

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

February 4, 2014

10:02 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Eric Feige  
Representative Lynn Gattis  
Representative Bob Herron  
Representative Craig Johnson  
Representative Kurt Olson  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 177

"An Act relating to interest rates on loans from the commercial fishing revolving loan fund and the community quota entity revolving loan fund; and providing for an effective date."

- MOVED CSHB 177(FSH) OUT OF COMMITTEE

OVERVIEW: DEPARTMENT OF REVENUE TAX DIVISION - SALMON PRODUCT DEVELOPMENT TAX CREDIT

- HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 177

SHORT TITLE: COMMERCIAL FISHING LOANS

SPONSOR(S): REPRESENTATIVE(S) EDGMON

03/20/13	(H)	READ THE FIRST TIME - REFERRALS
03/20/13	(H)	FSH, FIN
04/02/13	(H)	FSH AT 10:00 AM CAPITOL 120
04/02/13	(H)	Heard & Held
04/02/13	(H)	MINUTE(FSH)
01/28/14	(H)	FSH AT 10:00 AM CAPITOL 120
01/28/14	(H)	Heard & Held
01/28/14	(H)	MINUTE(FSH)
02/04/14	(H)	FSH AT 10:00 AM CAPITOL 120

## **WITNESS REGISTER**

REPRESENTATIVE BRYCE EDGMON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of proposed Amendment 1, during the hearing on HB 177, as sponsor of HB 177.

TIM CLARK, Staff  
Representative Bryce Edgmon  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented proposed Amendment 1, during the hearing on HB 177, on behalf of Representative Edgmon, sponsor.

LEA KLINGERT, President and CEO  
Commercial Fishing and Agriculture Bank (CFAB)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions, during the hearing on HB 177.

BRUCE TANGEMAN, Deputy Commissioner  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented the departmental overview of the Salmon Product Development Tax Credit.

TIM COTTONGIM, Fish Group Manager  
Tax Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during the overview of the Salmon Product Development Tax Credit.

## **ACTION NARRATIVE**

[10:02:18 AM](#)

**CHAIR PAUL SEATON** called the House Special Committee on Fisheries meeting to order at 10:02 a.m. Representatives Seaton, Johnson, Olson, and Feige were present at the call to order. Representatives Kreiss-Tomkins, Herron, and Gattis arrived as the meeting was in progress.

## **HB 177-COMMERCIAL FISHING LOANS**

[10:02:38 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 177, "An Act relating to interest rates on loans from the commercial fishing revolving loan fund and the community quota entity revolving loan fund; and providing for an effective date."

CHAIR SEATON identified the adopted working document as committee substitute (CS) for HB 177, labeled Version 28-LS0607\0, Bullard, 3/26/13.

[10:03:56 AM](#)

REPRESENTATIVE JOHNSON moved to adopt Amendment 1, labeled 28-LS0607\0.2, Bullard, 1/30/14, which read as follows:

Page 1, line 13, through page 2, line 1:

Delete all material and insert:

"(B) [AT A RATE] of more than 10 1/2 percent a year; [OR]

(C) that is less than the prime rate, as defined in AS 44.88.599, minus three percentage points; or

(D) [AT A RATE] that is less than three percent a year [THE COST OF FUNDS TO THE STATE];"

[10:04:10 AM](#)

REPRESENTATIVE FEIGE objected for purposes of discussion.

[10:04:15 AM](#)

REPRESENTATIVE JOHNSON explained that the amendment establishes limits to the floor of the loan program, and provide security to the fund; a policy procedure. He said that, with adoption of the amendment, he could support HB 177.

REPRESENTATIVE BRYCE EDGMON, Alaska State Legislature, stated support for the amendment, and said it is a positive addition to the bill.

10:05:52 AM

TIM CLARK, Staff, Representative Bryce Edgmon, Alaska State Legislature, explained that Amendment 1 will be inserted in Section 1 of the bill, and he paraphrased the new language for the amended subsection (2), which read as follows:

"(2) may not bear interest at a rate  
    (A) exceeding the prime rate, as defined by AS 44.88.599, plus two percentage points;  
    (B) [AT A RATE] of more than 10 ½ percent a year;  
[or]  
    (C) that is less than the prime rate, as defined by AS 44.88.599, minus three percentage points; or  
    (D) [AT A RATE] that is less than three percent a year [THE COST OF FUNDS TO THE STATE];

MR. CLARK stressed that under the proposed CS, as amended, for any loan made from the Commercial Fisheries Revolving Loan Fund (CFRLF), all of the above statements must be true. Further, the subsection now provides a "floating" ceiling to the interest rate tied to the prime rate, and a "fixed" ceiling of ten and one-half percent, as well as a "floating" floor tied to the prime rate, and a "fixed" floor of three percent. Without the proposed amendment, he pointed out that HB 177 would allow a loan to be offered for as much as six percent below the prime rate. Directing attention to the committee handout, titled "Amendment to CSHB 177(FSH)", page 3, he paraphrased the language, which read as follows [original punctuation provided]:

Without the amendment, if the prime rate were, for example, 8 percent, it would be lawful to make a loan at an interest rate as little as three percent.

In other words, the loan could be offered by as much as 6 percent below prime, since the only "floor" is a minimum 3 percent a year.

With the amendment, if the Prime Rate were 8 percent, it would only be lawful to make a loan at an interest rate as low as 5 percent.

In other words, the loan could only be offered for as much as 3 percent below prime, as defined by (2)(C).

Subsection (2):

"(2) may not bear interest at a rate

(A) exceeding the prime rate, as defined by AS 44.88.599, plus two percentage points;

(B) [AT A RATE] of more than 10 ½ percent a year; [or]

(C) that is less than the prime rate, as defined by AS 44.88.599, minus three percentage points; or

(D) [AT A RATE] that is less than three percent a year [THE COST OF FUNDS TO THE STATE];

MR. CLARK finished with an example of a product quality improvement loan offered at two percent below the prime rate, under HB 177, paraphrasing from the committee handout, page 4, which read as follows [original punctuation provided]:

If the Prime Rate were at 8 percent, the interest rate on the loan would be 6 percent a year, well within the Subsection (2) parameters.

Under Subsection (2), all these statements are true:

(A) 6 percent does not exceed the Prime Rate plus two percent.

(B) 6 percent a year is not more than 10 ½ percent a year.

(C) 6 percent a year is not less than the Prime Rate minus 3 percent.

(D) 6 percent a year is not less than 3 percent a year.

However, if the Prime Rate were at 3.25 percent, as it is today, the interest rate on the loan would hit the fixed 3 percent floor in (D), and so the rate would be 3 percent.

[10:09:23 AM](#)

REPRESENTATIVE FEIGE removed his objection. There being no further objection, Amendment 1 was adopted.

[10:09:47 AM](#)

CHAIR SEATON closed public testimony on HB 177.

[10:11:09 AM](#)

REPRESENTATIVE OLSON recalled that the original structure of Commercial Fishing and Agriculture Bank (CFAB) was to provide loan and operational funds to vessel owners who might not otherwise obtain standard market loans.

LEA KLINGERT, President and CEO, Commercial Fishing and Agriculture Bank (CFAB), agreed.

REPRESENTATIVE OLSON said that his review of the current vision statement appears to be different than what was originally intended, and he paraphrased the statement, which reads as follows [original punctuation provided]:

To be the PREMIER LENDER to the commercial fishing, agriculture, timber, tourism and resource based industries of Alaska.

To provide prompt, courteous service and financing customized to meet the specific needs of our borrowers.

REPRESENTATIVE OLSON expressed his understanding that CFAB served clients who, due to a lack of or a questionable credit history, would not qualify for a standard market loan. Further, he stated his belief that CFAB did not generally serve as a primary underwriter.

MS. KLINGERT stated her understanding that CFAB was created due to requests from the fishing and agriculture industries, whose needs were not being met through the commercial banks. She said:

It is also my understanding that we were created with the idea that we would replace the state program at some time. We were never the lender of last resort; ... the division was supposed to be the lender of last resort. The way I've always looked at it is that the state department kind of gets it in the crawling, CFAB does the walking, and then you hope that they're running and they go off to the commercial, the larger institutions, at that point.

REPRESENTATIVE OLSON emphasized that to be the premier lender would place CFAB in direct competition with private sector banking institutions.

MS. KLINGERT explained that CFAB is a private lending institution and does compete with other entities but loan size is a limiting factor. The agency provides a service as a private, tax paying, agency.

REPRESENTATIVE OLSON stated support for the bill.

[10:15:12 AM](#)

REPRESENTATIVE HERRON moved to report CSHB 177, Version 28-LS0607\0, Bullard, 3/26/13, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Without objection, CSHB 177 (FSH) was reported from the House Special Committee on Fisheries.

The committee took a brief at-ease at 10:16 a.m.

**OVERVIEW: Department of Revenue Tax Division - Salmon Product Development Tax Credit**

[10:16:03 AM](#)

CHAIR SEATON announced that the next order of business would be an overview from the Department of Revenue Tax Division regarding the Salmon Product Development Tax Credit.

[10:16:14 AM](#)

BRUCE TANGEMAN, Deputy Commissioner, Department of Revenue (DOR), directed attention to the committee handout titled "State of Alaska Department of Revenue Salmon Product Development Tax Credit Overview, A Presentation to the House Fisheries Committee February 4, 2014," and said the tax credit was enacted in 2003, with the passage of HB 90, to address downturns in the Alaskan salmon industry. It was intended to encourage "new investment in new equipment for new products, not new investment for old equipment for the same products." The original law granted processors a credit against the fisheries business tax (FBT) for expenditures promoting the manufacture of a value-added salmon product (SPD) credit. It also granted a credit against the FBT for expenditures promoting manufacture of marketable products from salmon waste, known as a utilization credit. The qualifying SPD credit expenditures covered equipment used for a comprehensive list of activities including filleting, skinning,

portioning, mincing, forming, and extruding. He explained that the qualifying utilization credit expenditures allowed for equipment producing marketable products from waste. The credits were limited to 50 percent of the expenditure with an annual limit set at 50 percent of tax on salmon. The credits were not designed to reduce the municipal share, which he pointed out is "carved off the gross and distributed to the communities, then any tax credits, which would reduce the revenues, are taken against the state share." A three year carryover is allowed for companies to claim unused credits; the tax recaptured if equipment is sold, removed from service or ceases to be qualified before the end of the third year. The date for putting qualified property into service under the original legislation was 12/31/05.

[10:21:35 AM](#)

MR. TANGEMAN proceeded to describe the amendments that have been made since the inception of the original bill. The first was in 2006, under SB 164, which refined the definition of qualifying expenditures, "making it clear that processors should be producing new, innovative salmon products in order to benefit from this program." The senate bill added to the list of qualifying expenditures the costs to convert traditional canning equipment to include pop-top canning. In addition, SB 164 identified non-qualifying expenditures as well, and he paraphrased from the list provided on page 7 of the committee handout, which read as follows:

Vehicles, forklifts, conveyors, cranes, pumps and other transporting equipment

Knives, gloves, tools, supplies, materials and other equipment that is not processing, packaging or product finishing equipment

Other equipment which is incidental to production, packaging or finishing of value-added salmon products

Overhaul, retooling or modification of existing equipment; except pop-top canning conversion

MR. TANGEMAN paraphrased the definition for the term "value added salmon product, as provided under SB 164," which read as follows [original punctuation provided]:

... the product of a salmon that is processed beyond heading, gutting, or separation in a manner that materially enhances the value of the salmon product, such as shelf-stable, retort pouched, smoked, pickled, or filleted salmon, ikura, leather, or jerky ...

MR. TANGEMAN said that SB 164 also identified products that do not qualify as value-added salmon products, a list which includes products subjected to only one or more of heading, gutting, freezing, packaging, quality assurance practices, or value retention practices; salmon skeins or other unprocessed salmon products whether fresh or frozen; canned salmon, except for salmon products in a pop-top can; and products produced out of the state. The true goal, he said, was that only a value added product would qualify for this state tax credit. The amendment also extended the date for putting qualified property into service through 12/31/08; however, the utilization credit was not extended and subsequently experienced sunset on 12/31/05.

[10:24:06 AM](#)

MR. TANGEMAN explained that additional amendments were made in 2008 via HB 321, which served to expand the list of qualifying equipment. He paraphrased the sponsor's intent for the amendment, which read as follows [original punctuation provided]:

The Salmon Product Development Tax Credit encourages and accelerates the development and production of value-added salmon products in Alaska by providing an economic incentive to make the necessary investments in new technology and equipment.

MR. TANGEMAN further noted that HB 321 added fillet line conveyor systems to the list of qualifying expenditures. A new provision introduced under legislation required the Department of Revenue (DOR) to provide a process for applicants to obtain credit pre-approval of planned expenditures. Finally, HB 321 extended the date of putting qualified property into service until 12/31/11.

[10:25:21 AM](#)

MR. TANGEMAN said the final amendment was passed in 2010, under HB 344, and added ice machines to the list of qualifying expenditures and extended the date for putting qualified

property into service until 12/31/15. He paraphrased the sponsor's intent to be as follows [original punctuation provided]:

Extending the tax credit beyond its current sunset date of December 31, 2011 will allow the industry to continue the progress that is being made in developing and producing salmon products that will keep Alaska's fisheries competitive in world markets.

[10:26:01 AM](#)

MR. TANGEMAN introduced two statistical charts. The first, handout page 14, indicates the gross revenue and credits claimed against that revenue, and shows significant swings that have occurred between FY 04 and FY 13. The second, handout page 15, he pointed out, includes the pre-approval requests, which he observed have not been fully utilized. Assistance is available to help investors understand the parameters of the program.

[10:27:25 AM](#)

CHAIR SEATON asked how the pre-approval process is handled; is there a letter stipulating "if you do this project, as designed," or wording to that effect, to ensure qualification.

MR. TANGEMAN deferred.

[10:27:56 AM](#)

TIM COTTONGIM, Fish Group Manager, Tax Division, Department of Revenue (DOR), said there is a form on the department's web page for processors to complete and submit. This form requires department approval or rejection and that action generates an appropriate cover letter to accompany the accepted or denied request.

CHAIR SEATON underscored the importance of this program, which is generally recognized as an integral means for the industry to improve and maintain product quality standards for worldwide marketing purposes.

[10:29:33 AM](#)

REPRESENTATIVE FEIGE ascertained that the current legislation is functioning well, and asked if there was any reason to consider changing the model.

MR. TANGEMAN responded that unless the industry brings specifics forward, DOR has no current recommendations.

[10:30:38 AM](#)

CHAIR SEATON reported concern from the industry that the department may alter the equipment usage definitions, effecting current processors abilities to qualify for the credit, and he asked if the department has any intent to implement regulation that would dramatically change the status quo. He provided the example that an ice machine could be intended for use on salmon under the 50 percent requirement, but in order to stimulate the processors to operate on a 12 month basis, other products would need to be handled and the equipment utilized accordingly. If DOR has the intention of making regulation changes along these lines, he opined, such action would prove restrictive to the industry.

MR. COTTONGIM responded that a draft regulation was issued for public response, but, under review, resulted in the department realizing the need to maintain the current practices.

[10:34:05 AM](#)

CHAIR SEATON observed that the popularity of the original pop-top can is being surpassed by consumer interest in an economical can size. The legislation qualifies pop-top cans without consideration of size, and he asked whether the department is taking measures to meet this innovative development; whether the small size can is required to be a pop-top.

MR. TANGEMAN indicated that at this point the department has not taken a stance and remains open to industry recommendations.

CHAIR SEATON underscored that it is important to be aware of the changing market demands and to institute new innovations for product improvement in order to insure Alaska's position at the forefront of the industry.

[10:37:17 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:37 a.m.