

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

March 12, 2003

8:36 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Peggy Wilson, Vice Chair  
Representative Pete Kott  
Representative Ralph Samuels  
Representative Ethan Berkowitz  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Cheryll Heinze

**COMMITTEE CALENDAR**

HOUSE BILL NO. 105

"An Act relating to loans to satisfy past due federal tax obligations of commercial fishermen and to the commercial fishing loan program."

- MOVED HB 105 OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 105

SHORT TITLE:COMMERCIAL FISHING LOANS

SPONSOR(S): REPRESENTATIVE(S)STEVENS

Jrn-Date	Jrn-Page		Action
02/14/03	0215	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0215	(H)	FSH, RES, FIN
03/12/03	0509	(H)	FSH RPT 3DP 3NR
03/12/03	0509	(H)	DP: KOTT, WILSON, SEATON;
03/12/03	0509	(H)	NR: BERKOWITZ, SAMUELS, GUTTENBERG
03/12/03	0510	(H)	FN1: (CED)
03/12/03		(H)	FSH AT 8:30 AM CAPITOL 124

**WITNESS REGISTER**

CHERYL SUTTON, Staff

to the Joint Legislative Salmon Industry Task Force ("Task Force")

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 105 on behalf of Senator Gary Stevens, sponsor, and who is also a member of the Task Force.

GREG WINEGAR, Director  
Division of Investments  
Department of Community & Economic Development  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 105.

BRUCE TWOMLEY, Chairman  
Commercial Fisheries Entry Commission (CFEC)  
Alaska Department of Fish & Game  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 105.

BRUCE HENDRICKSON, Fisherman  
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 105 and addressed a related concern - debt relief.

STEVE BROWN, President  
Concerned Area M Fishermen  
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 105.

#### **ACTION NARRATIVE**

#### **TAPE 03-13, SIDE A**

Number 0001

**CHAIR PAUL SEATON** called the House Special Committee on Fisheries meeting to order at 8:36 a.m. Representatives Seaton, Wilson, Samuels, Guttenberg, and Berkowitz were present at the call to order. Representative Kott arrived as the meeting was in progress.

#### HB 105-COMMERCIAL FISHING LOANS

CHAIR SEATON announced that the only order of business would be HOUSE BILL NO. 105, "An Act relating to loans to satisfy past due federal tax obligations of commercial fishermen and to the commercial fishing loan program."

Number 0247

CHERYL SUTTON, Staff to the Joint Legislative Salmon Industry Task Force ("Task Force"), Alaska State Legislature, testified that she was speaking on behalf of Senator Gary Stevens who is a member of the Task Force and who was a Representative when he sponsored HB 105. She stated that HB 105 is a fairly simple bill that involves just a few changes and that most of the language in the bill is already existing law. She explained that basically HB 105 reinstates a provision that was previously law during fiscal years 1995 through 1997 and also during 2001 through 2003. The provision allowed commercial fishermen to obtain secured - and she emphasized "secured" - loans for retiring Internal Revenue Service (IRS) debt.

MS. SUTTON said that it was obvious that the long-term crisis facing the salmon industry affects the ability of fishermen to pay taxes. She indicated that perhaps the most compelling point is the seizing of limited entry permits, and the state's interest in that regard. She said there are other elements of the bill that are very important, and she referred to page 4, Section 3, line 31, to the deletion of the word "promptly" pertaining to foreclosed permits.

Number 0613

MS. SUTTON explained that the Task Force considers this to be important because currently, if a permit is foreclosed, the Division of Investments is compelled to immediately advertise to sell that permit. She said this occurrence is not in the best interest of the state or of the person whose permit was foreclosed, and the Task Force is interested in providing for some latitude by removing the word "promptly" from statute. In this way, some latitude would be given to the Division of Investments relative to the advertising and sale of that permit. She indicated that there was also hope that through the continuing work of the Task Force and the legislative body, other provisions would be addressing permits and HB 105 would be one element in that regard "in terms of reducing the numbers of permits in areas, and so forth."

Number 0816

MS. SUTTON continued that [the committee] would probably want to focus on the issue of receiving loans for retiring IRS debt. She referred to the "Policies And Procedures" from the Department of Community and Economic Development (DCED) in the

committee packets, indicating that the loans are not issued "willy-nilly" but are secure, strict, collateralized loans. She added that this aspect of the bill is a very big issue in Western Alaska.

Number 0866

GREG WINEGAR, Director, Division of Investments, Department of Community & Economic Development (DCED), testified that HB 105 makes several changes to the Commercial Fishing Revolving Loan Fund (CFRLF) administered by the agency. He said it allows for loans to be made to Alaskan harvesters in order to pay off federal tax obligations jeopardizing permits. He said this is very similar to a program that was in effect during 1995 through 1997 and also during 2001 to 2003. He said he anticipates the program to be very small - perhaps five or ten loans per year - saying that it provides another tool for certain harvesters to deal with IRS-related problems, which, he added, is important.

MR. WINEGAR continued that the bill also makes a small change to the refinancing program that allows harvesters to take advantage of reduced interest rates when they occur. He noted that this has been a popular program, as interest rates have been declining dramatically within the past year or two, adding that there is a quick and streamlined process for handling those requests. He stated that current law requires that a 0.5 percent refinancing fee be charged for refinancing; HB 105 would remove that requirement, resulting in a slight reduction to the loan fund. He said this reduction would not adversely affect the financial integrity of the fund, as this fund has performed fairly well over the years, is totally self-sufficient, and does not rely on general fund support. He said the fiscal note reflects the small change that would take place regarding the loan fund, noting that the feeling is that rates are pretty near to the bottom right now, so the impact on the fund would be fairly small.

MR. WINEGAR said that Section 3 of the bill makes a change to the foreclosure statutes because currently the requirement is to promptly advertise and sell permits. The change would allow for more flexibility in handling permits in a manner that would better serve the interests of the state and, in many instances, of the borrower as well. He stated that the bill was generated as a result of work done by the Task Force and that the department supports HB 105.

Number 1069

REPRESENTATIVE SAMUELS asked what the default rate was when the program was previously in existence.

MR. WINEGAR replied that there were a total of 307 loans over a five-year period, 24 of which had gone through the foreclosure process. He noted that the number of borrowers delinquent on loans is an estimated 45 percent, with a number of those individuals having extension requests and working out solutions with the department. He explained that the program "kicked in" in 1996 or 1997 and was followed by some pretty rough seasons, indicating that he thought this had an effect on the portfolio.

Number 1139

CHAIR SEATON asked if the previously mentioned numbers of "307 and 24" fell under the federal tax program.

MR. WINEGAR replied that those numbers refer to loans that were made under a loan program very similar to this one - and that they refer to the tax obligation portion of the portfolio.

REPRESENTATIVE SAMUELS inquired about the rules, asking how far back the debt was incurred; he wondered if, for example, it could be "mired with the feds" for 10 years before coming to the department for relief, or if it was the previous year's debt, or if it was regulation that "you can't get the loan out of debt that is over 'x' number of years old."

Number 1197

MR. WINEGAR responded that there is quite a variety, explaining that when the program was initially created there was a substantial noncompliance problem in existence. He said that the IRS was able to match up fish ticket information with tax return information and found that there were a number of people out of compliance, some for many years, and some for a few years. He explained that there are not any restrictions regarding how far back "they can go" and that it is taken on a case-by-case basis. He stated that there is a maximum loan restriction, and emphasized that these are loans, saying that collateral needs to be provided and also that items typically looked at for other loans are looked at in this situation as well.

MR. WINEGAR, in response to a question from Chair Seaton about refinancing, replied that the refinancing program is completely

separate from the tax obligation portion of the portfolio, and allows for the refinancing of any loan that was made under the Commercial Fishing Revolving Loan Fund. He said that anybody who has a loan through the department who is still eligible would qualify for the refinancing.

CHAIR SEATON referred to the fiscal note and asked if it pertained to all loans or only pertained to the IRS.

MR. WINEGAR said the fiscal note related to the refinancing portion of the bill. He stated that the actual tax obligation portion of the bill does not have any fiscal impact at all because it would be handled by existing staff. He restated that the program would involve very few loans - perhaps 10 or 15 loans per year - and he also restated that the fiscal note relates to removing the 0.5 percent fee for the refinancing program.

Number 1346

REPRESENTATIVE GUTTENBERG referred to the earlier testimony about the loans being fairly self-sufficient and the default rate of about 45 percent; he questioned the correlation between self-sufficiency and the default rate.

MR. WINEGAR responded that the portfolio has been in existence for a long time, since 1972, and has been revolving for a long time. He repeated that this program is a very small portion of the loans that have been made during that period of time, saying that over the life of the program, almost \$360 million in loans have been made.

CHAIR SEATON referred to Mr. Winegar's comment that the refinancing program is currently "near the floor" and asked if this pertained to the interest rates' being at a certain level or if it pertained to a bottom interest rate's being charged on the loans.

Number 1433

MR. WINEGAR responded that the interest rates are tied to the prime rate and that it is "prime plus two." He explained that essentially borrowers have taken advantage of the rates going down over the past few years. He said the department's rates are looked at quarterly and mirror what the prime rate is doing. He said prime rates are at an all-time record low, which is not to say that they couldn't go a little bit lower - in fact,

"recently the feds have considered another quarter-point drop and they are meeting on the 18th." He said that the department is figuring that the rates are pretty near to the bottom and that the portfolio has already largely been refinanced. Mr. Winegar noted that if the rates were to fall further, the fiscal note would probably need to be adjusted.

Number 1490

CHAIR SEATON asked if there was a "floor interest rate" that under statute could be charged, under these loans.

MR. WINEGAR said there is no floor but there is a ceiling at 10.5 [percent].

CHAIR SEATON asked for a typical profile of a person who might be refinancing under the tax portion of this loan.

MR. WINEGAR replied that the largest majority of the portfolio is from rural communities. He referred to the booklet in the committee packet entitled "Volunteer Tax and Loan Program" as an example of a way to get information to rural areas within the state. He said that often it is people who have difficulties filing returns or who have those kinds of difficulties and then "come to us and ask for help."

CHAIR SEATON asked if, generally, this might pertain to a Bering Sea crabber who also has a permit and just decided to not pay taxes.

MR. WINEGAR confirmed that this is not the typical type of borrower at all.

Number 1585

BRUCE TWOMLEY, Chairman, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game, said that for years the [CFEC] has had a relationship with the IRS because of being assigned the duty to protect Alaskan fishermen's "right to fish" that state law has always declared to be a privilege, but that the IRS has always considered as an asset that could be seized. He said when a limited entry permit is so seized, the risk is that the permit, instead of staying in the hands of a local Alaskan, will go to a nonresident who will get it at a "bargain basement sale" sponsored by the IRS. He mentioned a short anecdote that he suggested would put the loan program in context. He related that in the course of extensive dealings

with the IRS over the years, he came to know Chuck Strome (ph), the former head of special proceedings in Anchorage, a fine gentleman, he said, who recognized the problem of achieving compliance in rural Alaska. Mr. Strome attended a meeting of the Association of Village Council Presidents on the lower Kuskokwim, after which he said, "My God, we're trying to collect money from people who don't even know we exist!"

Number 1694

MR. TWOMLEY continued that the real function of the loan program is that it gives people some hope and it gives the IRS something else to look towards other than the permit. He said that regarding people in the villages, the limited entry permit may be the only item of cash value, so it would, unfortunately, be attractive to the IRS and would also be an easy target. He said the rates of noncompliance among small business fishermen aren't that different from the rates of noncompliance among lawyers or cab drivers. He said fishermen are a target because of this "little prize" that has an easy cash value. He added that the transferability aspect serves to keep local fishermen "in the water" by supporting the fishermen and their family members and villages.

Number 1748

MR. TWOMLEY continued that the loan program provides a tool for negotiating with the IRS. He said the department has always been able to persuade the IRS that there are easier ways to solve these problems than "jerking Alaska fishermen out of the water" and destroying their lives in the process. He said that is why the [CFEC] has a stake in this and supports the legislation.

Number 1788

BRUCE HENDRICKSON, Fisherman, testified that he was a salmon fisherman from Area M and thanked the committee for HB 105, saying that he thought that removing the 0.5 percent fee would be helpful. He said he wanted to speak to the related issue of debt relief for the salmon industry fisherman. He said that this is a revolving loan fund and does not impact the state budget, but he would never want to see a fisheries program taking funds away from something such as a children's program. However, he said he would like to see the revolving loan fund be given the flexibility to "write down" loans to current market

values or close to market value because it's unrealistic to pay back an asset for which 93 or 97 percent of the value is gone.

MR. HENDRICKSON continued that it is unrealistic for the state or lending institutions to expect to be able to get the value in the form of collateral, and [to assume] that the fishermen would absorb that loss in order to pay for something that is only worth 7 percent. He said the values are down to 7 percent because the cash flows are down so badly, so fishermen don't have the ability to repay. Mr. Hendrickson said fishermen will not be making loans in the future if these assets are foreclosed. He stated that permits that are seized, whether for taxes or for nonperformance of the loan, would end up out of state. He concluded by saying that he wants to "plant a seed" and hopes that when the Task Force devises a plan for debt relief, there will be consideration and support for a program similar to what the farm program had through the federal land bank for farmers.

Number 1962

STEVE BROWN, President, Concerned Area M Fishermen, said he was representing a group of salmon permit holders on the Alaska Kenai Peninsula and said that about 25 percent of the permit holders in the fishery live in the Kenai Peninsula, mostly in the Homer area. He spoke in support of HB 105, saying that it is a fairly modest step in the right direction that will be helpful to Alaskan fishermen in attempts to "weather the storm" in the salmon industry. He said he applauds the efforts to retain ownership in Alaskans' hands.

Number 2609

MR. BROWN continued that the 0.5 percent refinance fee is small but valuable, saying that "as you know, interest rates are at historic lows" and that if people can pay market rates on their loans without having to shell out several hundred or, in some cases, over a thousand dollars, then this is helpful. He commented that this was the "tip of the iceberg" and noted that there are four permit holders in his fishery who are in the process of losing their permits, just within the past few months, and he thinks that the "avalanche is just starting to cascade down the mountain" and is going to gather speed unless we "roll up our sleeves and figure out what we're going to do."

Number 2075

REPRESENTATIVE BERKOWITZ moved to report HB 105 out of committee with individual recommendations and the [accompanying fiscal note].

Number 2097

REPRESENTATIVE SAMUELS objected, commenting that the aforementioned number of 45 percent [mentioned in testimony by Mr. Winegar] is a large number and needs to be seriously considered. He then withdrew his objection.

Number 2123

CHAIR SEATON asked if there was any further objection. There being none, HB 105 was reported from the House Special Committee on Fisheries.

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:10 a.m.