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740 SFC 2-27-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 243 (Resources)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revisor Date: 5/4/89
Title: An Act relating to loans under
the Commercial Fishing Loan Act
Sponsor: Zharoff
Requestor: Resources

Agency Affected: Commerce & Economic Dev.
BRU: Investments
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Martin J. Richard, Director Phone: 465-2510
Division: Investments Date: 7/2/89

Approved by Commissioner: Larry Marciliev Date: 19/12
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Changes in CSSB 243 (Fin)
have no fiscal impact.
This fiscal note is
appropriate. 2/27/90

Original sponsor(s): SEN. ZHAROFF

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 243 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to loans under the Commercial Fishing Loan Act and to limited entry permits pledged as security for those loans; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 16.10.335(a) is amended to read:

(a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 16.10.333 or 16.10.338, the commissioner shall provide the debtor, by both certified and first class mail sent to the debtor's last known address on file with the commissioner, with a notice of default that includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission;

(2) the date upon which the default occurred;

(3) the amount of the debtor's outstanding principal and interest [ARREARAGES] as of the date of the default notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days after the postmark date of the notice, request a hearing to submit evidence showing the debtor has not defaulted;

(5) a statement that the note may be reinstated if it is brought current within 120 [60] days after the postmark date of the notice;

(6) a statement that, under AS 16.10.310(a)(4), the debtor may reinstate the note by submitting to the commissioner a plan of repayment if the commissioner accepts the debtor's plan of repayment [NOTE MAY BE PAID IN FULL LESS UNEARNED INTEREST WITHIN 120 DAYS AFTER THE POSTMARK DATE OF THE NOTICE];

(7) the place where reinstatement of the note or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

* Sec. 2. AS 16.10.335(d) is repealed and reenacted to read:

(d) If requested by the debtor, the commissioner may waive any of the time limits in (a) of this section if the debtor shows good cause.

* Sec. 3. AS 16.10.335(e) is amended to read:

(e) Except as otherwise provided in (c) and (d) of this section, if the debtor fails [UPON THE DEBTOR'S FAILURE] to reinstate or satisfy the note within the time specified in (a)(5) [(a)(6)] of this section, the debtor's interest in the permit is terminated by operation of law without further notice. [ANY ENTRY PERMIT CARDS ISSUED TO THE DEBTOR UNDER THE PERMIT MUST BE CANCELLED IMMEDIATELY UPON RECEIPT BY THE COMMISSION OF A CERTIFICATE OF TERMINATION CONTAINING A COPY OF THE NOTICE REQUIRED BY (a) OF THIS SECTION ISSUED BY THE COMMISSIONER.]

* Sec. 4. AS 16.10.335 is amended by adding a new subsection to read:

(f) Notwithstanding (a) of this section, when a debtor files bankruptcy, the debtor's interest in the limited entry permit is terminated by operation of law without further notice as of the date

that the automatic stay issued in the bankruptcy is no longer in effect, unless the debtor has reaffirmed the debt.

* Sec. 5. AS 16.10.338 is amended by adding a new subsection to read:

(b) If a limited entry permit is pledged for security for a loan made under AS 16.10.310(a)(1)(B) for the repair, restoration, upgrading, construction, or purchase of a vessel and the borrower thereafter fails to make a payment or defaults, the commissioner shall, in addition to the notice provided under AS 16.10.335(a), notify the borrower that subject to the commissioner's acceptance the borrower may sell the vessel, apply the sales proceeds to the debt, and renegotiate payment of the balance due on the loan to avoid the immediate loss of the limited entry permit that has been pledged for security for the loan.

* Sec. 6. AS 16.10.350 is amended by adding a new subsection to read:

(b) The commissioner shall annually submit a report to the legislature detailing the number and nature of reinstatements authorized by AS 16.10.335(a)(5).

* Sec. 7. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.353. WAIVER OF CONFIDENTIALITY. (a) The commissioner may release information about a borrower's loan to any individual when release of the information has been authorized by the borrower.

(b) A person obtaining a loan under AS 16.10.300 - 16.10.370 after the effective date of this Act may, by signing a form prepared for the purpose, designate the names of persons and organizations to whom a copy of the notice required by AS 16.10.335 must be sent

* Sec. 8. AS 16.43.960 is amended by adding a new subsection to read:

(j) The commission shall immediately cancel a limited entry permit card issued to a debtor under a loan made under AS 16.10.300 - 16.10.370 when the commission receives a certificate of loan

termination containing a copy of the

(1) notice required by AS 16.10.335(a); or

(2) notice that the automatic stay issued if the debtor has filed bankruptcy is no longer in effect.

* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

2/27/96
ADOPTED

AMENDMENT

IN THE SENATE

BY FRANK

TO: CS SB 243 (RESOURCES)

PAGE 3, AFTER LINE 12

AS 16.10.350 is amended by a new subsection to read:

(b) The commissioner shall annually submit a report to the legislature detailing the number and nature of reinstatements authorized under AS 16.10.335.

The following bill sections are renumbered accordingly.

To: Lynn
Lynn 412

FR: Vicki 412
Lip Row 412

RE: CS SB 243 (Finance)

Please run final for above re: bill reported out of
370 this date, incorporating this amendment, and
return to me ASAP

Thank!



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99815 (907) 488-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474 • 465-3844 (Labor and Commerce Committee)

DISTRICT N


ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SB 243

FEB 13 1990

MEMORANDUM

TO: Senator Rick Uehling
Co-Chairman
Senate Finance Committee

FROM: Senator Fred F. Zharoff 

DATE: February 13, 1990

RE: CS For Senate Bill 243 -- "An Act relating to loans under the Commercial Fishing Loan Act and to limited entry permits pledged as security for those loans; and providing for an effective date."

I respectfully request the Senate Finance Committee to either schedule CSSB 243 for a hearing at the earliest opportunity or to waive the referral. CSSB 243 amends the statutes governing the state's Commercial Fishing Loan Program, managed by the Division of Investments in the Department of Commerce and Economic Development.

The bill carries a zero fiscal note.

CSSB 243 solves some of the problems commercial fishermen have experienced with the program by allowing the division to respond to problem loans on a more flexible, case by case basis. The bill is supported by the Department of Commerce. The concerns the department had with the bill were eliminated with the adoption of the Resources committee substitute.

By allowing the Division of Investments more flexibility -- in the form of less rigid deadlines and more notification to borrowers -- the state will provide Alaska fishermen who get behind in their payments an opportunity to put their financial affairs back in order. In its 1988 audit of the "Commercial Fisheries Loan Programs' Procedures", the Division of Legislative Audit recommended that such legislation be considered.

The following backup information is attached:

1. Fiscal note.
2. Sectional analysis.
3. Resolution from the Bristol Bay Native Convention.

4. Excerpt from the Division of Legislative Audit's "Special Report on the Department of Commerce and Economic Development Commercial Fisheries Loan Programs' Procedures", released March 14, 1988.
5. Letter from Commerce Commissioner Larry Mercurieff, responding to a series of questions about the loan program, dated Dec. 2, 1988.
6. Letter from Ms. Paula Cullenberg, cooperative extension agent for the Bristol Bay Marine Advisory Program, dated Jan. 27, 1989.
7. Commercial Fishing Loan Act statutes.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

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DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

CS For Senate Bill 243 - "An Act relating to loans under the Commercial Fishing Loan Act and to limited entry permits pledged as security for those loans; and providing for an effective date."

SECTION 1 Amendment to 16.10.335(a).

(3) Clarifies existing language by changing "arrearages" to "the debtor's outstanding principal and interest".

(5) Provides debtors with 120 days, rather than 60 days, to bring their loans current. This gives the debtors an opportunity to bring their loans current right up until the day the limited entry permit is repossessed. The extension will help rural fishermen, in particular, who do not start trying to solve their loan problems until the 60 day time limit has passed and, under current law, the only recourse they have is to pay the note in full.

(6) New paragraph. Provides the debtor with the option of submitting a new plan of repayment. The plan is subject to the commissioner's approval.

(7) Clarifies existing language.

SECTION 2 Repeal and reenact 16.10.335(d).

Allows the commissioner of the Department of Commerce to waive any of the time limits in the previous section for good cause. Good cause would be left to the discretion of the commissioner.

SECTION 3 Amendment to 16.10.335(e).

Makes existing statute consistent with other amendments.

SECTION 4 Amendment to 16.10.335. New subsection (f).

(f) Eliminates the existing conflict between state statutes -- which require a demand be issued in all cases -- and the superseding federal bankruptcy statutes which prohibit enforcement action -- such as issuing a demand -- after a debtor files bankruptcy.

SECTION 5 Amendment to 16.10.338. New subsection (b).

- (b) In the case of a missed payment or default on a boat loan where a limited entry permit has been pledged as collateral, the commissioner of commerce shall notify the borrower that he has the option of selling the vessel and renegotiating the balance due. Selling the vessel is a possibility under present law, but official notification is needed in order to encourage people to do it. The department also does not now have authority to renegotiate the remaining payments.

SECTION 6 Amendment to 16.30. New section, 16.10.353. WAIVER OF CONFIDENTIALITY.

- (a) Makes clear that information about a borrower's loan can be released at any time to any individual authorized by the borrower.
- (b) Establishes a form on which the borrower can designate individuals (attorney, accountant, business consultant, trusted friend, etc.) and organizations (native non-profit association, business development center, etc.) that will automatically receive copies of any default notice the Division of Investments mails out. This would enable individuals and organizations trusted by the borrower to find out when a loan is in trouble. They would then be able to assist the borrower in correcting the situation.

SECTION 7 Amendment to 16.43.960. New subsection (j).

Makes the Commercial Fisheries Entry Commission statutes in Title 16 consistent with the amendment in Section 5.

SECTION 8

Immediate effective date.

BRISTOL BAY NATIVE CONVENTION
Resolution 86-22

- WHEREAS: commercial fishing within the Bristol Bay watershed has had poor harvest records for some of the Bristol Bay Fishermen; and
- WHEREAS: the 1986 projected harvest forecast for Bristol Bay is also low; and
- WHEREAS: fishermen from Bristol Bay have no other alternative source of income; and
- WHEREAS: many fishermen have obtained from the State of Alaska loans to purchase new boats and permits to enhance their fishing efforts; and
- WHEREAS: many fishermen put up their commercial fishing entry permit as collateral to obtain their state loans; and
- WHEREAS: many of these commercial fishing entry permits are now at risk due to poor salmon harvests; and
- WHEREAS: the State set up the loan program to help local fishermen become more self sufficient, efficient and competitive and not to take boats and permits from the local residents.

NOW THEREFORE BE IT RESOLVED that the Bristol Bay Native Convention and delegates assembled requests the State Loan Program and Governor of the State of Alaska see and implement ways so that local fishermen do not lose their boats and permits.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the resolution adopted by the delegates to the 1986 Bristol Bay Native Convention, February 23, 24, 25, & 26, Dillingham, Alaska, at which a quorum was present.

WITNESS My hand and seal this 26th day of February, 1986.

Chairman P. Johnson

Chairman, Bristol Bay Native Convention

WITNESSED:

H. Diller Am. K.

Chairperson, Resolutions Committee

Excerpt from:

"A Special Report on the Dept. of Commerce and Economic Development
Commercial Fisheries Loan Programs' Procedures", March 14, 1988.

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PUBLIC POLICY CONSIDERATIONS

Though no conclusive evidence exists that correlates a reduction of permit flow out of rural areas with the degree of lenient lending practices, the Legislature may want to consider additional forms of subsidization specifically for those rural areas that have become economically distressed due to an outflow of fishing permits. Action such as HB 509 which increases the maximum loan terms on permit loans to 30 years should ease the debt service burden for those finding it difficult to afford purchasing a fishing permit.

It should be noted, however, that the inherent quality of state lending programs creates a two-edged sword. On the one hand, the fiduciary responsibility of protecting the public's assets must be maintained; while at the same time, the socioeconomic aspects of meeting the public need must be considered. Policy decisions are necessary to establish at what point an appropriate balance occurs. If legislative or executive policy is willing to accept a higher risk situation and deems that increased emphasis should be placed on the societal aspects, such direction needs to be expressed. As a result, however, increased delinquencies, foreclosures, and losses may occur.

Consideration may also be given to changing the Commercial Fishing Loan Act to require all repossessed permits be returned to CFEC, who in turn could make the permits available to persons who meet the standards for initial issuance (AS 16.43.250). Areas where commercial fishing provides the primary economic base which can be determined to be economically distressed could be so designated. Applicants residing within these areas who meet CFEC criteria could be chosen, perhaps on a lottery based system, to be given the right of first refusal on the purchase of an available limited entry permit. (Currently, the Commercial Fishing Loan Act requires CFRLP to offer CFEC a right of first refusal at a price equal to the amount outstanding on the foreclosed note plus any costs CFRLP directly incurred in administering the loan. This provision is related to the CFEC's inactive buy-back program under AS 16.43.310 which, in the opinion of the Attorney General, offends the constitutional prohibition against dedication of funds.)

*

Consideration may be given to amending the Commercial Fishing Loan Act (AS 16.10.335) to provide more flexibility to CFRLP in allowing borrowers in default who have pledged permits as security, greater opportunities to bring their loans current. Presently, the law establishes a definite timetable in foreclosing on defaulted loans of this nature. DCED feels they have less workout capability in these cases in order to avoid repossession of the permits.

Though we did not review the effectiveness of CFRLP's rural outreach programs, we are aware of efforts made by DCED in disseminating loan information throughout the State by utilizing other state agency offices located in the rural areas. Outreach efforts currently used to inform rural Alaska about the commercial fishing loan programs may wish to be reviewed to determine if enhancements could be made to improve program access in rural areas.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

December 2, 1988

The Honorable Fred F. Zharoff
Senator
Alaska State Legislature
P.O. Box 405
Kodiak, AK 99615

Dear Fred,

Thank you for your letter of October 24. I understand your concern over the loss of limited entry permits in the Bristol Bay area and appreciate the opportunity to work with you on this issue.

The Division of Investments has put together the following information which I hope adequately answers your questions:

1. How many loans have been given to Bristol Bay drift or set net permit holders? What is the dollar value of these loans?

Information on paid off loans is not retained in our data base. Attachment A contains information on outstanding loans as of November 16, 1988.

2. How many loans were for boats, and how many for permits?

See Attachment A

3. How many of these loans were to Bristol Bay residents (by gear type, and loan type and dollar value?)

See Attachment B

4. How many of the loans used permits as collateral?

See Attachment B

5. How many Bristol Bay permits have been foreclosed on?

Nine (9) Bristol Bay drift gill net permits have been repossessed. This represented nine different loans, of which three borrowers repurchased their permits.

Three (3) Bristol Bay set net permits have been repossessed. This represented two different loans, of which one borrower repurchased the two permits securing the loan.

6. What happened to those permits? Were they auctioned off? How many were purchased by state residents, out-of-state residents, or Bristol Bay residents?

Of the 12 repossessed permits, five have been repurchased by the borrowers. Five permits were advertised for sale throughout the state and were sold to state residents, one of which was a Bristol Bay resident. We presently have two repossessed Bristol Bay permits on hold.

7. Does the state have any procedures for foreclosing on a loan that expand on what is specified in statute? If so, what are they?

Our division's policy is that a demand is generally issued when the loan becomes 90 days delinquent. A demand may be issued sooner if the loan is in default for any other violation of the loan documents which places our collateral in jeopardy. An example of this would be lack of insurance, or nonrenewal of a vessel document with the Coast Guard.

We must follow procedures set out by the statutes and courts when actually foreclosing. These procedures vary depending on whether they involve a vessel, real estate, or a limited entry permit.

Permit Foreclosure

The procedures for foreclosing on a permit statutorily require that when we issue a final demand for payment, the borrower is allowed 60 days to bring the loan current and a total of 120 days to pay the loan in full. If the borrower does not fulfill either of these requirements, the permit automatically becomes the property of the state on the 121st day. The state is then required to advertise and sell the permit to satisfy the loan. However, the borrower may repurchase the permit at any time before an offer is accepted.

Vessel Foreclosure

If a borrower does not satisfy a final demand, the case is forwarded to the Attorney General's Office for the preparation of the legal documents which must be filed with the court. A hearing is set to approve the order arresting the vessel, and the borrower has the opportunity to convince the judge that the vessel should not be arrested. If the order arresting the vessel is issued, the U.S. Marshall will arrest the vessel, and an outcry auction is held after the required advertising has been completed by the marshal.

Real Estate Foreclosure

If a borrower does not satisfy a final demand, the case is forwarded to the Attorney General's Office. The Attorney General's Office prepares the appropriate legal documents and a sale date is established; the sale is held.

8. What is the state's rationale for using a permit as collateral versus selling off the vessel itself?

When deciding what collateral to foreclose against, the division considers many factors. The state legally has the ability to foreclose on any of the collateral held; however, one of the major considerations is the value of the collateral and whether foreclosure of one piece of collateral would satisfy the loan. If the value of a vessel is insufficient to pay the loan in full, then we would foreclose on the permit first to prevent the borrower from losing both vessel and permit. As you are aware, when the state sells a permit and obtains more for the permit than is due on the loan, the excess is returned to the borrower. This is not the case with any other type of foreclosure.

9. What changes would you suggest be made in statute to allow a borrower to rectify a default situation and resume regular payments?

We would recommend that the division be given more discretion to work with borrowers in cases that involve limited entry permits. In most other types of foreclosures, the borrower has the opportunity to bring the loan current up until the actual foreclosure. The statute governing permit foreclosures, however, only allows the borrower 60 days from the date of the demand to bring the loan current. After the 60th day the borrower can no longer bring the loan current but instead must pay the loan in full within 120 days. This limits the Division's ability to work with a borrower who fails to contact us until after the 60th day. Although we believe that the 120-day time frame is reasonable, consideration could be given to extending the period during which the borrower can bring the loan current.

10. Would a direct payment method be feasible, where the processors deduct the loan payment from what they owe the fishermen and send it directly to the state?

Cannery assignments have been utilized in the past and are still used from time to time in certain cases. They are not always reliable, however, because fishermen can choose to sell their product to buyers not covered by the assignment, and we have had little success at enforcing collection in cases where the cannery failed to comply with the terms of the assignment.

December 2, 1988

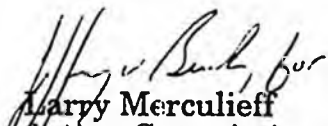
It should also be kept in mind that one of the factors involved in the creation of the Commercial Fishing loan program a number of years ago was to free fishermen from their dependence on the canneries. Also, relying on the cannery to handle the borrowers' financial obligations could make it more difficult for them to learn the financial responsibility and planning that goes along with obtaining a loan.

As stated in John William's letter of September 24th, the Department is currently holding off on the sale of all limited entry permits that have been repossessed until after the upcoming legislative session. I am sure you are aware that the selling price of the Bristol Bay drift gill net permits has been rapidly escalating. We are concerned about the state's liability in holding these permits should the market decline before their sale.

For those borrowers who are having difficulty meeting their loan obligations due to poor budget management, the Small Business Assistance Centers, (SBAC's) and the Small Business Development Centers (SBDC's) may be helpful. Gary Selk, with the SBAC in Anchorage, currently offers an outreach program in the Bristol Bay area to assist borrowers with their budgetary problems on a case-by-case basis; he can be contacted for further information. Also, the SBDC's associated with the university could potentially offer similar services, although I do not know if a program is currently in place.

I hope that this information is helpful. Please let me know if there is any other information that I can provide you.

Sincerely,


Larry Mercurieff
Acting Commissioner

LM/GW/mm0375t

120288a

cc: Senator John Binkley
Representative Mike Davis
Representative Adelheid Herrmann
Paula Cullenberg, Marine Advisory Program
Deborah Tennyson, BBNA
George Nelson, Sr.
Jerry Liboff

Attachment A

Original Purpose of Commercial Fishing Loans
Secured by Bristol Bay Permits
Based on Loans Outstanding as of November 16, 1988

<u>Purpose of Loan</u>	<u># of Loans</u>	<u>Original Loan Amounts</u>
Purchase of Permit	218	\$17,960.4
Purchase of Vessel	70	\$ 4,310.6
Vessel Upgrade	3	\$ 95.6
Vessel Construction	75	\$ 4,965.3
Purchase of Gear	1	\$ 25.0
Purchase of Permit and Vessel	8	\$ 955.2
Purchase of Permit and Gear	7	\$ 165.2
Purchase of Permit, Vessel & Gear	1	\$ 44.2
Purchase of Vessel and Gear	<u>8</u>	<u>\$ 512.8</u>
	391	\$29,034.3

Prepared by: Division of Investments
December 2, 1988

Attachment B

Original Purpose of Commercial Fishing Loans
Secured by Bristol Bay Permits
To Bristol Bay Residents
Based on Loans Outstanding as of November 16, 1988

<u>Purpose of Loan</u>	<u># of Loans</u>	<u>Original Loan Amounts</u>
Purchase of Permit	46	\$ 3,841.8
Purchase of Vessel	46	\$ 2,672.3
Vessel Upgrade	1	\$ 22.0
Vessel Construction	49	\$ 3,022.0
Purchase of Gear	1	\$ 25.0
Purchase of Permit and Vessel	1	\$ 106.0
Purchase of Vessel and Gear	<u>5</u>	<u>\$ 208.6</u>
	149	\$ 9,897.7

Note: As of 11/16/88, 75 loans are currently outstanding to Bristol Bay residents for which permits were not used as collateral to secure the loans. The total original amounts of these loans is \$5,640.3. Loan files have not been researched to identify the purpose of the loans; however, it would be fair to assume that the purchase of permits was not the purpose of any of these loans.

Prepared by: Division of Investments
December 2, 1988

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RECEIVED FEB 4 1989



COOPERATIVE EXTENSION SERVICE, UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATION

Marine Advisory Program, P. O. Box 1549, Dillingham, Alaska 99576

January 27, 1989

Karl Ohls, Legislative Assistant
Senator Fred Zharoff
Alaska State Legislature
Pouch V
Juneau, Ak 99811

Dear Karl,

Here are some thoughts on potential improvements to the State Fisheries Loan Program after discussions with you, Debby Tennyson, and Jerry Liboff.

First, it seems that the Legislature needs to give the State some idea of what they intend the loan program to be. Is the loan program designed to give low interest loans to fishermen who are unable to qualify for loans elsewhere? Is it also intended to help resident fishermen purchase limited entry permits? If both of these questions are true, it seems logical that the State should expect a higher percentage of people that are not very experienced with finances and therefore may run into trouble making their loan payments. If the State's response to financial difficulties is to repossess a permit and auction it off to the general public (in or out of the State), then they have defeated their purpose and in fact, may have caused a financially inexperienced person to now lose their livelihood.

If the State's goals are to help resident fishermen become permit holders and improve their earnings in the fishery, then the loan program needs to be adjusted in a number of ways. It should be very clear to the loan personnel that taking a permit is the last resort. By using the permit as collateral the State is protecting itself, but calling in that collateral should be a final, drastic measure. The following are some ideas that may help accomplish this:

Statutory changes -

1. As Commerce suggested, change the statute to provide more flexibility by loan personnel for the foreclosure process.

Rationale: more flexibility would prevent automatic foreclosure and allow loan personnel more discretion in working with fishermen.

2. Include in the language that loan personnel must give the fishermen the choice to foreclose on either the boat or the permit first. If the fishermen chooses the boat, and the foreclosure does not pay off the loan, the remaining balance should be refinanced. After an established time period (year or two), if there has been no payment, the permit would be foreclosed on.

Rationale: If the State's goal is to keep state residents fishing, then every effort must be made before the permit is taken. Once the boat is foreclosed on, it is likely that a fishermen, faced with the loss of the permit, will continue payments. It is much easier for a fishermen with a permit and no boat to continue fishing, than visa versa. Continued fishing means continued income and payment of the loan. A fishermen with a boat but no permit is not likely to make any income.

Many fishermen have no other collateral than the boat itself and their fishing permit. There needs to be a middle ground in the process before the State seizes a permit that is worth 5-6 times the outstanding debt. The likelihood that a fishermen losing his permit will ever be able to purchase another is slim.

3. If a permit must be foreclosed on, the State should create a set of criteria determining which state residents would benefit the most economically by having that permit. A lottery would be used to choose a fishermen meeting that criteria. That individual would be given right of first refusal to purchase that permit at fair market value. If he refuses, the offer will go to the next from the lottery.

Rationale: Even though the State cannot offer the permit to only state residents, by following a set of criteria, they may be able to ensure that those most economically affected would be most likely to purchase it. I believe that the State has the authority to do that under permit buy-back provisions in the law.

Regulatory changes:

1. Establish and fund an outreach program. The goal of outreach is to publicize the program, ensure that those getting loans understand them and can afford them and to provide assistance to fishermen having trouble making their payments. Perhaps for high-risk fishermen (defined as those having no other source of income in their family), a more in-depth analysis of their financial strength would be in order.

Another important aspect of outreach is to assist a fishermen who is having trouble meeting his payment schedule. Perhaps when a borrower requests his second extension, he should be required to work with a financial counselor in detail to assess the problem and work out a solution. This counselor's time could be compensated by the fisherman as an addition to his loan amount.

This outreach could possibly be provided by a contracted individual familiar with the fishing industry, as opposed to a State employee.

2. As Jerry Liboff suggested, perhaps borrowers should be given the chance to agree on their loan application, that the State can seek assistance from outside sources if the loan becomes overdue. Perhaps the fisherman could name someone or some entity that should be notified if they are having trouble meeting their payments.

These ideas *may* sound overly burdensome to the State. However, if the Fisheries Loan Program is more than a source of low interest loans to Alaskan fishermen, special effort must be made to prevent loss of permits. The State must be careful to loan money to fishermen who are serious about improving their economic situation, but it must also be able to respond to financial problems with flexibility and discretion.

I think that most fishermen would support the use of their permits as collateral on loans. I believe that the State should realize that often these fishermen have no choice but to use their permits and should bend over backward to prevent the foreclosure on a fishermen's livelihood.

I hope some of these suggestions are helpful, Karl. I look forward to a draft of your legislation.

Sincerely,

Paula Cullenberg

Paula Cullenberg
Marine Advisory Program, Bristol Bay

cc: Representative George Jacko
Senator John Binkley
Representative Mike Davis
Commissioner Larry Merculieff

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 243
PUBLISH DATE: 5/4/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
Title: An Act relating to loans under BRU: Investments
the Commercial Fishing Loan Act
Sponsor: Zharoff Components: _____
Requester: Resources

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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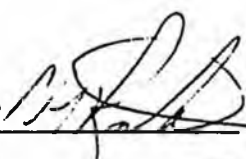
FUNDING: (Thousands of dollars)

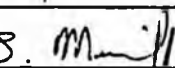
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULLTIME	0	0	0	0	0	0
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Martin J. Richard, Director  Phone: 465-2510
Division: Investments Date: 4/17/89

Approved by Commissioner: Larry Merculieff  Phone: 465-2500
Agency: Department of Commerce & Economic Development Date: 4/18/89

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