ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE
April 19, 2004
1:38 p.m.

TAPE (S) 04-11

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gary Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 387
"An Act authorizing the making of certain commercial fishing loans to eligible community quota entities for the purchase of certain fishing quota shares; and providing for an effective date."

MOVED SB 387 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 387
SHORT TITLE: COMMERCIAL FISHING LOANS FOR QUOTA SHARES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/13/04	(S)	READ THE FIRST TIME - REFERRALS
04/13/04	(S)	CRA, L&C
04/19/04	(S)	CRA AT 1:30 PM FAHRENKAMP 203

WITNESS REGISTER

Greg Winegar
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POSITION STATEMENT: Testified on SB 387

Phil Smith

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Chuck Totemoff
President and CEO, Chenega Corporation
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POSITION STATEMENT: Testified on SB 387

Ole Olsen
President, Old Harbor
Gulf of Alaska Coastal Community Coalition
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Gordon Jackson
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Juneau, AK 99801
POSITION STATEMENT: Testified on SB 387

ACTION NARRATIVE

TAPE 04-11, SIDE A

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:38 p.m. Present were Senators Gary Stevens, Wagoner, Elton, and Chair Stedman. Senator Lincoln arrived very soon after the meeting began.

SB 387-COMMERCIAL FISHING LOANS FOR QUOTA SHARES

CHAIR BERT STEDMAN announced SB 387 to be up for consideration. He asked Greg Winegar to come forward.

GREG WINEGAR, director, Division of Investments, said this bill changes an existing loan program to allow the division to make loans to a new type of borrower called a community quota entity.

The borrower is being created as a result of changes NMFS is making in the quota share program. The North Pacific Fisheries Management Council has asked for the change to help reverse the loss of quota share from these communities.

Under the new NMFS rule, 42 small gulf communities in Alaska will be able to form non-profit corporations. Then they could purchase quota share and lease them back to community residents. He noted the 42 eligible communities are listed in the packets.

The goal is to improve the economic viability of the communities through local ownership of fishing privileges. Since the program was created in 1995, many communities have seen significant loss of quota shares and the amendment is intended to provide a mechanism to reverse the trend.

There is adequate funding for the program. It is a revolving fund that is self-sufficient and doesn't rely on the general fund. The existing staff is sufficient to handle the new loans so the fiscal note is zero. Fish and Game supports the legislation and has submitted a zero fiscal note. The effective date is tied to the date the federal regulations pass.

SENATOR GARY STEVENS asked what the advantage is for the community in this process.

MR. WINEGAR replied the concept is that this is a way the community can get the shares back into the community. They must lease the quotas to community residents so the income will be generated in the particular community.

SENATOR GARY STEVENS asked if the quotas could migrate out of the community.

MR. WINEGAR thought one of the requirements under the new federal program is that the quotas would have to stay in the community.

SENATOR KIM ELTON asked whether rules that communities would have with the fishermen would be defined in regulation.

MR. WINEGAR thought NMFS put a number of program requirements in to ensure the quotas stayed in the community. He said the Division of Investments would only be involved from the loan standpoint.

SENATOR THOMAS WAGONER asked how much was currently in the fund and available for loans.

MR. WINEGAR said the total portfolio is about $88 million and they also have a cash balance that they are making loans from.

CHAIR STEDMAN asked what the loan cap is per community.

MR. WINEGAR replied the cap per community is $2 million.

CHAIR STEDMAN asked about the percent of quota share that they could purchase.

MR. WINEGAR thought that the maximum that any one community could purchase is one percent.

SENATOR GARY STEVENS asked if a community could turn the loan over to a fisherman so it wasn't their responsibility any longer. If so, what would happen if the fisherman went bankrupt?

MR. WINEGAR said it's the non-profit formed by the community that would own the shares. The fisherman would simply lease the shares from the non-profit so the non-profit would be responsible.

SENATOR GARY STEVENS asked if the community could move the quota from one fisherman to another from year to year.

MR. WINEGAR said they could do that.

SENATOR GARY STEVENS said, "So the fisherman is not the one responsible for paying the loan. It is the community."

MR. WINEGAR said that's correct.

CHAIR STEDMAN clarified, it's the responsibility of the non-profit and he understands there is no collateralization back to the community. The collateral is the quota share itself.

MR. WINEGAR agreed, the collateral will typically be the quota share, but it may be other things as well because there is a 30 percent down payment requirement coming from some other source.

SENATOR KIM ELTON asked if the community could sell the quotas to another purchaser.

MR. WINEGAR thought it would have to stay within the community so they would have to lease it within the community.

SENATOR ELTON asked if the community could sell the quota shares that they purchased.

MR. WINEGAR believed so, but he didn't know all the circumstances because that falls under the federal program and not the Division of Finance.

CHAIR STEDMAN said let's touch on any leverage the state may take to the table through the loan program to require purchases of quota from residents outside the state to bring that quota back to Alaska. He said he'd like to know his thoughts on how that should be handled.

MR. WINEGAR said that is something they could look into. In the past, under the commercial fishing and other loan programs they haven't had any control over where their borrowers buy their assets.

CHAIR STEDMAN questioned, "Could there not be a requirement on submittal of the loan application along with the full financial disclosure and collateral disclosure a list of available quota and where they're domiciled so your agency, as the underwriter, could go ahead and review that and try to put some pressure on the purchaser to purchase that out of state quota if its within a reasonable price range within the state?"

MR. WINEGAR said he would have concern with how that would work because they haven't gotten involved in business decisions made by borrowers. There would be legal issues involved in doing that he said.

CHAIR STEDMAN responded, "The man with the gold makes the rules. The golden rule."

Assuming they require a lease payment greater than the cost of the debt service, how is that non-profit going to be structured and handled and what's going to happen to that as their capital increases from their starting point of close to zero?

MR. WINEGAR said he knows that NMFS is going to have oversight over who qualifies. The Division of Finance would look at them the same way they would look at any other borrower.

SENATOR WAGONER asked if the non-profit has to come up with the 35 percent or the individual fisherman that is leasing the quota from the non-profit.

MR. WINEGAR said the non-profit would be responsible for the 35 percent and the division wouldn't make the loan until they located shares and came in with a purchase agreement.

SENATOR WAGONER asked where the non-profit gets the 35 percent.

MR. WINEGAR replied, "That's a good question, it's something they're working on right now. They're looking at a number of different avenues as to where to come up with those assets or that funding."

SENATOR WAGONER asked whether the amount includes $2 million plus 35 percent or less 35 percent.

MR. WINEGAR told him it would be in addition to that. They can only loan 65 percent, up to $2 million.

SENATOR WAGONER asked if the Division of Investments would have call back on the non-profit's quota shares in the event of a failure.

MR. WINEGAR said that's correct.

CHAIR STEDMAN repeated that they start with $2 million, but as they bring the total down to $1.5 million or $1.25 million, they can borrow back up to the $2 million cap and buy more quotas and continue to build their market share up to the federal cap.

MR. WINEGAR agreed.

SENATOR GARY STEVENS commented that this is an exciting revitalizing opportunity for small communities. He read thru the proposal and asked for verification that it's cumulative. They can purchase 2 percent a year of the halibut and sablefish quotas in the area for a 7-year period up to a total of 21 percent.

MR. WINEGAR said that's true.

SENATOR GARY STEVENS asked if the product has to be sold in the community or could it be sold anywhere there's an available market.

MR. WINEGAR said wherever there's a market.

SENATOR GARY STEVENS added, "Also an opportunity to do some local processing should that develop."

SENATOR WAGONER commented that 21 percent of the quota share is a massive amount of fish. He then posed the following hypothetical:

> Let's say a community is in 3-A. Now is this a percentage of the quota currently available for 3-A or is this the percentage of the total quota available in the state of Alaska waters.

MR. WINEGAR deferred to Mr. Smith after which he said he thought it's for the area. Also he thought that each community is capped at one percent up to a total of three so you could potentially have three communities, if they each got one percent that would be the cap for the year. "There are several different caps that NMFS has put into place to try and be sure that there isn't too much of this that goes to any one place."

SENATOR WAGONER said that was his question because he saw the 21 percent listed and three percent was mentioned.

MR. WINEGAR clarified that it's three percent per year and over a period of seven years it would top out at 21 percent maximum.

SENATOR WAGONER asked if he was saying that a community such as Seldovia could wind up with 21 percent of the halibut quota. "I'm not tracking this whole thing." he said, "That's more halibut than they can take care of."

MR. WINEGAR thought the limit is one percent per community. Twenty one percent is the cap for the whole program - all 42 communities.

CHAIR STEDMAN asked Mr. Smith to come forward and give his presentation.

PHIL SMITH, program administrator or the restricted access management program of the National Marine Fisheries Service (NMFS), Alaska region, introduced himself as a bureaucrat and the hands on manager of all federal limited entry programs, which includes the halibut and sablefish IFQ program. He explained:

> What we are seeing with this new program is a response on the part of the North Pacific Council and the

Secretary of Commerce to a phenomenon that occurred, and some people predicted that it would occur shortly after the IFQ program was initiated in 1995. That people in these smaller communities distance from market, generally low access to capital and cash poor were inclined to sell their quotas to people who lived in larger areas closer to market with more access to capital. Over the ten years since IFQs were initially put in place, something like 40 some percent of all the halibut quota in Southeast Alaska communities has transferred to places outside of those communities - a smaller percentage, 15 to 20 percent in South Central communities. But there has been this trend of decline.

People are concerned about the impact of that decline on the local economies. They went to the council and over a three or four year period, and a lot of discussion and debate and a lot of compromise, the council in 2002 approved the program that we're talking about today. ... Essentially it allows smaller Gulf of Alaska coastal communities to form non-profit entities that may then apply for recognition from our office. Once they obtain that recognition, they enter the market. Wherever they can get the money from, they can then buy quota share and hold it.

One question that came up for Greg [Winegar] was this concept of leasing. The quota share IFQ thing is a two-step deal. A person holds quota share, which is measured in units, and annually the amount of quota share units that one holds as a percentage of the quota share that everybody holds, is divided into the annual total allowable catch and what results then is an IFQ permit that is issued in pounds. But it's only good for that year.

Every year the quota shareholder, in this case the community quota entity, would receive an IFQ permit and it is that IFQ permit that is transferred to or leased to a community resident. So it's not a long-term lease in the sense that, well I've got my quota share and I'm going to lease it to Senator Lincoln and ten years later she's going to tell me how she's doing. It's an annual thing. The permit that transfers under this lease provision expires and next year the whole agreement has to be reenacted.

In terms of caps, [the] council was concerned about non-profit entities with some type of favored access to capital - government capital perhaps - chasing other individuals out of the market so they put some pretty strict caps on the amount of shares that these entities can hold. For instance, no community can hold more than one percent of all the quota ever. Cumulatively, all communities together during the first year cannot hold more than three percent. Second year it goes up to six percent and so forth up to 21 percent.

There are also caps on the amount of blocks of quota share these entities can hold. [There are] some limitations on the types of quota share that they can hold so as not to interfere with the market that would otherwise allow individuals to enter.

I see that you're passing out a little summary of the program that I'd prepared, which really has most of the elements in it. It's probably a lot more detailed than you want to get into now, but it does give you some idea of how the program is supposed to look. I as a fed am not in a position to endorse or not to endorse this bill, but I can say that one of the concerns that people have had about this program is that there is no money with it.

Hoonah can form a non-profit and that's all well and good and it doesn't cost a lot of money to form a non-profit. But then what? We're expecting that a lot of creativity and imagination will come to play at that community level and the people will, over time, obtain the bucks that they need to enter the market and to start making the program work.

Frankly if we reach those cap levels it's a problem that I'd love to have. I see instead, small amounts of quota entering the community holdings over time and this thing starting small and then growing rather than people thinking in terms of - well, I can get my 100,000 pounds, which is one percent of the Southeast quota, and then we're done. Isn't that awful. Like I say, I'd love to see a village with a 100,000-pound problem.

SENATOR GARY STEVENS said he was concerned about the structure of the managing organization in each community. He questioned who that non-profit would be and how they would decide which fisherman would get the quota.

MR. SMITH told him that the council spent a lot of time on that issue and they set up parameters.

> First of all, the non-profit that gets formed, when it comes to our office to seek its blessing to get its community quota entity status, it does not get that until two prior things have occurred. First of all, the village on whose behalf it is acting or purporting to act must sign off on it and say, 'Yes, this is an entity and our community has passed a resolution that says ABC entity is ours.' Secondly, we don't approve the application for status until it's been run through the state. I'm going to ship it off to Commissioner Blatchford [DCED] as soon as it lands on my desk and the state personnel who work with these communities on a regular basis are going to have an opportunity to review and approve it.
>
> Beyond that once the authority has been conferred on these entities, we are sort of loath to micromanage. Part of the application is they are supposed to tell us how they intend to choose among competing people who want to fish the IFQ. They could say we're going to rotate it on an annual basis; we're going to do it on a basis of who hires the most local crewmembers. Whatever, we feel that that is a decision that is best made at the local level.
>
> Assuming that the decision that is made at the local level ruffles too many local feathers, we expect that the local community is going to have some authority over the non-profit either through telling its board members how to vote or naming board members or things like that. So the council and our agency did not spend an enormous amount of time trying to figure out what happened when things went wrong.

SENATOR GARY STEVENS told him the explanation was helpful then asked for some idea of the amount of money entailed. "What is the X vessel value of three percent of the sablefish and the halibut and 21 percent of the sablefish and halibut," he asked.

MR. SMITH said this is off the top of his head. There are 60 million pounds total allowable catch of halibut off Alaska. Say quotas cost an average of $10 per pound for a total of $600 million. Then it's three percent of that figure.

SENATOR GARY STEVENS realized that there was some confusion associated with calculating percentages mentally, which caused him to ask that the figures be supplied to the committee so that they would have a better idea of the dollar amount involved.

SENATOR WAGONER quipped that he's standing in line to buy all the $10 per pound shares you can find.

MR. SMITH conceded that $10 per pound is conservative.

SENATOR WAGONER announced it's more like $17.50 per unblocked share so the total annual value of the catch is about $1 billion.

SENATOR ELTON asked whether a community like Yakutat could buy quota share from 2-C and 3-A or can they buy quota share only from their region.

MR. SMITH replied they msy buy quota share from just their region.

SENATOR ELTON noted that it's necessary to have access to capital markets for quota share, but it's also necessary and sometimes difficult for fishermen to have access to capital markets for a boat, gear and other capital requirements. Because of the investment fishermen make in their fishing business, he questioned whether there would be some sort of regulatory process to keep the non-profit from treating their quota share as a stock portfolio rather than a community development portfolio.

MR. SMITH said there's no process to directly protect the fishermen, but there is a prohibition against a non-profit selling its shares and using the money for anything other than enhancing or sustaining or expanding the fishing program for the community.

SENATOR ELTON recapped the answer.

MR. SMITH expanded his explanation saying they can sell 12,000 pounds of quota, make money on it and use it as a down payment to buy 20,000 pounds of quota.

SENATOR ELTON added that purchasing an ice machine is another option.

MR. SMITH agreed.

SENATOR WAGONER asked where the quotas would come from and noted that they would probably have to be purchased at current market value.

MR. SMITH agreed there would be no break in the purchase price.

SENATOR WAGONER asked if he thought the infusion of $86 million might affect the current pricing of IFQs.

MR. SMITH issued a disclaimer that he didn't have a degree in economics before saying that he has heard that interest rates are generally so low that it's not a real concern. It would be different, he said, "If we were back in the late 70s where interest rates were 15 or 16 percent, and the state was subsidizing money by making 7 or 8 percent loans, then you would see, perhaps, a driving up to overall price phenomenon." There has been a subsidized federal loan program since Senator Stevens enacted it in 1996 that is capitalized at about $5 million per year. There is no evidence that the subsidy has had an impact on prices. The program is working, which makes it valuable and it's difficult to get your hands on more quota.

SENATOR WAGONER asked about a non-profit going out on the open market and buying quotas by the block. He questioned whether the integrity of the block that they purchased was going to have to be maintained by the community. For instance, "If it's a 20,000 pound block of unblocked quota, will that have to be maintained during the time that quota is in the hands of the non-profit?"

MR. SMITH said yes, if they buy it as blocked, it remains blocked.

SENATOR WAGONER added, "Unblocked doesn't matter. They can buy up and down however much they want." He then asked if the quota that's leased to the fisherman counts toward the two block per name restriction.

MR. SMITH said no and clarified that the fisherman doesn't get blocks they get pounds. The limit on the fisherman is that they can't fish more than 50,000 pounds. Therefore, if he had 10,000 of his own he couldn't get more than 40,000 from the CQE [Community Quota Entities].

SENATOR WAGONER said okay and remarked that it answered his second question as well. "I think it's a good program, especially for the smaller communities," he said.

SENATOR LINCOLN read the following from page 5 of Mr. Smith's handout: "A community may not designate more than one non-profit entity to represent it, but a non-profit entity may represent more than one eligible community." She tried to determine what the designated CQE restrictions were and opined they were fairly vague. She asked Mr. Smith whether he foresaw a time when a non-profit entity might try to be the designated non-profit for numerous communities. What would be the benefit and drawback to doing that, she asked.

MR. SMITH told her there is talk of one entity representing several communities and the advantage is administrative efficiency and the strength provided in unity. The down side is that a community might feel disenfranchised by a large non-profit that they didn't feel they had sufficient control of. With regard to that, he said, "Our hope is that before a CQE receives authority to represent a village, they have to have signoff from that community." They hope the signoff isn't accorded lightly and that there will be mechanisms in the articles of incorporation and by laws of the non-profit giving the communities that are according them the ability to operate on their behalf, enough leverage to get the behavior they like. Once the designation has occurred, there are no particular ways to withdraw support," he said.

SENATOR WAGONER asked if he as a resident of Kenai could go to Seldovia and contract to fish some quota from there.

MR. SMITH said he would have to move to Seldovia, live there for a year, and swear that he intended to remain there when he received the quota by transfer. Otherwise it's prohibited.

SENATOR WAGONER said he was wondering about that. What would they do with the un-fished quota if for example they got 150,000 pounds and they only had people to fish 120,000 pounds, he asked.

MR. SMITH said he love to see a community with the problem that they have too much quota to fish. But in that sort of situation, the community probably would know it and if they really couldn't find anybody to fish, they could transfer the quota. They could also transfer the quota to a fisherman and as a non-profit, take an equity position of the quota in the hands of the fisherman. "There is really no mechanism for a community that can't find people to fish the quota it holds except transferring or doing other things," he said. There isn't, however, an exception to the requirement that those who receive the quota to fish, must be permanent residents of the community.

SENATOR ELTON referred to page 5 of the handout and read: "CQEs are new (organized after April 10, 2002) non-profit corporations" and asked if that wouldn't preclude a CDQ group from also being a CQE.

MR. SMITH said that's correct.

SENATOR LINCOLN asked about the council's ability to expand beyond the 42 identified communities. "Under what conditions would you expand it and would you expand it for within those areas or expand it into absolutely new areas," she asked.

MR. SMITH said council can do as it will, but within policy parameters that they establish they would consider applications from communities meeting the basic requirements. Those requirements are that they are on the Gulf of Alaska and have fewer than 1,500 people, but they might revisit old decisions. For example, the communities of Haines, Klukwan, and Saxman have petitioned to be included. They don't meet the strict requirements the council set and aren't included in the initial list, but if the council decides to accept their petition, they could recommend that they be included. Seldovia is another example. It is an unincorporated area down the road from the City of Seldovia that is a tribe. "I would see that those types of marginal places that were sort of left out the first time out, but conceivably meet most of the other parameters would be under consideration to be allowed in," he said.

SENATOR WAGONER recapped that the fisherman must be a resident of the community, but they won't have to sell the product in the community. It would be within their purview to go wherever the market is.

MR. SMITH said that's true, but "If I were a creative non-profit and there were some opportunity to develop a local niche marketing capability, part of my agreement on the annual basis with that fisherman would be that they would work with that larger local economic development opportunity." That isn't part of the program though, he said.

SIDE B
2:25 pm

CHAIR STEDMAN asked for the current collective status if the cap is 21 percent of the overall quota.

MR. SMITH said it's considerable less than that. At the end of 2003, the aggregate quota held by the eligible Southeast communities was 1.5 million pounds. The aggregate quota held by the South Central communities was 2.3 million pounds.

CHAIR STEDMAN pressed him to convert that to a percentage of the total.

MR. SMITH elected not to do the calculation in his head, but assured him that it was nowhere near 21 percent of the 60 million total allowable catch. He added, "These are shares that are held by individuals that are currently in the program."

CHAIR STEDMAN commented that this is potentially a dramatic shift if it is successful and goes anywhere near the cap.

MR. SMITH agreed adding that this is an allocation of opportunity and the expectation is that the people forming the non-profits will be creative and bring home the benefits of what has been a very successful limited access system. But it's going to take time he cautioned. This bill opens a door.

CHAIR STEDMAN asked where these communities started in relation to the overall quota allocation when the IFQ program began.

MR. SMITH conceded that his data was very preliminary. But, he said, "According to our calculations, in 1995, which was the first year of the program, in Southeast, the total holdings of people who lived in these eligible communities was 2.3 million pounds. And that's in 2004 pounds. And now it's 1.4 million; it's in a decline of about 37 percent. And in South Central it was 2.7 million and it's declined to 2.3 million."

CHAIR STEDMAN repeated that if it happens, this would be a dramatic shift. "It's no where near where it was when the system started. The system started probably somewhere around maybe 2.5 percent and now they can go into this program all the way up to 21 percent so we'd have the reverse in place. We'd have a substantial drain out of the larger more established communities into the smaller ones."

MR. SMITH said most people think that's unlikely because shares might cost from $12 to $16 per pound. So, "all the kings horses and all the kings men aren't going to put enough money on the street to allow these non-profit entities to buy up quota to that extent I don't think."

SENATOR ELTON commented that that only happens if there is a willing seller in a larger community.

CHAIR STEDMAN replied he understands that, but he also expects that most of the quota would be held in the larger communities.

Touching on the structure of the non-profit, he asked whether they could use the capital they build to develop or purchase things outside the fishing industry.

MR. SMITH said the short answer is no. When they sell the quota they must agree that it is to enhance or expand the opportunities under the program, but as far as spending excess cash at the end of the season, his office doesn't micromanage so the community is the watchdog.

CHAIR STEDMAN said there aren't any requirements then.

MR. SMITH added that there isn't any prior approval of expenditures.

CHAIR STEDMAN said, "Assuming that they hold this quota share for virtual perpetuity, they can take that excess cash flow and spin it off into the infrastructure of the community as they see fit."

MR. SMITH said that under the current rules the answer is yes, but no one expects the non-profit to do that because they have to submit an annual report revealing how they are performing and the council pays close attention to what's going on. He said, "The theory was that we didn't want to saddle these guys with a bunch of bureaucrats." The idea is to encourage creativity, but if the money is being used for non-fishing related projects that creativity would be reined in.

CHAIR STEDMAN asked if there is any structure established for a tie between the non-profit and the fisherman.

MR. SMITH told him that NMFS intends to stay out of that if at all possible. Their only requirement is that the fisherman be a community resident.

CHAIR STEDMAN added, "And the boat he fishes on."

MR. SMITH disagreed saying it doesn't extend to the boat.

CHAIR STEDMAN said, "So the resident fisherman. Then if he got 10,000 pounds, he could go to another community, get on another boat - a one percent boat - go for a ride and come back and go back home."

MR. SMITH acknowledged that is conceivable, but hopefully the non-profit wouldn't enter into an agreement allowing the fisherman that latitude.

CHAIR STEDMAN remarked, "I think you'll probably find that their margins might increase and that sometimes drives economic decisions that aren't in the best interest of the overall communities."

MR. SMITH shrugged and said the purpose is to give the opportunity for these decisions to be made at the local level. "But if we find out at the end of two or three years that it's just not going to work and the margins are so marginal, that the only way a guy can make money in that community is to go someplace else to fish then I think the council will take a second look at this."

CHAIR STEDMAN made the point that some of these communities have existed for over 1,000 years while others are very small and have almost no community structure. In reviewing the communities listed in the 2-C area, he said there's a big difference between Kake or Angoon that both go back who knows how long and Point Baker or Port Alexander that were just small harbors 100 years ago and have since developed into small fishing communities. "There's a substantial difference between the structures of the communities and their potential desires and how they handle that. I'm not saying you're overly optimistic, but I think you're going to find some of these boys are a little more creative than you might be giving them credit for." Economic opportunity is certainly on the table, he said.

SENATOR ELTON noted that there are some requirements associated with creating a CQE, but once it is established and the community and state have signed off, there isn't any great amount of control to induce good behavior over time. Because there doesn't appear to be any real mechanism to check bad behavior, he questioned whether the state would have the ability to call the loan.

MR. SMITH deferred to the state for an answer.

MR. WINEGAR thought that was a good suggestion and said there are protections they could build into their regulations just as they've done with other programs.

2:40 pm

There were no further questions and Chair Stedman opened public testimony.

GAIL VICK, executive director for the Gulf of Alaska Coastal Community Coalition, testified via teleconference in support of SB 387. They are most interested in following how CQEs will be funded.

She agreed that there is reason to be cautious and careful in organizing CQEs. They want the program to succeed and realize the process will take time because there is neither a big pot of money available nor a big market share available. Others will be sending in letters of support as time goes on, she said.

SENATOR LINCOLN greeted her former employee and asked for an estimate of the number of communities that might form a non-profit.

MS. VICK confessed that they really didn't know, but she did know that northern Southeast communities were petitioning to form a non-profit for all of Southeast. She didn't believe that all of Southeast would be a group, but she thought a number of communities would join together. It makes sense, she said, for the communities that have had long standing close ties with each other to build on that relationship.

CHUCK TOTEMOFF, president and CEO of Chenega Corporation, testified via teleconference in support of SB 387. He said he's been on the Gulf Coalition Board for a number of years and has also been active in the economic development of the community of Chenega. They have developed a document that the University of Alaska Anchorage is using as a template for community development and a key to its success is fisheries development. This is a positive step and an economic key to the effort to reverse the trend of community residents migrating to other areas.

OLE OLSEN said he is the president of the Old Harbor Native Corporation subsidiary and a founding member of the Gulf of Alaska Coastal Community Coalition. He spoke via teleconference in support of SB 387 and reiterated the testimony given by Mr. Totemoff and Ms. Vick. "This is an opportunity that has great potential for those communities." It will help maintain the lifestyles of these small fishing communities.

GORDON JACKSON, chairman of the board of Kake Tribal Corporation, testified that the corporation owns processing units in Pelican and Kake. They have been monitoring a similar operation and for several years have wanted a non-profit corporation to work within communities. It's their belief that a similar program should have been set up when the IFQ program was established. They anticipated that a lot of the quota would leave the community and that's what happened.

> In Kake for instance, they started out with over 300,000 and over the last several years they've lost over 200,000 pounds of halibut IFQs. If a similar bill had been around, the first right of purchase would have been within the community - in the non-profit.
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> And if a non-profit were available and were allocating some of this 200,000 quota, what you would have in that community would be an allocation to fishermen. Not only to the captains, but also to the young people who were left out of the IFQ program. The young people are sitting on the street wondering how in the world to get into the fishery and I truly believe that this would bring some of the young people into it.
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> On top of it, if you have a processing unit within the community like Kake and Pelican, you would retain the raw fish taxes within the community. You would retain the jobs that were created as a result of the quota within the community.
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> I've been watching this and monitoring it and testifying and making sure that they got our information relating to it. And we've been looking at various options relating to the establishment of non-profits. In Kake for instance, they've been talking among the Native Corporation, the tribe and the

community - the municipality. If they work together you would see that the best possible situation of economic development in any village situation in Southeast Alaska. Working together provides a number of benefits.

In the Central Council we've been looking at not only local control of the fishery, but also region wide modules of operation. We've tried to secure some support for a region wide non-profit. I think we've had about eight letters of support or resolutions basically saying this is a good way to do it. It would bring down the administrative costs. We would be able to allocate some of this quota. We'd be able to buy it and keep it within the community.

Then there are some communities that really want local control. Ones with processing units like Kake and Hoonah are thinking very strongly about that kind of model. I think that one of the items that's been missing over the last several months since this has been proposed and gone through the North Pacific Fisheries Management Council, is how are you going to buy it. How are you going to buy the quota?

I truly believe that this loan program that has been proposed is one way of doing it. I think that having this loan program would provide more economic development for the local folks than they've ever seen proposed within the state government over the last several years.

We endorse it; the Central Council and Convention just finished Saturday. They've endorsed this concept and resolution. Kake Tribal has endorsed this and truly believes this is a mechanism that should be passed and should be passed real fast. Because I think that the longer you wait, the more quota is going to be sold outside of the villages and smaller communities. And the rich will get richer and the poor will get poorer. This gives an opportunity to even the playing field.

SENATOR ELTON remarked that the hierarchy on forming a CQE is city council if there is a municipal government, tribal if there is no city council, and then non-profit association if there is neither of the other. He asked if there has been any discussion of having both work together if there is both a city government and a tribal government. He thought that would show that the total community was behind the idea.

MR. JACKSON told him that in Southeast there have been associations between the village, the municipality, and the corporation. You'll find that sort of memorandum agreement in Angoon, Prince of Wales and to a certain extent you'll find it in Kake. A number of communities want the tribe to be in control, but others believe it's better to work together rather than just one entity having control over the non-profit association.

SENATOR ELTON asked whether the hierarchy is bothersome.

MR. JACKSON replied, "It'll be more work, but what the heck, everything's work."

CHAIR STEDMAN noted that Kake residents have about 100,000 pounds of the original 300,000 pounds of halibut quota left and he wondered how much black cod quota was left.

MR. JACKSON told him there were no black cod permits allocated in any village in the beginning.

CHAIR STEDMAN asked how many salmon seine boats the community had lost in the last two decades. What are the young guys doing for work?

MR. JACKSON said he was glad to answer the question. This is the way purse seine permits have left communities:

> When limited entry fishing permits first came out, there were 54 limited entry purse seine permits in Hoonah. They have 4 active permits right now. In Kake you had 27 limited entry permits allocated under the limited entry program. You have 8 active permits right now. I think the only reason you have 8 in Kake is because you have active industry within the community. The same with the community of Angoon, they had about 27. They have 1 active permit right now.
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> So you see a situation in the villages that is real bleak. You look back into the history of the fishing industry and in the 1960s the communities of Kake, Angoon, and Hoonah had canneries, they owned fish traps, they owned boats, they owned just about everything you could think of.

CHAIR STEDMAN chimed in and said, "Traps before statehood."

MR. JACKSON laughed and said yes, before statehood.

SENATOR WAGONER questioned whether the reduction is in the number of permits or the number of people fishing the permits they have. For instance, in Cook Inlet over a third of the fleet didn't fish the last two years because of fish prices.

MR. JACKSON said it's reduction in the number of permits.

SENATOR WAGONER called that tragic.

MR. JACKSON agreed.

CHAIR STEDMAN said there's no work for the young guys.

SENATOR WAGONER added there's none for the old guys either.

MR. JACKSON said that's why he is so enthusiastic in his endorsement. "It brings back some semblance of local control in the fishing industry."

SENATOR ELTON suggested that he provide the committee staff with a copy of the Tlingit Haida resolution so it moves forward with the bill.

MR. JACKSON said he would do so.

DON BRENMER with the Tlingit Haida Central Council and staff for the Southeast Alaska Intertribal Fish and Wildlife Commission testified in support of SB 387. He said they have been working on the groundwork on this program for several years. They are in contact with all 22 communities in Southeast and have sent out a survey asking them to join the Southeast Community Coalition. He described their work as ahead of the curve and opined that the Southeast coalition can work.

They are promoting the region non-profit entity for a number of reasons. Senator Ted Stevens has been promoting regionalism and they agree because this would be efficient. About eight communities have signed letters of support saying they have similar views. The other communities are waiting for the articles of incorporation and the by laws before coming to the table. That's reasonable because they are key to the success of the program and will control the relationship between the entities. It's a business organization and they understand that, he said.

This is a good opportunity, he said. It's a cross generational program and the benefit will grow over time.

SENATOR LINCOLN asked when the 04-43 resolution was passed.

MR. BREMNER said it was passed in the recent General Assembly [April 14-17, 2004].

SENATOR LINCOLN asked if "Southeast Alaska Community Coalition of Fishing Communities" would be the name of the non-profit.

MR. BREMNER said yes, that would be the regional entity.

SENATOR LINCOLN asked which communities that would include.

MR. BREMNER said it was all the communities in Southeast including Yakutat. Some of the communities are thinking about doing this themselves, but the Central Council is advocating for a regional coalition to provide stability. "Look at the salmon industry, what happened there, it's become so competitive within the industry that we've pretty much shot our self in the foot. Halibut and black cod is one of the stable markets that we have. We want to try to keep stability and control in the market and not compete against one another as villages."

SENATOR LINCOLN asked whether any of the 42 communities had responded to say that they wanted to participate in the coalition.

MR. BREMNER replied they had heard from about eight communities and a number say they want to see the articles of incorporation and by-laws before they commit.

CHAIR STEDMAN asked if the regional entity would cover area 2 C and parts of 3 B.

MR. BREMNER said it's the communities that have no infrastructure that will be particularly interested in looking at the regional organization.

CHAIR STEDMAN commented that working collectively for the benefit of all the villages in a region is an important point with a side benefit of not bidding up the price of the product.

MR. BREMNER said there's a lot of benefit to forming a regional coalition not the least of which is to save the cost of forming a number of non-profits. "A lot of the villages don't have money to form the non-profit. It's $15,000 to $20,000 in lawyer's fees."

There was no further public testimony.

SENATOR LINCOLN noted that the fiscal note was zero, but DCED stated that, "The department anticipates making approximately $1 million in CQE loans in FY05 and approximately $3 million in each fiscal year thereafter through FY10." She hopes the department has the necessary manpower to follow through.

CHAIR STEDMAN asked Mr. Winegar to speak to that.

SENATOR LINCOLN added that she was pleased that the fiscal note is zero because she didn't want the bill to have another committee referral. However she said, "I'm concerned that when the Legislature has cut within the departments over the years that now we're adding another responsibility to their department that it is not going to hinder this or any other program in having the zero fiscal note."

MR. WINEGAR said he appreciates the concerns and they have thought about that, but they do have the infrastructure and staff to follow through. It won't cost a lot of money to add a few loans because the structure is already in place. "I'm confident that this is not going to adversely impact our ability to do our other functions," he said.

SENATOR ELTON made a motion to move SB 387 from committee with the attached two zero fiscal notes. There being no objection, it was so ordered.

CHAIR STEDMAN adjourned the meeting at 3:10 pm