

MINUTES
SENATE FINANCE COMMITTEE
February 13, 2006
9:05 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:05:48 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice-Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Donny Olson
Senator Lyman Hoffman

Also Attending: DOUG LETCH, Staff to Senator Gary Stevens; SALLY SADDLER, Legislative Liaison, Department of Commerce, Community and Economic Development

Attending via Teleconference: From Anchorage: JIM MCMILLAN, Deputy Director, Credit, Alaska Industrial Development & Export Authority and Alaska Energy Authority; SARA FISHER-GOUD, Alaska Industrial Development & Export Authority and Alaska Energy Authority; RON MILLER, Executive Director, Alaska Industrial Development & Export Authority and Alaska Energy Authority; BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law; DAVE CARLSON, Representative, Four Dam Pool Power Agency; From an Offnet Site: MARK HAMILTON, Chair, Alaska Aerospace Development Corporation Board and President, University of Alaska; JON BOLLING, Chair, Energy Committee, Southeast Conference

SUMMARY INFORMATION

SB 188-BULK FUEL REVOLVING LOAN FUND CAP

The Committee heard from the bill's sponsor, the Alaska Industrial Development & Export Authority and Alaska Energy Authority, Department of Commerce, Community and Economic Development, and the Department of Law. A committee substitute was adopted. Two amendments were offered with one failing adoption and one being

withdrawn from consideration. The bill was held in Committee.

HB 243-SWAN LAKE-TYEE LAKE INTERTIE

The Committee heard from the Alaska Industrial Development & Export Authority and Alaska Energy Authority, Department of Commerce, Community and Economic Development, the Department of Law, the Four Dam Pool Power Agency, and the Southeast Conference. A committee substitute was adopted and the bill was held in Committee.

SB 207-AK AEROSPACE DEVEL. CORP BD MEMBERSHIP

The Committee heard from the bill's sponsor, the Alaska Aerospace Development Corporation Board, and the Department of Commerce, Community and Economic Development. The bill was held in Committee.

#sb188

CS FOR SENATE BILL NO. 188(CRA)

"An Act increasing the maximum amount of loans from the bulk fuel revolving loan fund to one borrower."

This was the first hearing for this bill in the Senate Finance Committee.

Senator Donny Olson, the bill's sponsor, stated that the Governor's Rural Energy Action Council's (GREAC) recommendations regarding how to improve the Bulk Fuel Revolving Loan Fund (BFRLF) program prompted him to introduce this bill. The BFRLF was established in 1980 to aid communities experiencing financial difficulties due to expenses associated with annual or biannual shipments of petroleum products. Over time the original \$50,000 loan limit was raised to \$300,000 to address price "escalations" and increasing consumption. GREAC also developed incentives to encourage "larger cooperative organizations" to combine their purchases in order to earn price concessions.

Senator Olson stated that in order to further the success of the BFRLF program, this bill would increase the loan limit from \$300,000 to \$400,000. It would also expand that limit were an entity developed to purchase fuel for more than one community. In that case, the loan limit would be the lesser of \$1,500,000 or \$400,000 multiplied by the number of communities participating in the cooperative effort. "This would encourage larger fuel purchases by those organizations to obtain the economy of scale."

Senator Olson noted that two amendments, developed by GREAC, would

be forthcoming.

[9:09:53 AM](#)

Senator Olson moved to adopt committee substitute Version 24-LS0952\S as the working document.

Co-Chair Green objected for discussion.

In response to a question from Co-Chair Wilken, Senator Olson clarified that Version "S" contained two changes: one being to increase the individual loan limit from \$300,000 to \$400,000 and the other to allow a single entity to coordinate a cooperative loan amounting to the lesser of \$400,000 multiplied by the number of communities involved in that cooperative effort or \$1,500,000.

[9:11:43 AM](#)

Co-Chair Wilken asked whether the language pertaining to "a cooperative corporation" as depicted in Section 1(e)(1) page 1 lines 7 and 8 was new.

Senator Olson affirmed that while there "have been attempts to" organize cooperative organizations, no provisions in that regard have ever been incorporated into the Bulk Fuel program.

[9:12:22 AM](#)

Co-Chair Wilken asked whether those were the lone changes being proposed.

[9:12:46 AM](#)

Senator Olson confirmed those as being the only changes.

Co-Chair Green informed the Committee that further information has been provided in the "Blue Book" titled "Bulk Fuel Revolving Loan Fund History, Status, Projections" [copy on file], dated August 25, 2005. To that point, she read the following section as depicted on page 3.

Current law allows individual loans to finance bulk fuel acquisition for use in multiple communities, provided that the governing body of each community issues its written endorsement. For example, an electric cooperative with membership extending to more than one community can obtain a single BFRLF loan to finance its bulk fuel purchase as long as each participating community has less than 2,000 population

and provides AEA [Alaska Energy Authority] with its written endorsement. Under current law, however, the cooperative in this example can borrow no more than \$300,000 in a single fiscal year - the same as any other borrower.

Co-Chair Green stated that the proposed language in the bill would allow the amount that could be borrowed in this manner to be \$400,000 multiplied by the number of participants "not to exceed \$1,500,000". "The pooling" allowed in this manner is "the most substantial" change.

[9:13:31 AM](#)

Senator Dyson asked whether an estimate of the number of cooperative agreements that might be formed has been determined.

Senator Olson deferred to the Alaska Energy Authority (AEA). His "general sense" was that the inclusion of this language would be important, as it would allow for such cooperative agreements to be explored. While the Yukon-Kuskokwim (YK) area had considered this approach, action was curtailed, as it was not authorized under Statute.

Senator Dyson asked whether data on the history of loan defaults was available.

Senator Olson affirmed that data was available.

Senator Dyson stated that the information would be appreciated.

[9:15:04 AM](#)

Senator Olson clarified that the data focused on loans that were delinquent rather than loans that were in default.

JIM MCMILLAN, Deputy Director, Credit, Alaska Industrial Development & Export Authority and Alaska Energy Authority, testified via teleconference from Anchorage and informed the Committee that "over the past few years, the delinquency rate on the Bulk Fuel Revolving Loan Fund has been averaging between five and ten percent. Delinquency is defined as any loan where a payment is 90 days or more past due."

Senator Dyson asked the total amount in delinquency status.

Mr. McMillan stated that as of December 31, 2005, \$297,000 out of a total \$4.3 million loan balance was delinquent. This would equate to 6.91 percent of the outstanding loan balance total.

[9:16:53 AM](#)

Co-Chair Wilken asked whether a cooperative or a community with a delinquent standing would be able to acquire another loan.

Senator Olson understood that delinquent entities could not re-apply for another loan. However, other programs would be available through which an entity could address its outstanding balance.

[9:17:31 AM](#)

Mr. McMillan stated that in order for a loan to be approved, an applicant must meet "certain credit standards" which would include their credit history. Thus, delinquency on an existing loan "would be adverse issue". In addition, State Statutes also limit an entity to receive one loan per fiscal year. Therefore, an entity with an outstanding loan would not qualify to receive another loan.

Co-Chair Wilken asked whether the \$200,000 depicted in the "Write-Downs and Recoveries" column of Table 1, Section 1 "History and Status of the Bulk Fuel Revolving Loan Fund" on page 4 of the Blue Book was the delinquent amount Mr. McMillan had referred to.

Mr. McMillan responded that it was not. While AEA does track delinquencies, the information in the Blue Book does not reference that. There is a difference between delinquencies and Write-Downs.

Co-Chair Wilken asked for further information about the effect of incorporating the language "cooperative corporation" as specified in Section 1(e)(1) page 1 lines 7 and 8.

[9:19:46 AM](#)

Mr. McMillan explained that under current Statutes, a cooperative of five communities, for example, that endeavored to combine fuel purchases to maximize price breaks could borrow a maximum of \$300,000. This proposed language would expand the cooperative loan capacity to the lesser of \$1.5 million or \$400,000 multiplied by the number of communities in the cooperative. The \$1.5 million amount was specified in order to prevent the BFRLF from being depleted.

Co-Chair Wilken acknowledged.

Co-Chair Green desired that representatives of AEA provide their testimony prior to Senator Olson offering the aforementioned amendments.

[9:21:19 AM](#)

Mr. McMillan stated that the BFRLF was established to provide funds to communities with populations smaller than 2,000 that annually or semiannually purchased bulk fuel. "Typical borrowers are communities, utilities that provide power in the community, and fuel retailers in the community. The fund would provide money up to 90 percent of the wholesale price landed of bulk fuel purchased". The current loan limit is \$300,000.

Mr. McMillan stated that the changes proposed in this bill would increase the individual loan limit from \$300,000 to \$400,000. In addition, it would allow a cooperative organization or an electric cooperative "to borrow the lesser of \$400,000 multiplied by the number of communities or \$1,500,000."

Mr. McMillan stated that the Middle Kuskokwim Electric Cooperative is a cooperative of five communities that currently borrows money in this fashion.

Mr. McMillan stated that the legislation would also expand "the definition of eligible borrower to a person maintaining community facilities for infrastructure". In addition, AEA could "adopt regulations to establish standards for the allocation of loan funds to eligible borrowers."

Co-Chair Green asked whether Mr. McMillan's remarks included references to language in the forthcoming amendments.

Mr. McMillan affirmed. Continuing, he informed the Committee that the changes being proposed to current regulations were the result of the fact that, in recent years, AEA has experienced an increase in the number of borrowers as well as an increase in the loan amounts being requested. The increases are the result of "higher prices for delivered bulk fuel, a decline in vendors wanting to finance the purchase of bulk fuel, and to a certain extent, increased volumes of bulk fuel as a result of AEA's efforts to upgrade bulk fuel tank farms in Rural Alaska."

Mr. McMillan shared that increased fuel prices have forced communities once able to finance their purchases to seek assistance. In FY 2003, 39 loans totaling \$3.4 million were requested. Six of those requested the maximum loan limit at that time, which was \$200,000. In FY 04, 53 borrowers requested a total of \$4.9 million. The maximum loan limit that year was \$300,000. In FY 05, 54 borrowers requested loans amounting to a total of \$6.7 million. 27 borrowers have requested \$4.2 million though the first

half of FY 06. The average loan amount increased 53 percent from FY 03 through FY 05.

Mr. McMillan informed the Committee that GREAC has endeavored to further the creation of fuel cooperatives in hopes that such volume ordering might generate "price breaks" for Rural Alaska. The existing single loan limit "might defeat" that effort. The proposal to base a cooperative's loan limit on the lesser of \$400,000 multiplied by the number of entities in the cooperative or \$1,500,000 "to preclude depleting the fund" would assist this endeavor.

[9:26:55 AM](#)

Mr. McMillan stated that AEA recently received a request "to lend bulk fuel money to the Rural Utilities Services (RUS), an arm of the Yukon-Kuskokwim Health Corporation who had entered into a written agreement with the City of Chevak to manage and operate their sewer and water system which included purchasing fuel to operate the system". Current Statutes designate eligible borrowers to include the community, the utility providing power in a community, and fuel retailers in the community. Thus lending funds to a third party, such as RUS, that a community had contracted with to oversee the operation of its utilities is prohibited.

Mr. McMillan specified that one of the forthcoming amendments would allow AEA to adopt regulations pertaining to the program and to set standards for the allocation of the Fund money "to eligible borrowers when the demand on the fund exceeds the amount of money available to lend". While this has not been an issue since FY 2002 when additional capitalization of five million dollars was received in the form of a United States Department of Agriculture Rural Utilities Service (USDA RUS) grant, the action being requested would allow AEA to take action in the future were there increasing demand on the Fund and an absence of additional capitalization.

Co-Chair Green reminded the Committee that Mr. McMillan's testimony included explanations of both the bill and the two forthcoming amendments.

[9:28:54 AM](#)

Senator Stedman asked regarding the proposal to increase the amount of money that could be lent to cooperatives, specifically in regards to the language on page "v" of the Blue Book that reads as follows.

For these organizations, the current language of the bill

would raise the annual limit to "\$300,000 multiplied by the number of communities on whose behalf the bulk fuel is to be purchased, or \$1,000,000 whichever is greater." This language means that, for an electric cooperative such as AVED that serves 50 communities, the annual borrowing limit would be \$15 million. However, if the intent was to set the annual borrowing limit at "whichever is less" of the two alternative, then AVEC's borrowing limit under an amended bill would \$1.0 million rather than \$15 million.

Only 5 existing organizations were identified that would be directly affected by the proposed legislation. None of these are currently BFRLF borrowers and none expect to become BFRLF borrowers in the foreseeable future whether or not the legislation is enacted. However, it is possible that one or more may access the BFRLF regardless of current expectations. Naknek Electric Association reported that it needed supplemental financing this past year from the Cooperative Finance Corporation (CFC) in an amount exceeding \$300,000 to help finance its bulk fuel acquisition because the utility's cash reserves were inadequate to pay the entire bill. Should this happen again and if the BFRLF borrower limit were raised, Naknek Electric could find it preferable to obtain supplemental financing from the BFRLF rather than CFC.

Senator Stedman noted that the maximum cooperative loan limit in this language differs from the \$1.5 million specified in Version "S". In addition, the statement on page "v" that none of the five identified organizations would utilize the funds differs from the argument in support of cooperative borrowing.

[9:30:10 AM](#)

Mr. McMillan responded that the amendment regarding cooperatives and the amount that they could borrow from the Fund could be characterized as a "proactive measure." The desire of REAC is "to encourage the formation of bulk fuel cooperatives". Electric cooperatives such as the Alaska Village Electric Cooperative (AVEC) that is comprised of approximately 50 communities currently exist. Due to its size, AVEC has been able to negotiate reasonable fuel prices with vendors, without the assistance of the BFRLF. Furthermore, were AVEC to require BFRLF assistance, it could "bust the fund."

Mr. McMillan reiterated that the purpose of the proposal would be to encourage the formation of additional bulk fuel cooperatives.

[9:31:33 AM](#)

Senator Stedman interpreted this answer to indicate that there "is there is no current demand" from cooperatives. While AEA appears to anticipate that there could be demand in the future, the report would appear to indicate that there would not be.

Senator Stedman also asked about Section V as depicted on page "iv" of the Blue Book, specifically as he understood it to "insinuate" that there might be other avenues through which to achieve lower fuel prices.

V. There is an extensive history of efforts to consolidate bulk fuel purchasing in rural Alaska with the goal of achieving price savings. Attempts to create and maintain formal bulk fuel purchasing cooperatives have been unsuccessful although some efforts at informal consolidation have worked out and have been sustained over a period of years. Interviews suggest that, while volume discounts might be achieved for consolidated purchasers within a certain size range, more significant savings are likely to be achieved through strategies that assure fuel distributors of full and timely payment.

[9:32:30 AM](#)

Mr. McMillan communicated that the review of previous attempts to establish bulk fuel cooperatives would indicate that the cooperatives have failed to achieve the primary goal of reducing fuel costs "through large volume purchases". Numerous factors may have contributed to that failure including the member's obligation to fund the cooperative's overhead and the issue of the fuel being delivered to multiple locations. Vendors have stated that delivering fuel to multiple locations is a primary driver of costs. This issue could be diminished were there one central delivery location. Senator Stedman is correct that history would indicate that there has been little success with bulk fuel cooperatives.

[9:34:07 AM](#)

Senator Olson referred the Committee to the chart on page 20 of the Blue Book. He asked for verification that the community of Aniak with a population of 539 paid \$1.80 per gallon of fuel whereas the community of Tuluksak with a population of 461 paid \$3.27 per gallon.

[9:34:39 AM](#)

Mr. McMillan stated that AEA contracted with a third party to

conduct the study and gather the information presented in the Blue Book. Therefore, he could only accept the information as stated.

[9:35:02 AM](#)

Senator Olson asked how the loan defaults being experienced by BFRLF would compare to other commercial default/delinquency percentages.

Mr. McMillan, drawing on his 25 years as a commercial banker in Alaska, stated that bankers would view a delinquency rate exceeding two percent of their portfolio, as being excessive. Continuing however, he characterized these loans as "higher risk loans" due to the nature of the borrowers. In 2001 and 2002, AEA was experiencing delinquency rates as high as 25 to 30 percent. "Prudent underwriting and strong follow-up on collections" have been successful in reducing the delinquency rates.

[9:36:24 AM](#)

Senator Stedman declared that as this discussion has continued, the issue has become more confusing. While the financing component of the program might have been successful, the "report infers" that the effort to reduce fuel prices has been unsuccessful. The report also indicates that many communities have opted not to use the program. To that point, he pondered whether that might be because there are State energy assistance programs. The programs should be reviewed; some might not be required and perhaps others could either be consolidated or changed.

[9:37:26 AM](#)

Senator Stedman reiterated the fact that five existing organizations would not be anticipated to use the BFRLF. Thus the question is to how this program would mesh with other energy assistance programs that are available.

[9:38:06 AM](#)

Mr. McMillan clarified that rather than "to lower the price of fuel", the BFRLF was established to enable communities to finance large annual or semi-annual purchases of fuel. There are a limited number of lenders that would allow communities to pay for such "purchases up front and pay back the loan over a seasonal period".

Mr. McMillan continued that the experience is that as the price of fuel has increased, more communities have been borrowing from the Fund. It should be noted that there is a movement to create bulk

fuel cooperatives. He communicated that the Northwest Arctic Borough has been experimenting with a semi-cooperative model for approximately one year. However, he was unaware of the results of that endeavor. Nonetheless, the high price of fuel has prompted more people to further efforts to achieve lower fuel prices. Cooperatives might be one of numerous efforts in that respect.

[9:40:14 AM](#)

Senator Stedman understood that a first time BFRLF borrower would be issued a zero interest rate. A second time borrower would be issued a five percent interest rate, and a third time borrower would be issued a rate tied to long-term municipal revenue bonds. He asked that the interest rate determinations be elaborated to include how the BFRLF interest rates compared to those of a commercial lender.

[9:41:09 AM](#)

Mr. McMillan responded that Senator Stedman is correct: the interest rate for the first loan is zero; the second loan rate is five percent; and the third loan would be "an average of some index of municipal bonds".

Mr. McMillan expressed that commercial lenders' rates would vary as they would be based on the lender's cost of funds as well as the risk associated with the loan. Based on the fact that the current prime rate is 7.25 percent and Treasury Bonds are at five percent, he would anticipate the rate being charged by a commercial lender to be 8.5 percent. Therefore there would be "a savings to borrowers who utilize the BFRLF".

[9:42:33 AM](#)

Co-Chair Wilken asked whether the BFRLF program was similar to the Denali Commission's bulk fuel program.

[9:42:54 AM](#)

Mr. McMillan stated that the BFRLF would refer applicants that might not qualify for its program to the Denali Commissions' Bridge Bulk Fuel Loan Fund. The intent of that program could be characterized as "a temporary measure until such time that the community would qualify for the BFRLF".

[9:43:45 AM](#)

SARA FISHER-GOUD, Alaska Industrial Development & Export Authority

and Alaska Energy Authority and RON MILLER, Executive Director, Alaska Industrial Development & Export Authority and Alaska Energy Authority testified via teleconference from Anchorage and informed the Committee that they were available to answer questions.

[9:44:00 AM](#)

Co-Chair Green removed her objection to adopting Version "S".

There being no other objection, the Version "S" committee substitute was ADOPTED as the working document.

Amendment #1: This amendment inserts "; and authorizing regulations to establish standards for the allocation of money in that fund to eligible borrowers." into the bill's title following the word "year" on page 1 line 2.

In addition, the amendment inserts a new section into the bill on page two, following line one as follows.

Sec. 2. AS 42.45.250(j) is amended to read:

(j) The authority may adopt regulations necessary to carry out the provisions of this section, including regulations to establish

(1) reasonable fees for services provided and charges for collecting the fees; and

(2) standards for the allocation of bulk fuel revolving loan fund money to eligible borrowers."

New Text Underlined

Senator Olson moved for the adoption of Amendment #1.

Co-Chair Green objected.

[9:44:48 AM](#)

Senator Olson explained that the State's Attorney General recommended this amendment. The purpose of the Amendment would be to provide a process through which the BFRLF could limit its allocations to eligible borrowers to prevent the money that is in the Fund from being depleted. He noted that Mr. McMillan's testimony had addressed this amendment.

Co-Chair Green asked whether the amendment is being offered because no language currently exists through which to protect the Fund.

Senator Olson deferred to Mr. McMillan. It was his understanding that the language would be required in order to prevent the funds

from being depleted.

[9:46:08 AM](#)

Mr. McMillan stated that prior to a five million dollar USDA RUS grant received in 2002, the BFRLF experienced cycles, typically at the times of Fall or Spring fuel delivery, during which the Fund received more applications for dollar amounts than there was money in the Fund. While no process is specified in regulations, the BFRLF established a system that awarded funds on "a first come first serve basis". Due to the fact that "the payback period on the loans is nine months", there is "a constant cycle of cash running through" the Fund, and, as payments were made, funds were provided to the applicants waitlisted. While there has not been a cash flow issue since the USDA RUS grant was received, this past year at the peak of the application request period, the Fund had a balance of approximately \$1.5 million. This amendment would allow the BFRLF to adopt the first come first serve system or another standard. The amendment would provide the Fund the ability "to adopt regulations to set standards".

Co-Chair Green asked for confirmation that the Fund could not establish such standards without this language.

[9:47:49 AM](#)

Mr. McMillan deferred to the Department of Law.

[9:48:46 AM](#)

BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law testified via teleconference from Anchorage and stated that while the adoption of this amendment "might not be absolutely necessary, having this type of language authorizing the adoption of regulations is useful and recommended because it will avoid the risk of litigation" were a system other than the first come first serve process adopted in the future.

[9:48:57 AM](#)

Co-Chair Green asked therefore, whether the language in the amendment would be sufficient or whether more detailed language would be required.

[9:49:07 AM](#)

Mr. McMillan responded that, other than the first come first serve

process that has been utilized, no standards have of yet been established. This language would be required in the event where the Fund to determine that standards should be implemented. It would provide a process through which public hearings could be conducted and regulations could be established to the benefit of eligible borrowers. This amendment would provide for that process.

Mr. Bjorkquist added that, "this language is broad enough" to allow the agency the "discretion to adopt the allocation system that it would believe to be best suited for the program under the circumstances as they would arise in the future."

[9:50:15 AM](#)

Senator Stedman, observing that the BFRLF received \$9,000,000 in loan requests and disbursed \$5,300,000 in FY 2005, asked the reason that only 60 percent of the requests were granted. This information is depicted on page "i" of the Blue Book.

[9:50:47 AM](#)

Mr. McMillan responded that there is some confusion in regards to the figures presented in the report. He explained that the commitment date is the date that the BFRLF actually approved the loan. While requests are oftentimes submitted up to two or three months before a barge order is due, the funds might not be disbursed until up to four months after that commitment. "It is a timing issue" ... and the funds "might cross fiscal years." This could be confusing.

There being no further discussion, Co-Chair Green noted that she would maintain her objection to the adoption of Amendment #1. Continuing, she stated that the bill would be held in Committee and, were the amendment to fail, "more acceptable" language could be developed for reconsideration.

Senator Olson asked whether the failure of such an amendment would affect the Fund.

[9:52:10 AM](#)

Mr. McMillan responded that based on recent experience, the non-adoption of the amendment would not pose a problem in the near future. He reiterated that at the most recent "peak" the fund maintained a level of approximately \$1.5 million. However, were both the price of fuel to continue to increase and the loan limit to increase, further pressure might be experienced. "It is hard to look in a crystal ball" and determine "at what point this might

become an issue".

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman, Senator Olson, and Senator Dyson

OPPOSED: Senator Stedman, Co-Chair Wilken, and Co-Chair Green

ABSENT: Senator Bunde

The motion FAILED (3-3-1)

Amendment #1 FAILED to be ADOPTED.

Senator Stedman requested that additional information regarding the loan request and loan disbursement table depicted in the Executive Summary on page "i" be provided, as the information presented is "distorted".

Co-Chair Green suggested that Senator Stedman confer with AEA in this regard.

Amendment #2: This Amendment inserts "relating to the purposes of and eligibility for loans from the bulk fuel revolving loan fund; and" following "An Act" in the bill's title on page 1 line 1.

In addition, a new bill section is inserted on page 1 following line 3 as follows.

Section 1. AS 42.45.250(a) is amended to read:

(a) The bulk fuel revolving loan fund is established in the authority to assist communities, utilities providing power in communities, and fuel retailers in communities in purchasing bulk fuel to maintain community facilities or to generate power or supply the public with fuel for use in communities. A community, or a person generating power or selling fuel in a community or maintaining a community facility who has written endorsement from the governing body of each community for which a loan from the fund is sought, is eligible for a loan from the bulk fuel revolving loan fund for a purchase of an emergency supply or a semiannual or annual supply of bulk fuel to be used in the community."

New Text Underlined.

This amendment also inserts a new bill section on page 2, following line 1 as follows.

Sec. 3. AS 42.45.250(1) is amended by adding a new paragraph to read:

(3) "community facility" means a public building or public work open to, or used by or for the benefit of, the public and owned by a community, a governmental entity, or a nonprofit organization; in this paragraph, "public building or public work" includes educational and health facilities, water and sewer facilities, roads, and docks.

Senator Olson moved to adopt Amendment #2.

Co-Chair Green objected.

[9:54:25 AM](#)

Senator Olson explained that this amendment would expand the entities to which BFRLF loans could be provided. Currently BFRLF loans are limited to communities, utility operators and fuel retailers. He noted that due to the current restriction, RUS, which is a subsidiary of the YK Health Corporation, has been unable to acquire BFRLF loans. This amendment was requested by the GREAC.

Co-Chair Green stated that the language is very broad.

[9:55:45 AM](#)

Co-Chair Wilken agreed with Co-Chair Green. He recalled that when community facilities were added to the Power Cost Equalization program, the community facilities line item increased more than five times the rate depicted on the personal facilities line. The community facilities portion might surpass the residential portion. The purpose of the BFRLF is to purchase fuel at a lower rate in order to assist residents. "This may squeeze out the residential benefit to the benefit of community facilities." Community facilities have the option to borrow at the eight percent level instead of the seven percent level.

[9:56:42 AM](#)

Senator Olson suggested that rather than community facilities surpassing the residential usage, the perspective should be that community facilities are finally catching up the community needs. In other words, "what started out as a deficit is now catching up with the community's needs".

Senator Olson asked Mr. McMillan to speak to the amendment.

[9:57:13 AM](#)

Mr. McMillan noted that it would be important for the Committee to

understand that this amendment would pertain to a third party that, by agreement, "would be taking over ... the affairs of community." Currently a community could borrow from the BFRLF. That bulk fuel could be used for multiple purposes including heating community owned facilities. That usage would not be new. This amendment would expand who could borrow the funds rather than how the fuel purchased by the funds could be used.

Mr. McMillan continued that a third party on contract with the community might, as part of the contract, be authorized to purchase fuel, to receive revenues, or to bill and collect on the behalf of the community. This amendment would allow that third party, with consent of the community, "to be the borrower under the Statutes".

[9:59:09 AM](#)

Senator Hoffman stated that an example of this situation would be the YK Health Corporation, which is an organization with sound financial management. That corporation could assist a small community experiencing financial difficulty, such as the small community of Chevak. This amendment would allow an entity such as the YK Health Corporation to "accept the BFRLF bulk fuel loan and be more responsible to make sure that it will pay back the loan." Chevak for instance, has had a very bad track record in the regard. The program would be more solvent in this case, were the YK Health Corporation to be responsible for the loan.

[10:00:20 AM](#)

Senator Dyson appreciated Co-Chair Green's comment. While it's been several years since he had visited Western Alaska, he recalled one community that had three separate government entity buildings, each having "contempt" for both of the other buildings and the people working there. The three levels of government "bothered" him; therefore, he would be more comfortable with this amendment were it to discourage overlapping governments. Continuing, he recalled that, in a separate situation, one village split into two villages with separate power plants because of an internal disagreement. To that point, he would discourage the imposition of any incentive that might promote further inefficiencies.

Senator Stedman supported Senator Hoffman's comments that having well-managed entities involved in this program would assist in lowering default rates. "That would better serve all the participants in the BFRLF" and the State, in general. However, he voiced being uncomfortable with the language as presented. He suggested that the language be reworked.

[10:04:09 AM](#)

Mr. McMillan stated "this amendment is really a tool to assist communities in maintaining their infrastructure." A tremendous amount of capital has been invested in the infrastructure in these communities. Unfortunately, some communities are "dysfunctional". This amendment would allow for an entity, "other than those parties already in the community that are not functioning," to be responsible for that infrastructure. "It is not a case of overlapping government; this comes about when there is a lack of government."

Co-Chair Green, noting that she would maintain her objection to Amendment #2, communicated that she might be able to suggest alternate language through which to address the concern.

Senator Olson responded to Senator Dyson's "contempt" of the overlapping governments by stating that governmental agencies have different functions in communities. To that point, however, he noted that efforts to consolidate such entities have occurred in order to improve efficiency.

Senator Olson offered to withdraw Amendment #2 in order to develop more acceptable language.

There being no objection, Amendment #2 was WITHDRAWN.

Senator Dyson clarified that rather than himself feeling contempt for the overlapping governmental situation, he was simply sharing an observation of the community's feelings in that regard. To that point, he voiced appreciation for the fact that consolidation efforts have been undertaken in order to promote more cooperation and efficiency.

Senator Olson acknowledged.

Co-Chair Green ordered the bill HELD in Committee for further work.

#hb243

CS FOR HOUSE BILL NO. 243(FIN)

"An Act relating to the financial plan for the intertie between the Swan Lake and Tye Lake hydroelectric projects; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

AT EASE [10:08:05 AM](#) / [10:08:38 AM](#)

Co-Chair Green ordered the bill SET ASIDE as the bill's presenter was unavailable at the moment.

[NOTE: This bill was re-addressed later in the meeting. See Time Stamp 10:35:18 AM.]

#sb207

CS FOR SENATE BILL NO. 207(L&C)

"An Act relating to the membership on the board of directors of the Alaska Aerospace Development Corporation."

AT EASE [10:09:10 AM](#) / [10:10:00 AM](#)

This was the first hearing for this bill in the Senate Finance Committee.

DOUG LETCH, Staff to Senator Gary Stevens, the bill's sponsor, explained that this bill would increase the Alaska Aerospace Development Corporation (AADC) Board of Directors membership from nine to 11 members. In addition, it would specify that three of the 11 members must reside on Kodiak Island, which is the area in which AADC launch activities occur.

Mr. Letch informed the Committee that the current nine member Board is comprised of three State residents "who have significant high level experience in private business sector, specializing in finance, economic development or marketing". Current Board membership also includes the University of Alaska President or his designee, the University of Alaska Geophysical Institute director or his designee, the Department of Commerce, Community and Economic Development Commissioner or his designee, "two members who have held or currently hold a position in the aerospace industry or have special experience with federal regulatory procedures or policies involving space or operational experience", and a public school educator or public member.

Mr. Letch stated that the fact that none of the seats are currently dedicated to a Kodiak Island Borough resident is one of the reasons that this bill was introduced.

Mr. Letch noted that AADC has conducted "numerous rocket launch construction projects and other activities" at its Kodiak Launch Complex (KLC) since the late 1990s. The activities impact local

government activities, businesses, recreational activities, as well as the economy. KLC is also an integral component of the nation's missile defense system.

Mr. Letch remarked that the bill's sponsor has determined that local representation on the AADC Board is important. This legislation is supported by the City of Kodiak and the Kodiak Island Borough, which has developed a Resolution [copy on file] reflecting their support.

[10:12:37 AM](#)

Co-Chair Green asked the history of Kodiak Island residents' participation on the Board.

Mr. Letch noted that up until the previous year, two Kodiak Island residents were on the Board; currently there is only one. That person is Dave Woodruff, a successful fish cannery operator and member of the City Council. The other individual was also a successful businessman who resigned for personal reasons. A person who did not reside in Kodiak replaced him.

[10:13:23 AM](#)

Senator Stedman supported "the concept of having local representation" on such Boards; however, he asked whether the requirement that a Board member must possess "a high level of experience" might pose a problem; in other words, a limited qualified applicant pool might be available for a vacant seat on the Board.

[10:14:09 AM](#)

Mr. Letch pointed out that a person from Kodiak could hold the Board seat specified for either a member of the public or a public school educator. Island inhabitants would attest that there "are plenty of qualified people there, and that it would never be an issue."

Co-Chair Green asked whether the public educator seat being referenced is the seat designated in Section 1(a)(6) on page 2, line 9.

Mr. Letch affirmed. A Kodiak Island resident could be appointed to the public school educator or public member seat designated in Section 1(a)(6).

Co-Chair Green countered that the three Kodiak Island resident

memberships being proposed would appear to be included in the language in CS SB 207(L&C) Version 24-LS1208\Y, Section 1(a)(1) page 1, line 8 through 12. This language reads as follows.

(1) five [THREE] state residents who have a significant high level of experience in the private business sector, specializing in financing or economic development or marketing; three of the state residents appointed under this paragraph shall be residents of the borough where the launch activities of the corporation occur;

New Text Underlined [DELETED TEXT BRACKETED]

Co-Chair Green suggested that the Board member designations could be specified and then language allowing three Kodiak Island residents to qualify for any of the seats could be included.

Mr. Letch voiced his approval of that suggestion. It would be further reviewed.

Senator Dyson understood that, at times, the Kodiak Launch site has been utilized by the federal Department of Defense (DoD). To that point, he asked whether the AADC Board has authority specific to management decisions about how the facility could be used and which clients could use it.

Mr. Letch, while deferring to the Department of Commerce, Community and Economic Development, stated that the Board "serves in a variety of capacities as a standard board with advisory capacities and also decision making capacities".

[10:19:09 AM](#)

Senator Dyson worried that the Board might desire to preclude clients such as the DoD who might use the site "for very strategic national defense issues".

SALLY SADDLER, Legislative Liaison, Department of Commerce, Community and Economic Development replied that she could not adequately respond to the concern until she conducted further research.

Co-Chair Green noted that Mark Hamilton, AADC Board Member and President of the University of Alaska was on teleconference and might be able to answer Senator Dyson's question.

[10:20:25 AM](#)

MARK HAMILTON, Chair, Alaska Aerospace Development Corporation Board and President, University of Alaska, testified via teleconference from an offnet site. "The Board has the responsibility of discovering the qualifications of a launch partner, and they are very specifically technical, and there's, as you might expect, a very very extensive contract drawn up with each customer. No one has dibs on the range, no one is a certain customer until considered by the Board."

[10:21:16 AM](#)

Senator Dyson stated that the response "raises questions", as it could be interpreted to mean that the Board could decide to deny DoD from utilizing "the facility for national defense purposes".

President Hamilton responded that such a decision would be "an extraordinary circumstance".

President Hamilton communicated that the current contractual agreement would require DoD to provide the Board "a very specific timeline if they had a project which required a specific reaction, there would be contractual obligations on their part." Continuing, he noted that were "commercial customers to suddenly appear in the numbers that, frankly, were envisioned 12 years ago where you had the potential of an Iridium Corporation launching and refreshing as many as 600 satellites," the Board might make the "difficult corporate decision" to deny a DoD request that did not pertain "to a dire national need." The Board would desire to accommodate commercial opportunities "rather than holding the range open for whenever" DoD decided to use it.

Senator Dyson assumed that the Board's mission would include consideration of regional environmental concerns, the impact of activities on both offshore and onshore areas, the safety of the local residents, and the financial stability of the Corporation. However, he was concerned that "a philosophical anti-war anti-national bent of the Board could restrict U.S. defense efforts."

[10:22:13 AM](#)

President Hamilton responded that were the Board "prudently staffed with people who have that kind of a bias, that that would certainly be a risk." He opined that that "is not the case of the existing Board or any Board membership that I have been associated with to date". The concerns about the site's impact on Kodiak are absolutely paramount with the Board, as substantiated by the fact that just about "every single thing that is done out there" is scrutinized. The position of the people who live on Kodiak Island

has been a known factor as a result of the fact that there has traditionally been voting Island representation on the Board. In addition, non-voting elected officials, including members of the Legislature, have represented the interests of the Island. In addition, the majority of the Board meetings are held in public forums. The Board conducts a great deal of effort on issues.

Senator Dyson acknowledged.

[10:23:39 AM](#)

Co-Chair Wilken voiced appreciation for President Hamilton's comments about Legislative participation on the Board, as he has served for several years on the Board as a representative of the Senate.

Co-Chair Wilken assured the Committee that, historically, a Legislator representing the Kodiak Island District has been a non-voting member of the Board.

Co-Chair Wilken asked whether there is "a sense that the voice of Kodiak has been squelched and therefore we need to increase the membership."

[10:24:56 AM](#)

Mr. Letch declared that Co-Chair Wilken's comments "hit the nail on the head." While Legislators representing the District have continued to serve in "an ex officio capacity" on the Board, there have historically been two Kodiak Island resident voting members on the Board. It is unknown as to "whether this was by design or happenstances". The AADC facility has become "a lightning rod" to the community in that people watch "every move that AADC makes." Some people oppose the decisions made by AADC and others support them. The site has become an important economic factor on the Island.

[10:25:52 AM](#)

Mr. Letch stated that the decisions made by AADC do affect the community, and the people in Kodiak "feel that" incorporating the two voting Board membership requirement would best represent their interests.

[10:26:26 AM](#)

Co-Chair Wilken voiced concern that adoption of this legislation might result in there being requests for geographic representation

on other boards. No other board currently has such specification. Adoption of this legislation would also specify that more than 25 percent of the Board would be representing one area. His concern could be likened to that professed earlier by Senator Dyson in that, while this might be acceptable today, in the future this action "may lessen the use of that rocket range for whatever reason."

Co-Chair Wilken voiced concern about "the precedent" that might be established. As a result of this legislation, "there could be four people at the table speaking on behalf of Kodiak." He believed that "Kodiak is well-represented ... the people of Kodiak have not been ignored at all; to the contrary, I suggest that they've been heard and reheard." While some people might not support the activities that occur at the site, "the vast majority would agree that the rocket range is a benefit" both to the area and to Alaska. In summary, he could not support the legislation as it might lead to geographical representation as opposed to qualifications dictating board membership. "If it isn't broke don't fix it."

[10:28:30 AM](#)

Senator Dyson spoke in support of Co-Chair Wilken comments. The Kodiak Launch site is a major launch site that is "very strategic ... to our national interests."

[10:29:31 AM](#)

Senator Olson asked whether some controversial issue of importance to Kodiak Island residents was defeated at some point, due to a lack of votes on behalf of the local people.

[10:29:50 AM](#)

Mr. Letch was unaware of "any specific instance."

[10:30:01 AM](#)

President Hamilton stated that the membership of the Board as currently designated is appropriate, and he did not support the proposed changes. The Legislators who have represented the interests of Kodiak on the Board have done a good job. The Board is also aware of its responsibilities. The individual from Kodiak who resigned from the Board did so because his business "was being boycotted". The involvement of politics with private activities could explain the failure of governmental corporations. The Board has discussed a variety of membership issues including whether or not the University President or the Director of the Geophysical

Institute of the University should be on the Board. While he understood the reason those entities were designated when the AADC Board was initially developed 12 years prior, changes that have occurred over time might dictate that there should be fewer rather than more specific Board member designations. The reason for including the Commissioner of Department of Commerce, Community and Economic Development and someone who understands the aerospace industry on the Board could be substantiated; however, it would be difficult for him to substantiate the reason "at this stage of the game" for requiring that the University of Alaska President or a representative of the Geophysical Institute to be on the Board. "This ought to be a commercial board" comprised of people who could move a corporation forward.

[10:33:38 AM](#)

Senator Hoffman inquired as to how often and where the Board meets.

Mr. Hamilton replied that while the Board primarily meets quarterly in Anchorage, there would be a meeting in Kodiak in June 2006.

Co-Chair Green ordered the bill HELD in Committee.

#hb243

CS FOR HOUSE BILL NO. 243(FIN)

"An Act relating to the financial plan for the intertie between the Swan Lake and Tyee Lake hydroelectric projects; and providing for an effective date."

[10:35:18 AM](#)

Co-Chair Green ordered the bill back before the Committee. [See Time Stamp 10:08:05 AM for previous Committee action on this bill.]

RON MILLER, Executive Director, Alaska Industrial Development & Export Authority and Alaska Energy Authority, testified via teleconference from Anchorage and noted that Dave Carlson, Chief Executive Officer, Four Dam Pool Power Agency (FDPPA) had provided his testimony on the bill during its first hearing before the Committee.

Mr. Miller stated that the prior Legislative Session, the House Finance committee substitute for this bill had been transmitted to this Committee. That bill, CS HB 243(FIN), extended the date by which the FDPPA must provide a financing plan to the Alaska Industrial Development & Export Authority (AIDEA) for approval.

Mr. Miller reminded the Committee that the initial agreement for the sale and purchase of the Four Dam Pool was outlined in a Memorandum of Understanding (MOU) that specified a \$73 million purchase price and a five million dollar credit that was based on certain contingencies being met. One of those contingencies was that the FDPPA present to AIDEA, by April 11, 2005, a finance plan that demonstrated committed funds sufficient to complete the power line intertie system between Swan Lake and Tye Lake. The plan FDPPA provided to AIDEA in 2005 was based on "the request and receipt" of federal and State grants. AIDEA determined that the plan did not demonstrate "committed funds necessary to complete the Project", and, as a result, they notified FDPPA that the five million dollar credit was due to the Power Cost Equalization Endowment.

Mr. Miller stated that during the Legislative Interim, FDPPA and the Alaska Energy Authority (AEA) reached an agreement to amend the original credit provisions of the Four Dam Pool Power Project. AEA agreed to allow FDPPA to place five million dollars into an interest bearing escrow account and to provide FDPPA additional time in which to secure funds to complete the Swan Lake and Tye Lake intertie project. Were that project not completed, that money and the interest would be released to the Power Cost Equalization Endowment.

Mr. Miller stated that in order to proceed, that August 2005 agreement to extend the date and revise the five million dollar credit conditions must receive Legislative approval. These amended provisions are specified in committee substitute, Version 24-GH1138\X that is being offered to the Committee for consideration.

AT EASE [10:38:16 AM](#) / [10:38:38 AM](#)

Co-Chair Wilken moved the adopt committee substitute, Version 24-GH1138\X, as the working document.

There being no objection, the Version "X" committee substitute was ADOPTED as the working document.

[10:39:06 AM](#)

Senator Stedman spoke to the importance of the Swan Lake and Tye Lake intertie project, which is the issue pertinent to the five million dollar escrow agreement. The FDPPA is in the process of updating their power load study analysis that would assist in the completion of that project. The study should be completed in March 2006. "There is more than a reasonable chance" that that project

would be completed.

[10:39:55 AM](#)

BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law, testified via teleconference from Anchorage and informed the Committee that he would be available to answer questions.

SARA FISHER-GOUD, Alaska Energy Authority, Department of Commerce, Community and Economic Development testified via teleconference from Anchorage and noted that she also would be available to answer questions.

[10:40:29 AM](#)

DAVE CARLSON, Chief Executive Officer, Four Dam Pool Power Agency, testified via teleconference from Anchorage and informed the Committee that the FDPPA is in support of this legislation. FDPPA has worked diligently with AEA on this effort. The Swan Lake and Tye Lake intertie would provide a "vital link of major infrastructure" to the power grid of southern Southeast Alaska. This bill would allow that project to continue to move forward.

JON BOLLING, Chair, Energy Committee, Southeast Conference testified via teleconference from offnet site and stated that this intertie project is "strongly supported" by the Conference. He also acknowledged the efforts conducted by FDPPA and AEA. He urged the Committee to support the legislation.

Co-Chair Green ordered the bill HELD in Committee.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [10:42:14 AM](#).