike Williams  
Department of Revenue  
PO Box 110400  
Juneau, AK 99811-0400

**POSITION STATEMENT:** Commented on SB 165.

Mr. Kevin Ritchie  
Alaska Municipal League  
217 2nd Street  
Juneau AK 99801

**POSITION STATEMENT:** Commented on SB 165.

Mr. Carl Rose, Executive Director  
Alaska Association of School Boards  
Juneau AK 99801

**POSITION STATEMENT:** Supported SB 165.

Ms. Wendy Windskoog  
Director of External Affairs  
Alaska Railroad Corporation (ARRC)  
P.O. Box 107500  
Anchorage AK 99510

**POSITION STATEMENT:** Supported SB 170.

Mr. Kevin Bergsgood, Locomotive Engineer  
Alaska Railroad Corporation  
State Legislative Director, United Transportation Union  
P.O. Box 107500  
Anchorage AK 99510

**POSITION STATEMENT:** Supported SB 170.

Mr. Ed Crane, CEO  
Alaska Commercial Fishing and Agriculture Bank  
2550 Denali St. #1201  
Anchorage AK 99503

**POSITION STATEMENT:** Supported SB 168.

Mr. Greg Winegar, Director  
Division of Investments  
Department of Commerce and Economic Development  
P.O. Box 34159  
Juneau AK 99803

**POSITION STATEMENT:** Opposed SB 168.

#### **ACTION NARRATIVE**

**TAPE 01-17, SIDE A**

Number 001

#SB138

**SB 138-INSURANCE CODE AMENDMENTS**

**CHAIRMAN RANDY PHILLIPS** called the Senate Labor & Commerce Committee meeting to order at 1:37 pm and announced SB 138 to be up for consideration.

SENATOR LEMAN moved to adopt the committee substitute to SB 138, Ford 4/6/01/F. There were no objections and it was so ordered.

MR. BOB LOHR, Director, Division of Insurance, said he was available to answer questions.

CHAIRMAN PHILLIPS asked if he saw any deficiency other than the public policy question of opt in/out in the F version.

MR. LOHR answered no, other than that one issue, the rest of the issues were addressed quite nicely.

MR. JOHN GEORGE, American Council of Life Insurers and National Association of Independent Insurers, said the redraft of the bill was fine and all his clients would support it.

MR. STEVE CONN, Executive Director, Alaska Public Interest Research Group, said the concern of consumer organizations over the opt in/out policy is that it flows from the fact that the Gramm-Leach-Bliley Act did away with the walls established during the depression days between the financial institutions, like the brokerage houses, insurance companies, small loan companies and banks. "It allows them to merge."

With that merger comes the opportunity for these financial institutions to share important and privileged information and, to be quite blunt, many of them desire to do so. That is to take good customers to the bank and share them with their own or a third party who is an insurance company and vice versa. So, the consumer who gives information for one discrete purpose may find that information being shared all over. Of course, here in Alaska with our constitutional right to privacy, we have a particular and long standing interest in privacy of information.

Many of the institutions suggest that opt out is satisfactory, but the reality of that is very much something different. Many of us have received the documents stuffed within statements from banks and other

companies lately, because most of this is beginning at the federal level. It is hard as the devil to find the information necessary to figure out when and how and on what basis to opt out. Most people just see this as another envelope stuffer and pitch it out. This lay opinion has now been underscored by an academic study. Mark Hocheiser, PhD. has conducted a study and subjected many of these notices to the various readability standards that have been widely established and has found out that most of these documents according to the reading scores are virtually unreadable. To most, especially people with English as a second language and the elderly, have a difficult time reading them. The easiest way to deal with this, and the way that certainly comports well with our own concern for privacy in this state and to make use of the opportunity granted at the federal level for each state to make this choice, is to have individuals opt in and not opt out. That is to say, if the banks think it's in your best interest or the insurance company to share this information with someone in its corporate family or with someone beyond its corporate family, let it reach out to the consumer and offer the opportunity and let that consumer deliberate and agree to opt in on the sharing of information. Unless, as one lobbyist for an insurance company said another day, we believe privacy is dead, in which case we have nothing to discuss about this. We're sort of tilting at windmills. I encourage the committee to pass forward a bill that makes opt in and not opt out the choice, because at the end of the day, opt out is no choice, whatsoever.

MR. GEORGE responded:

There's two important points. One is that the federal government has already regulated financial institutions that are regulated under the federal government under Gramm-Leach-Bliley. So certain institutions already have the opt out provision. By changing that standard for insurance companies, you are now creating a different set of rules for insurance companies to play than the national banks, the stock brokerages, and others. So automatically, the insurance companies are placed at a disadvantage. We can't change the federal standard for those federally regulated institutions. We can only deal with the state.

We believe that there are certain advantages to the sharing of information, not only from the financial institution side, but from the consumer side. For instance, rather than an institution mailing a mass mailing to everyone in America, they can target markets of people who are more likely interested in their product. As the prior witness stated, we all get a lot of junk mail and we toss it, because it's totally unrelated to us, but once in a while you find something that's really hits your target. Something you are interested in. If we could focus more of these mailings on things you are interested in, I think that's an advantage to the consumer. It does improve competition among the players if they can get access to the information and, therefore, target the consumers. It creates some efficiencies and those can be passed on as cost savings. It's certainly cheaper to mail to a target group than to everybody in America. Lastly, the standard that is going to be set across the country for insurance companies is going to be opt out. I'm confident that will be the case. Alaska will be different. That, therefore, makes it more expensive for insurance companies to operate for that limited purpose in the state of Alaska and, therefore, may not provide the opportunities to people in Alaska to avail themselves of these new and creative products.

MR. GOERGE said that the efficiencies technology has brought to this industry will be lost and the cost will be passed on to the consumer. "We have done studies and consumers are more protective of their time than their privacy on these types of issues."

SENATOR DAVIS moved to delete all materials on page 25, line 31 - page 26, line 10 (the opt out provision).

MS. SUZANNE HANCOCK, Staff to Alan Austerman, explained that the amendment gives people the opportunity to opt in, if they choose, but does not put the onus on the individual to seek out a way of removing themselves from these lists.

CHAIRMANT PHILLIPS called for the vote. SENATORS LEMAN and PHILLIPS voted nay; SENATOR DAVIS voted yeah; and the motion failed by a vote of 2 to 1.

SENATOR LEMAN moved to pass CSSB 138 (L&C) from committee with individual recommendations. There were no objections and it was so ordered.

#

#HB81

**HB 81-DENTISTS/DENTAL HYGIENISTS & ASSISTANTS**

CHAIRMAN PHILLIPS announced HB 81 to be up for consideration.

REPRESENTATIVE FATE, sponsor of HB 81, said the letter of intent was patterned after the letter that accompanied the extension of the Medical Board and their effort to raise their assessment to \$25,000. He said there was an attachment that explained the expenses.

SENATOR DAVIS moved to adopt the letter of intent. There were no objections and it was so ordered.

SENATOR LEMAN moved to pass CSHB 81 (FIN) with accompanying fiscal note and the accompanying letter of intent with individual recommendations. There were no objections and it was so ordered.

#

#SB165

**SB 165-EDUCATION TAX ON EMPLOYMENT**

CHAIRMAN PHILLIPS announced SB 165 to be up for consideration.

MR. SEAN RILED, Staff to Senator Austerman, said:

The purpose of this bill would be to generate revenue that would be geared towards education. There would be \$100 per person taken out in two consecutive pay checks per year for anyone that is working in the state of Alaska. This would also incorporate all the people that are from out-of-state, generating quite a bit of additional income that would go into the general fund.

The reason this bill is here is to generate more income for education. The legislature has given our schools a clear message - that they want our schools to continue to get and set high standards for our students. This will be facilitated through a competency exam. To be able to implement this program, we need to give our educators the tools with which they can implement that program.

I do fully agree that you don't take money and throw it at a problem and hope that it will go away, but I do believe that the money that the school tax bill will generate would offer the tools with which to implement that program and also to help some of the education programs we presently have.

MR. RILEY continued:

Children are our future. I think it's important to remember that we need to fund these areas. As President Hamilton [UAA] said many times before the legislature, "We don't want to see a brain drain going to the Lower 48. We want to keep our people here and by providing good educational programs and good infrastructure, we can do that. Some day, those same children that we will be educating here and giving the best education to will be passing bills for taking care of us when we become older people and passing good legislation. By showing good support in that regard at this early stage would be helping the state and helping ourselves at the same time.

Whenever anyone comes before the legislature to pass legislation, the second question everyone asks is, "How are we going to fund this?"

Historically, we've already had this tax in place. It's nothing new to us. It's something we've worked with before and can continue to work with. One of the good aspects about this tax is that it goes after some of the people who come up here and reap the harvest of the resources and the infrastructure of Alaska and take their money down south where they end up paying state income tax. Since we have no state income tax and we have no state tax, the only way we're generating money to offset our deficit budget is from the CBR and unless we want to drain that completely, we need to take steps in that regard to start instituting a way to start paying for some of these programs. This would be a small step in that regard to make plans for Alaska's future.

Number 1900

SENATOR LEMAN corrected Mr. Riley's assertion that we have no state income tax. He said we have a state income tax, but not a state personal income tax or a state sales tax. "For instance, on fuel, that is a tax that's applied generally throughout the state with a few exceptions.

MR. RILEY thanked him for the correction and added that the point he was trying to make is that Alaska is very unique in that they are generating money for their budget from places other than the people themselves.

SENATOR LEMAN said that since the tax of \$100 per head is due on those employed and those self employed by February 1, he assumed that a self employed person on a form supplied by the Department of Revenue would submit \$100 before February 1 and fulfill that

requirement, but what if the self employed person does not earn income before February 1?

MR. RILEY replied that the mechanism for that would be that the tax, itself, is not due until the following year after you had already worked through that one year.

MR. MIKE MILLIGAN, Kodiak, supported SB 165. He thought the greatest problem facing Alaska now is that we have developed into a culture of give-me. "We expect a check from the government. We have to begin now reducing the rate of deficit spending."

Mr. Milligan said that we need to put more money into education and the question is how to pay for it and this bill begins to deal with the problem.

MR. RICHARD WALBERTS, Kodiak, said he is for public education, but opposed SB 165. He can't support it, because it's an unfair tax, especially to low-income people. He thought that schools receive more than enough money to teach basic academics.

MR. BEN ARDINGER, Kodiak businessman, said he serves on the Committee for Better Education and supports SB 165. They are striving to get the music program reinstated at the elementary level and they need the money. He said the people he talks to are all for it, but they want to make sure it goes for education.

MAYOR GABRIELLE LEDOUX, Kodiak Island Borough, said the Kodiak Assembly supports this bill and has passed a resolution stating so. She supports this bill personally. "Our schools are having difficulty. They are having difficulty with maintenance. They are having difficulty with large classrooms. We're close to the cap; other school districts are already there."

She realizes this is a regressive tax, but said, "At some point, we have to figure there is no such thing as a free lunch. This is our first step to a long-range fiscal plan and that's why I support it."

MR. GREG RAZO, Kodiak Island Borough Assembly, said he ran with a commitment to education as part of his platform. He said the local community is interested in quality schools, but they are having a hard time achieving that when they have over 10 years of lack of inflation proofing for education funding from the state. He said:

We have heard recently with the tax cap initiative how concerned people around the state are at the increasing burden of local property tax. That burden is going to do nothing but continue unless we receive assistance from both the state and federal government.

MR. RAZO said the citizens of Alaska are ready to see a new approach to state funding.

MS. MARILY DAVIDSON, Kodiak, supported SB 165. The local school district support high quality education and those efforts are being impaired by the fiscal restraints that are the result of a shrinking budget. "We need to fund, not the minimum necessary for education, but a high quality education for all Alaskan students so they can be competitive in whatever avenue they choose as they finish their standard school career..."

MR. DAVID JONES, Director of Finance, Kodiak School District, said he is also a parent and a non-tax payer in Kodiak. He has addressed the legislature a number of times expressing the need for money to provide an adequate education. As a parent in Kodiak, he pays a property tax and a 6 percent sales tax. In October, the state sends his family a permanent fund dividend. He is willing to pay for the services he receives from the government.

MS. PAT BRANSON, Kodiak Island Assembly, said that she has no children, but believes the schools are temples of learning and, "It is most important that we provide the proper amount of funding in a diverse manner for quality education throughout the state."

Property owners are the ones who bear the burden of school funding and if the legislature doesn't look for other sources of long-range funding, their local government will have to continue raising property taxes, Ms. Branson said.

Number 2300

MR. MIKE WILLIAMS, Department of Revenue, said he would answer questions.

SENATOR LEMAN asked if wouldn't make sense for people to pay the amount out of the Permanent Fund portion so that it wouldn't be taxable, because the language now has them paying taxes on their full dividend, plus paying another \$100.

MR. WILLIAMS replied that there is some concern on the method of reducing a PFD because there would be tax implications on a personal level. "You would have a proposed statute that would propose a tax and, if you have used the PFD to offset that act, it could be considered to be debt relief. That debt relief in itself would be taxable to the individual."

SENATOR LEMAN asked if it could be designed in a way that it would avoid that? He thought it might be possible to "grab that money before it enters the dividend distribution stream and that would be the offset."

**TAPE 01-17, SIDE B**

CHAIRMAN PHILLIPS said the fiscal note looked like it was about \$700,000, "which raises some flags."

MR. WILLIAMS responded that he would have to research Senator Leman's question.

MR. KEVIN RITCHIE, Alaska Municipal League, said they do not have a position on this bill, but their top priority is a long-range financial plan for the state of Alaska and their second priority is funding education. "This is obviously one option that could be considered in terms of developing a long-range financial plan. And of course, the plan may come together incrementally. So we encourage you to keep moving such bills forward and at some point consider them. Just to let you know that Alaskans United Against the Cap, a group of 90 partner organizations that worked to defeat the tax cap, will be working in various communities to talk about the various options for creating a long-range financial plan for the state."

SENATOR LEMAN encouraged him and his organization to come up with some suggestions on how to do it and work within the organizations, because he was convinced this would be "grass routes led" rather than more top down.

SENATOR DAVIS said she appreciated his testimony and a lot of things would have to happen when they begin to talk about a long-range plan and if they don't happen at the legislature, they are going to have to come through grass routes efforts. She plans to, "Take it to the public."

She asked him to keep the legislature informed about what they are doing.

MR. CARL ROSE, Executive Director, Association of Alaska School Boards, supported SB 165. He said they know revenues have been reduced and that essential services have costs attached. "We have a window of four to five years to fashion some kind of plan that will project us into the future successfully. Our other option is to slam head-long into the wall in four years."

He said that it will entail talk about revenue streams like this bill and perhaps and sales tax, personal income tax or some kind of investment for the purpose of generating revenue.

MR. RILEY said he had been in committee meetings before where this committee's chairman recognized the need for long-term fiscal planning and this was an opportunity to take the first step in that direction.

SENATOR LEMAN said he was concerned about the fiscal note, but would look at it in the Finance Committee.

SENATOR DAVIS moved to pass SB 165 from committee with individual recommendations. There were no objections and it was so ordered.  
#

#SB170

**SB 170-RAILROAD EMPLOYEE SALARIES AND WAGES**

CHAIRMAN PHILLIPS announced SB 170 to be up for consideration.

MS. WENDY WINDSKOOG, Director of External Affairs, Alaska Railroad Corporation, said:

SB 170 accomplishes two very important objectives for the Alaska Railroad and its employees. It would be amending our statute, AS 42 to do two things - clarify that the Alaska Railroad falls under the Alaska Wage and Hour Act and also it would allow the members of the United Transportation Union and management the flexibility to negotiate an agreement that would allow the UTU employees to be paid on a salary basis rather than on an hourly basis.

I'll give you a little bit of background. When we began negotiations several months ago with the UTU Union, we discovered that there was a real question whether the Alaska Railroad falls under the Alaska Wage and Hour Act. This was a little disconcerting to us, because we are exempt from the Fair Labor Standards Act, which is the federal law governing minimum wage and overtime protection for employees.

The Railroad has always operated as though we are under the Alaska Wage and Hour Act and we would definitely like to see this clarified through our statute that we have that protection for our employees.

That's the first part of the bill. The second part of the bill deals with some flexibility in our negotiations with the UTU Union. The exemption for UTU members provided by the bill would not leave the UTU members unprotected with regard to overtime and wage issues, because they are protected by the Hours of Service Act. That Act prevents excessive or unreasonable work hours by limiting the number of hours these employees can work to twelve hours a day and after that have to take some time off. They do have that protection.

The other thing I would like to mention is why this bill benefits both labor and management at the Alaska Railroad. The UTU members would benefit from the exemption by having their pension plan enhanced. In exchange, the Railroad management would be allowed eventually to operate trains with a two-person crew rather than a three-person crew. This is where the industry is going in the Lower 48 with railroads. With some of the technical upgrades we are doing to the Railroad, we would be eventually able to operate with two-person crews. We get there through attrition, not by laying off jobs now, but as people retire, we would move in that direction...

MS. WINDSKOOG said they have letters of support from several unions, both public and private. They have a verbal commitment from the AFL-CIO in support of the bill. However, she said they would like to change the effective date to immediate.

MR. KEVIN BERGSGOOD, Locomotive Engineer, Alaska Railroad Corp. and State Legislative Director, United Transportation Union, said they support SB 170.

SENATOR DAVIS made a conceptual amendment to add section 3 that would make an immediate effective date. There were no objections and it was so ordered.

SENATOR DAVIS moved to pass CSSB 170 (L&C) from committee with individual recommendations. There were no objections and it was so ordered.

#

#SB168

**SB 168-COMMERCIAL FISHING LOAN PROGRAM**

CHAIRMAN PHILLIPS announced SB 168 to be up for consideration.

MR. ED CRANE, CEO, Alaska Commercial Fishing and Agriculture Bank, said they requested this legislation and appreciate having it under consideration. He said there were a number of factors over time that led up to them introducing this bill. Five years ago when the Division of Legislative Audit took a limited look at CFAB and the Division of Investments' Revolving Commercial Fishing Loan Fund, they recommended that a process be explored by which CFAB would end up with essentially taking over the functions of the Division's Fund. He cited various practices and policies and made the observation that over the previous five years, borrowers (on the surface) appeared much better with CFAB than they had with the Division of Investments.

MR. CRANE explained that CFAB is a private institution structured as a cooperative, responsible to the Board of Directors, who are responsible to the borrowing owners. "We have the burden of operating as efficiently and as effectively as possible. That provides benefits to our borrowing members. Over the past 10 years for every \$100 of interest we have collected from those borrowing members, we have returned \$13.50 in cash to them. There is another \$4.80 set aside in funds, which will soon be paid to them, also."

He said that this bill provides that for most of the various kinds of fishing loans made by the Division there will be a step inserted saying the applicant must first be declined by CFAB before the Division can entertain their application. The exception is a section b loan (page 2, line 7), which covers loans the Division makes to areas where there is either economic depression or a limitation on employment opportunities and a historic dependence on commercial fishing. CFAB thinks those loans are very important for the state to do, but which as a private lender, they wouldn't. It would not be appropriate for them to attempt it. He said:

SB 168 holds substantial benefits for many resident fishermen and will not result in denial of financing to anyone. It does not affect those elements of the Commercial Fishing Loan Act, which are directed toward a resident who cannot qualify for conventional financing. However, there is potential over time, for a significant reduction in utilization of the Commercial Fishing Revolving Loan Fund and for incremental transfers tot the General Fund.

Finally, SB 168 removes direct and subsidized competition by the state and promotes the services of a successfully privatized institution.

MR. CRANE explained that CFAB was created in 1979 - 1980 when the state put \$32 million of state money at risk to create it. "That money has since been returned to the state."

Over it's 21-year history, CFAB has made several hundreds of millions of loans to residents. That's a pretty good return of the state's investment. CFAB is a private institution, paying taxes; they are totally self-sufficient. He found it hard to believe there is any justification for the state to be continuing on a subsidized basis to compete with CFAB in the same markets.

SENATOR LEMAN asked why there was the specific reference of protection for CFAB instead of just saying "and whose applications for identical financing has been declined by private lenders."

He asked if there are others in the business CFAB competes with and they don't mind competing with, and if there was a particular reason.

MR. CRANE replied that they asked for the bill and wanted to see their name there. He added:

When I was first with CFAB, the Revolving Loan Fund Statute provided almost exactly what they are saying, that most loans could not be made unless the applicant had been declined by two other institutions. At that time, the Division of Investments and CFAB had a very workable arrangement for exchanging applications to be sure that when we did decline someone, they wanted us to pass on his application to the Division. We could do that. That was changed. I don't recall why, but if you look on page 3, lines 1 - 3, which has to do with loans for quota shares, when that part of the statute was created, it said the Division could make loans for quota shares to borrowers who, among other things, are not eligible for financing from other recognized commercial lending institutions. That's been in place for four or five years.

Our perception, to the best of our knowledge, that's been ignored by the Division of Investments, even though there has been numerous discussions with them. As a matter of fact, we were specifically told in writing that what we do, we look at the applications and if it looks to us like we wouldn't do it, we would go ahead and make the loan. I'm offended by that. That's my answer to your question. If it said other financial institutions, I wouldn't have any problem with that. I would say this, that CFAB is the only private institution that has the statutory authority to take a lien on a limited entry permit. For 80 percent or more of the applications, it would be CFAB.

SENATOR LEMAN said he traditionally tried to defend competition. "As long as we have it, I would just as soon enable it to take place. I have no problem with sort of putting an extra hurdle on the department, because I really don't think the state ought to be competing in areas that are handled capably by those in private industry. And this is an example..."

MR. CRANE commented that section 2 (page 4, line 12) caused some confusion. He explained:

A year ago, when the legislature passed a tax loan bill for the Revolving Commercial Fishing Loan Fund, the decision was made in some Senate Committee in HB 238, to limit the life of that tax loan program to two years and rather than use what seems to be the more conventional sunset language, there was enacted a delayed amendment. Under that delayed amendment, which becomes effective August 1, 2002, the tax program goes away. This section 2 refers to that delayed amendment. That delayed amendment is reflected in section 3, Chapter 127 of the acts of 2000. All section 2 is doing, assuming this bill passes, it says that when that delayed amendment comes back into effect, it will have the new language included in SB 168 in that delayed amendment. I hope that's clear.

CHAIRMAN PHILLIPS asked if he supported it.

MR. CRANE said he does.

Number 800

MR. GREG WINEGAR, Director, Division of Investments, said his agency administers the Commercial Fund that would be affected by this bill. He said:

The Fund was created in 1972 and has been a major financing mechanism for harvesters in the state since that time. The purpose of the program is to create or maintain our predominantly resident fishery. The fund is totally self-sufficient; there has been no general fund money going there since FY 1985. As of June 30, we have made a total of \$341 million dollars in loans to about 5,400 different borrowers. The majority of the loans we make under this program are ones that typically would not be made by the private sector. We've referred numerous applicants to private sector lenders on a daily basis and if the applicant is unable to get financing from the private sector, then we consider them under this program.

One of the concerns we do have, which was mentioned by Senator Leman, is that this program would completely eliminate all of our applicants' private sector choices other than just one lender, CFAB. As far as the number of permit loans we're involved with, it's roughly 50 - 55 percent of the portfolio are permit related. The other types of loans we do are loans for vessels, gear, quota shares, and other fisheries related activity.

As far as other sections of the program are concerned, there is some overlap with the private sector, especially under section (a), which is primarily for limited entry permits. By statute, CFAB and the state are the only two lenders that can secure loans with the limited entry permit.

Currently, applicants can choose which program they wish to participate in. This legislation would require that they all go through CFAB first. This concerns us for two reasons. A substantial number of our section (a) borrowers would not qualify for a CFAB loan and so the extra time and effort necessary for them to obtain a loan would increase substantially because of that. Also, the overall strength of the fund would be affected, because CFAB basically would pick and choose and take the stronger loans. We currently use those loans to help balance the portfolio which is mostly made up of loans that wouldn't be made by the private sector.

We also have problems with the changes it makes to section 10. This section allows existing loan fund borrowers to lower their interest rates through an internal refinancing program. We have a very streamlined process for them to do this. If the interest rates go down, our existing borrowers with a basic one-page application can lower the rate. This bill would prevent borrowers from taking advantage of the streamlined program, because they would have to turn around and go through an entirely new application process through CFAB.

The final concern we have is more technical in nature. It relates to the word "identical" on page 1, line 12; page 3, line 2; and page 4, lines 1 and 8. The concern we have here is that our interest rates in terms are set by statute and regulation and they are not connected with CFAB's rates and terms in any way. Because they aren't related, it may be very difficult for our applicants to meet the identical financing requirement. That concludes my testimony, Mr. Chairman. We do oppose this bill. We feel it will limit Alaskan harvesters' ability to use this loan fund.

SENATOR DAVIS asked if he had any further problems in the section if "identical" were deleted.

MR. WINEGAR replied that they have problems with the concept, but also one of the concerns they have is with the term "identical", because it may make it almost impossible for someone to qualify.

"We are concerned that limiting section (a) borrowers to only CFAB as an alternative is not something we would support. We don't believe that's in the best interests of our borrowers. We are also concerned about the effect that would have on the loan fund. Those stronger loans help balance the risk of the portfolio."

Number 400

CHAIRMAN PHILLIPS asked what other industry does the Department make loans to that have private loans available.

MR. WINEGAR replied that they have a couple of small business programs.

CHAIRMAN PHILLIPS said his point is that the Department is supposed to promote commerce within the state and other than the fishing industry, there's no other industries that have the private and state sectors competing for a pool of potential borrowers.

MR. WINEGAR replied that to some extent that's true, but the largest portion of their borrowers would not qualify for private sector financing. He said they used to have a mining program.

CHAIRMAN PHILLIPS asked what his default rate was, the number of loans taken, etc.

MR. WINEGAR replied:

As of March 31, we put out a statistics report. We had 1,801 accounts on the books that are owned by the Fund. The total outstanding balance is \$80,464,000; the average loan amount was \$44,700. The delinquency rate is based on number of loans and is 18.3% and they have 2.9% loans in default.

CHAIRMAN PHILLIPS asked him to define "default" and "delinquent."

MR. WINEGAR responded that "default" is in litigation. Delinquent is 60 days or more past due.

CHAIRMAN PHILLIPS asked if 60 days is delinquent, how far do they go before going to court.

MR. WINEGAR replied that it varies depending on the situation. "Our philosophy is to work with borrowers as best we can. Foreclosure is a real last resort for us."

CHAIRMAN PHILLIPS asked how much time the average default is.

MR. WINEGAR replied that they have a number of folks who are going through an extension process and they show up as delinquent.

**TAPE 01-18, SIDE A**

MR. WINEGAR said he didn't have an average number of days before they issue a final demand, but he would look into it.

CHAIRMAN PHILLIPS said he intended to move this bill next Tuesday or Thursday and asked everyone to come forward with their comments before then.

SENATOR LEMAN said he wanted to see an amendment drafted that would incorporate "other financial institutions" for the committee to look at.

CHAIRMAN PHILLIPS thanked the committee for its patience and adjourned the meeting at 2:15 pm.