

ALASKA LEGISLATURE

2517

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

83

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 105
 (H) Publish Date: 3/12/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title: Commercial Fishing Loans BRU: Investments (122)
 Component: Investments
 Sponsor: Representative Stevens
 Requester: House Special Committee on Fisheries Component No.: 383

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (21608)	(30.2)	(13.4)	(13.4)	(13.4)	(13.4)	(13.4)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Please see analysis continuation.

Prepared by: Greg Winegar, Director Phone 907-465-2625
 Division: Investments Date/Time 3/10/03 3:00 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/10/2003
 Agency: Department of Community & Economic Development

FISCAL NOTE #1

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 105

ANALYSIS CONTINUATION

This legislation allows Alaska harvesters to refinance existing Commercial Fishing Revolving Loan Fund (CFRLF) loans. Current law requires the Division to charge a one-half percent fee to refinance.

Section 1 of HB 105 removes the one-half percent refinancing fee and that will result in a reduction of income to the CFRLF. Interest rates are currently at record lows and as a result, the Division anticipates that the majority of borrowers eligible to refinance will do so prior to the effective date of this legislation. We expect approximately 180 refinancing applications in FY 04 and then approximately 80 applications per year thereafter. This will result in a reduction to the fund in FY 04 of \$30,150 and a reduction of \$13,400 each year thereafter through FY 09. These reductions were calculated as follows:

180 loans x \$33,500 (average loan size) = \$6,030,000 x .005 = \$30,150
80 loans x \$33,500 = \$2,680,000 x .005 = \$13,400

These calculations are based on interest rates remaining relatively flat or increasing gradually through FY 09.

adopted N/O

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 105

- 1 Page 5, line 2:
- 2 Delete "and attorney fees"
- 3 Insert "[AND] attorney fees, and child support liens of which the department has
- 4 notice"

Joint Legislative Salmon Industry Task Force

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate



Public Members

Sue Aspelund
Sam Cotten
Duncan Fields
Don Giles
John Lowrance
Robin Samuelson
Gary Slaven
Stephanie Madsen, Alternate
Chris Moss, Alternate

SPONSOR STATEMENT

House Bill 105

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

House Bill 105 will reenact a provision that was in effect in fiscal years 1995-1997 and 2001-2003. This provision allowed fishermen to obtain secured loans for Internal Revenue Service (IRS) debt retirement and was widely used during the time it was in effect.

The long-term crisis facing the Alaska salmon industry due to dramatic increases in world salmon production, coupled with the equally dramatic reductions in salmon prices, makes this provision all the more important. If Alaska fishermen are forced out of the water because creditors take their limited entry fishing privileges, everyone in Alaska loses.

The genesis of the original provision was prompted by actions of the IRS to seize limited entry permits that were in federal tax arrears. The IRS, through electronic means, was able to match fish tickets with their filing data base and they moved rapidly to seize limited entry permits whose holders were in arrears. This posed a significant problem for the state's and holders' interests.

The Division of Investments, Department of Community and Economic Development, in conjunction with the IRS, developed a very successful program called the "Tax Obligation Loan Program." The Tax Obligation Loan Program aimed at assisting commercial fishermen with their tax debt to the IRS. The success of this program can be measured. In FY 95-97, the Division of Investments issued 287 tax obligation loans. The program was established and in FY 2001-2003, 20 tax obligation loans were issued. This demonstrates the effectiveness of the program. The total number of loans issued in FY 1995-1997 and FY 2001-2003 is 307 and the average tax obligation loan is \$21,095.

SPONSOR STATEMENT

If this measure were adopted, the Department of Community and Economic Development believes the number of applicants would be much smaller than in previous years. This prediction is due largely to the successes of the Tax Obligation Loan Program. In the past seven years, the program expanded from assisting 7 communities in 1996, to 56 communities in 2002.

Permit holders seeking a loan under the provision in House Bill 105 must have been a state resident for a continuous period of two years preceding application and a resident at the time of application. In addition, applicants must be current on their federal tax filings and have an agreement with the IRS for payment of past due taxes. Applicants must also have had a crewmember or commercial fishing license for the year immediately preceding the date of application and any other two of the past five years. They must have actively participated in the fishery during that period of time; not have occupational opportunities available other than commercial fishing because of lack of training or employment opportunities in the area where they live; or, be economically dependent on commercial fishing for a livelihood with commercial fishing having been a traditional way of life.

Another element of this measure is that it eliminates the one-half percent refinancing fee for debt refinanced by borrowers with state loans. These borrowers must meet the qualifications of the Division of Investments. This change was incorporated as a small means to assist fishermen who may want to take advantage of lower interest rates. The job of the Joint Legislative Salmon Industry Task Force is to seek means to alleviate, to the extent possible, some of the stresses affecting the commercial salmon industry. This change would provide some assistance.

The final provision of the measure is the elimination of the word "promptly" as it applies to the advertising and sale of repossessed permits. This provides some flexibility to the Department of Community and Economic Development and may prevent their having to sell a permit at a low price.

The Joint Legislative Salmon Industry Task Force seeks your support for this measure.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

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 Component Investments
 Sponsor Representative Stevens
 Requester House Special Committee on Fisheries Component No. 383

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Estimate of any current year (FY2003) cost: 0.0

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POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Please see analysis continuation.

Prepared by: Greg Winegar, Director
 Division: Investments
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone 907-465-2625
 Date/Time 3/10/03 3:00 PM
 Date 3/10/2003

FISCAL NOTE #1

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 105

ANALYSIS CONTINUATION

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Section 1 of HB 105 removes the one-half percent refinancing fee and that will result in a reduction of income to the CFRLF. Interest rates are currently at record lows and as a result, the Division anticipates that the majority of borrowers eligible to refinance will do so prior to the effective date of this legislation. We expect approximately 180 refinancing applications in FY 04 and then approximately 80 applications per year thereafter. This will result in a reduction to the fund in FY 04 of \$30,150 and a reduction of \$13,400 each year thereafter through FY 09. These reductions were calculated as follows:

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These calculations are based on interest rates remaining relatively flat or increasing gradually through FY 09.

Joint Legislative Salmon Industry Task Force

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Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate



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Robin Samuelson
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Stephanie Madsen, Alternate
Chris Moss, Alternate

SECTIONAL ANALYSIS

House Bill 105

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

Intent

To make available through the state's commercial fishing revolving loan fund the option of securing a loan to satisfy past due federal taxes; to eliminate the loan refinancing origination charge; and, to provide some latitude to the Division of Investments on the time frame for advertising and selling foreclosed permits.

Sectional Analysis

Section 1.

- Amends AS 16.10.310 to add a loan option to the commercial fishing revolving loan fund to satisfy past due federal tax obligations and delineates the requirements that must be met to receive a "tax" loan. (Page 2, lines 27-31; Page 3, line 1)
 1. The fisherman must be a state resident at the time of application and must also have been a state resident for a continuous period of two years immediately preceding the loan application date. (Page 2, lines 27-30)
 2. Applicants must be current on all their federal tax filings. (Page 2, lines 3-31)
 3. Applicants must have an agreement with the federal government for repayment of past due taxes. (Page 2, line 31 - page 3, line 1)

SECTIONAL ANALYSIS

- Applicants must either:
 1. Have had a crewmember or commercial fishing license for the year immediately preceding the date of application and any other two of the past five years; *and (Page 3, lines 2-5)*
 2. Have actively participated in the fishery during that period of time; *or (Page 3, lines 5-6)*
 3. Does not have occupational opportunities available other than commercial fishing because of lack of training or other employment opportunities; *or (Page 3, lines 7-9)*
 4. Is economically dependent on commercial fishing and commercial fishing has been a traditional way of life. *(Page 3, lines 2-12)*
 5. Eliminates the refinancing loan origination charge of one-half percent on loans that qualify for refinancing. *(Page 4, lines 6-11)*

Section 2.

- Amends AS 16.10.320(d) to allow a borrower to obtain a secured loan for \$30,000 to satisfy past due tax obligations and describes this loans relationship to other loans the borrower may have under this program. *(Page 4, lines 22-25)*

Section 3.

- Amends AS 16.10.337(b) by removing the word "promptly" to allow the Division of Investments more flexibility on advertising and selling foreclosed permits. *(Page 4, line 31)*
- This change would allow the Division of Investments the ability to secure a better price on repossessed permits.



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

March 10, 2003

Representative Paul Seaton
Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Seaton,

Re: HB 105 Commercial Fishing Loans

United Fishermen of Alaska supports HB 105.

This bill allows loans to individuals to obtain a loan to satisfy past due federal tax obligations. This is important to credit worthy individuals who have sound businesses and are in a crunch because of downturns harvest or market conditions.

A second feature of this bill eliminates the 1/2% refinance charge. This will more easily allow fishermen to take advantage of low interest rates and reduce their business expenses.

We look forward to working with you on this bill and hope you will expedite passage of this bill so that its positive impacts will help fishermen this season.

Sincerely,

Thomas M. Gemmell
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Bristol Bay Reserve
Chignik Regional Aquaculture Association • Chignik Seiners Association • Concord Area Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United
Crab Rationalization and Buyback Group • Douglas Island Park and Chum • Groundfish Forum • Ketchikan Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association
Pr...burg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters • Western Gulf of Alaska Fishermen

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB5	Page 1 of 2
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing TAX OBLIGATION LOANS Under Sections A and B of AS 16.10.310(a)(1)		Supersedes P & P No. LB5	Dated August 1, 2000
		Approved By <i>Greg Winegar</i> Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

POLICY

Tax Obligation loans may be considered and approved under certain conditions.

CONSIDERATIONS

1. Statutory and regulatory requirements (AS 16.10.300-.370 and 3 AAC 80.010-.900);
2. Past fishing experience;
3. Financial capacity for repayment of the loan;
4. Collateral offered to secure the loan;
5. Credit history; and
6. Strengths added by addition of a guarantor (when applicable).
7. Applicable policies contained in LB1 and LB2.

GUIDELINES

1. **Past due taxes:** Considered past due after January 1 of the following year.
2. **Corporate taxes** are not eligible.
3. **Spouses** that meet eligibility requirements for tax obligations loans may also obtain a loan up to the \$30,000 limit provided the applicant and spouse own at least one limited entry permit that is in jeopardy of being seized by the IRS. Proceeds from these loans may be used to satisfy a single tax bill when the taxpayers have filed a joint return. If a spouse does not meet the income criteria under AS 16.10.310(a)(1)(B)(ii) and does not have other employment, the spouse may qualify under AS 16.10.31-(a)(1)(B)(i).
4. **Credit:** Poor credit does not eliminate an applicant.
5. **Fees:** Origination fees may be included in the loan amount and subtracted from loan proceeds at closing. The application fee may be waived by the Director in extreme hardship cases.
6. **Collateral** should not exceed:
 - 80% on permits
 - 75% on documented vessels
 - 65% on AK vessels
 - 65% on Quota Shares
 - 85% on real estate
 - 25% on gear

NEED POLICY AND PROCEDURE FOR TAX OBLIGATION LOANS

STATE OF ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT		P & P No. LB5	Page 2 of 2
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing TAX OBLIGATION LOANS Under Sections A and B of AS 16.10.310(a)(1)		Supersedes P & P No. LB5	Dated August 1, 2000
DIVISION Investments		Approved By <i>Greg Winegar</i> Greg Winegar, Director	
		SECTION Lending	

7. **First lien requirement:**
- a. When the permit has been financed by CFAB, other collateral can be used as long as DOI is in first lien position.
 - b. When an applicant and spouse both obtain loans and the permit has been financed by CFAB, a vessel may be used to meet this requirement as long as there are no other liens against it. The note must include language that the lien placed on the vessel is of co-equal priority for both loans and that default on one constitutes default on both. (See Appendix E for examples of write-up, minutes and supporting documents).

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB 1	Page 1 Of 4
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION A of AS 16.10.310(a)(1)		Supersedes P & P No. LB 1	Dated July 30, 2000
		Approved By Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

POLICY

Commercial fishing loans and prequalifications for the purchase of limited entry permits and vessel upgrades to improve the quality of Alaska seafood product may be considered and approved under certain conditions.

CONSIDERATIONS

1. Statutory and regulatory requirements (AS 16.10.300 - .370 and 3 AAC 80.010 - .900);
2. Past fishing experience;
3. Financial capacity for repayment of the loan;
4. Collateral offered to secure the loan;
5. Credit history;
6. Strengths added by addition of a guarantor (when applicable);
7. Application of various financial ratios (see Appendix A);
8. Access to vessel and gear; and
9. Availability of down payment.

GUIDELINES

1. **Past due child support** includes payment plans for arrears even though current with those payments.
2. **Two-year residency:** use a 365-day year. See LB7.
3. **Active participation:** use a completed calendar year.
4. **Minors:** Applicants who are under 18 years of age may apply for loans if :
 - a. they meet all eligibility requirements;
 - b. a guarantor is provided;
 - c. the guarantor pledges separate collateral to fully secure the loan;
 - d. the asset being purchased is placed in the name of the applicant; and
 - e. the applicant and guarantor sign the appropriate loan documents.

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB 1	Page 2 OF 4
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION A of AS 16.10.310(a)(1)		Supersedes P & P No. LB 1	Dated July 30, 2000
		Approved By Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

5. **Deferred interest account** balances (280) do not reduce loan limit eligibility on new loans.
6. **Credit history:** a borrower should have:
 - a. no outstanding tax liens or unpaid collections or judgments;
 - b. no poor past payment record with State agencies;
 - c. no pending lawsuits that would adversely affect the borrower's ability to service the debt;
 - d. no past due credit accounts; and
 - e. no accounts that have been more than 60 days past due during the past year.
7. **Down payment:** Borrower should demonstrate availability of down payment required to finalize the transaction. If part of the down payment is borrowed, the payment amount must be included in debt-to-income calculations.
8. **Debt-to-income ratio** should not exceed 65%.
9. **Brokerage commissions** can be included in the purchase price.
10. **Collateral**
 - a. should not exceed:
 - 80% on permits
 - 75% on documented vessels
 - 65% on AK vessels
 - 65% on Quota Shares
 - 85% on real estate
 - 25% on gear
 - b. A more conservative ratio should be utilized when:
 - adding or financing permits that are declining in value
 - adding a vessel that is older than 10 years or is powered by a gasoline engine
 - part of the collateral involves a second lien position, especially if the lien that we will be subordinate to is a large dollar amount.
 - c. When determining the amount, the loan officer should use cost or appraisal, whichever is less. If the loan involves the purchase of a limited entry permit, the most current values issued by the Commercial Fisheries Entry Commission (CFEC) should be utilized; other sources of information such as the time weighted report and sales data from brokerage houses may also be used.

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB1	page 3 of 4
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION A of AS 16.10.310(a)(1)		Supersedes P & P No. LB 1	Dated July 30, 2000
		Approved By Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

- d. Valuations for vessels, skiffs, outboard motors, gear and equipment may be accepted from any qualified person not involved in the transaction.
- e. When using real estate as collateral, a tax assessment, current market appraisal or letter of opinion from a qualified individual is required to document the value of real property.
- 11. **Terms** of loan should be fixed in accordance with the collateral offered and the needs of the applicant.
- 12. **Guarantors** should be obtained when the loan needs additional strength. Guarantors, however, do not participate in the use of the loan proceeds and thus do not need to meet eligibility requirements and are not subject to the loan limits. The Promissory Note must indicate whether a signer is a co-borrower or guarantor. For the purpose of eligibility, a spouse is considered a guarantor. The guarantor should supply:
 - a. an application page;
 - b. a current financial statement;
 - c. a copy of their most recent tax return; and
 - d. if guarantor is providing additional collateral, documentation to verify the value of the collateral.
- 13. **Co-borrower, co-signer, and co-applicant** are synonymous for the purposes of eligibility. Co-borrowers assume full liability for the full value of the note and must meet the same eligibility requirements as the borrower.
- 14. **Permit purchases**
 - a. A borrower should have experience in either the gear type or area for which the loan is being made.
 - b. Vessel lease expense should not exceed 25% of projected gross income.
 - c. Permits and applicants must be cleared through the CFEC prior to the loan decision. Sellers and applicants must be checked for outstanding IRS liens that may adversely impact the collateral.
 - d. If a permit has already transferred to the applicant, obtain a copy of the transfer form from CFEC and purchase agreement.
 - e. Loans to purchase permits in areas where the fishery is closed can be made if the applicant intends to fish it when it opens.

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB1	Page 4 of 4
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION A of AS 16.10.310(a)(1)		Supersedes P & P No. LB 1	Dated July 30, 2000
		Approved By Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

15. **Prequalifications**
- a. More than one commitment can be issued to a borrower at the same time only if both permits can be fished during the same season.
 - b. The interest rate that is approved remains the same for the entire 60-day period regardless of any interest rate changes during that period. The interest rate may be adjusted downward at the time of converting a prequalification to a new loan if the rate changed between the prequalification approval and the new loan submittal.
 - c. When converting a prequalification to a new loan, the loan amount may be increased if:
 - The borrower has a signed purchase agreement for a specific permit
 - The borrower requests an increase
 - The limited entry value has gone up and the new amount meets the loan to value requirements contained in paragraph 10.
16. **Vessel upgrades to improve the quality of Alaska seafood products as authorized under AS 16.10.310(a)(1)(A)(ii).**
- a. Replacing or rebuilding an engine may qualify if the work is being done as a part of a vessel upgrade to improve the quality of Alaska seafood products.
 - b. Refrigeration, RSW, insulating fish hold, expanding fish hold, and slider reels do qualify. (See Appendix D for description of a slider reel.)
 - c. Second liens are allowed as long as the first lien requirement is met with other collateral.
 - d. Vessel must be documented if possible. Only U.S. citizens may own a documented vessel.
 - e. If ADI has the first on the vessel, the first lien requirement can be met by co-equaling the loan. The note must include language that the lien placed on the vessel is of co-equal priority for both loans and that default on one constitutes default on both.
 - f. In cases where a portion of the interim or construction loan was not used for eligible purposes, a loan may be made if 90% or more of the remaining balance was made for eligible purposes. If more than 10 % of the remaining balance was used for a non-eligible purpose, a loan may only include that portion used for an eligible purpose.
 - g. In cases where the upgrade will be made to a vessel owned by a corporation the loan may only be approved under the following conditions:
 - All owners of the corporation must meet the eligibility requirements contained in AS 16.10.300 - 16.10.370.
 - The "borrower" will be all of the individuals owning the corporation.
 - The corporation must be registered as an Alaskan corporation.
 - The corporation must guarantee the loan and sign appropriate loan documents.

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB2	Page 1 of 6
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION B of AS 16.10.310(a)(1)		Supersedes P & P No. LB 2	Dated July 30, 2000
DIVISION Investments		Approved By SECTION Lending Greg Winegar, Director	

POLICY

Commercial fishing loans and prequalifications for the purchase of limited entry permits, vessels and gear, and for vessel upgrades may be considered and approved under certain conditions.

CONSIDERATIONS

1. Statutory and regulatory requirements (AS 16.10.300 - .370 and 3 AAC 80.010 - .900);
2. Past fishing experience;
3. Financial capacity for repayment of the loan;
4. Collateral offered to secure the loan;
5. Credit history;
6. Strengths added by addition of a guarantor (when applicable);
7. Application of various financial ratios (see Appendix A);
8. Access to vessel and gear
9. Availability of down payment; and
10. Whether an applicant has alternative sources of financing.

GUIDELINES

1. **Past due child support** includes payment plans for arrears even though current with those payments.
2. **Two-year residency:** use a 365-day year. See LB7
3. **Alternative sources of financing.** Turn down letters from private lenders are not required to satisfy 3 AAC 80.055 (b) if:
 - a. the majority of the applicant's assets are already securing loans made under AS 16.10.300-.370;
 - b. the applicant has little or no past credit history with other private lenders;
 - c. the applicant's past earnings are not sufficient to service existing debt and payments on the new debt being requested; and /or
 - d. there are other factors present in the application that make it unlikely that a private lender would approve a loan to the applicant.
If a turndown letter is not required, the Loan Officer should address the reason in the loan committee write-up.
4. **Economic dependence on fishing:** Utilize two-year period when evaluating 25% income requirement. When interpreting the phrase "total gross income" as used in 3 AAC 80.035(d), the following should be utilized:

STATE OF ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT		P & P No. LB2	Page 2 of 6
POLICY AND PROCEDURES		Effective Date January 1, 2002	
SUBJECT Processing Commercial Fishing Loans and Prequalifications Under SECTION B OF AS 16.10.310(a)(1)		Supersedes P & P No. LB2	Dated July 30, 2000
		Approved By Greg Winegar, Director	
DIVISION Investments		SECTION Lending	

- a. **RENTAL INCOME** The net profit from rentals found on Schedule E of the federal income tax return should be used. If the property is owned jointly by the applicant and a spouse, the net profit can be divided by two. If this is a negative figure, the rental income should be considered as zero.
 - b. **BUSINESS INCOME:** The business gross income listed on line 5 of Schedule C of the federal income tax return should be used for fishing. Use the net plus depreciation for other business.
 - c.. **CAPITAL GAINS:** Capital gains from the sale of assets should NOT be considered as income.
 - d. **OTHER MISCELLANEOUS INCOME:** Income from welfare, permanent fund dividends, other dividends and interest, native dividends, disability payments, social security, gambling, workers compensation, unemployment or retirement should not be considered as income.
5. **Minors:** Applicants who are under 18 years of age may apply for loans if:
- a. they meet all eligibility requirements;
 - b. a guarantor is provided;
 - c. the guarantor pledges separate collateral to fully secure the loan;
 - d. the asset being purchased is placed in the name of the applicant; and
 - e. the applicant and guarantor sign the appropriate loan documents.
6. **Deferred interest account** balances (280) do not reduce loan limit eligibility on new loans.
7. **Credit history:** a borrower should have:
- a. no outstanding tax liens or unpaid collections or judgments;
 - b. no poor past payment record with State agencies;
 - c. no pending lawsuits that would adversely affect the borrower's ability to service the debt;
 - d. no past due credit accounts; and
 - e. no accounts that have been more than 60 days past due during the past year.
8. **Down payment:** Borrower should demonstrate availability of down payment required to finalize the transaction. If part of the down payment is borrowed, the payment amount must be included in debt-to income calculations.
9. **Debt-to-income ratio** should not exceed 65%.
10. **Brokerage commission** can be included in the purchase price.

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11. **Collateral**

- a. Should not exceed:
- 80% on permits
 - 75% on documented vessels
 - 65% on AK vessels
 - 65% on Quota Shares
 - 85% on real estate
 - 25% on gear
- b. A more conservative ratio should be utilized when:
- adding or financing permits that are declining in value
 - adding a vessel that is older than 10 years or is powered by a gasoline engine
 - part of the collateral involves a second lien position, especially if the lien that we will be subordinate to is a large dollar amount.
- c. When determining the amount, the loan officer should use cost or appraisal, whichever is less. If the loan involves the purchase of a limited entry permit, the most current values issued by the Commercial Fisheries Entry Commission (CFEC) should be utilized; other sources of information such as the time weighted report and sales data from brokerage houses may also be used.
- d. Valuations for vessels, skiffs, outboard motors, gear and equipment may be accepted from any qualified person not involved in the transaction.
- e. When using real estate as collateral, a borough tax assessment, current market appraisal or letter of opinion from a qualified individual is required to document the value of real property.

12. **Terms** of loan should be fixed in accordance with the collateral offered and the needs of the applicant.

13. **Guarantors** should be obtained when the loan needs additional strength. Guarantors, however, do not participate in the use of the loan proceeds and thus do not need to meet eligibility requirements and are not subject to the loan limits. The Promissory Note must indicate whether a signer is a co-borrower or guarantor. For the purpose of eligibility, a spouse is considered a guarantor. The guarantor must supply:

- a. an application page;
- b. a current financial statement;
- c. a copy of their most recent tax return; and
- d. additional collateral and documentation to verify the value of the collateral.

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14. **Co-borrower, co-signer and co-applicant** are synonymous for the purposes of eligibility. Co-borrowers assume full liability for the full value of the note and must meet the same eligibility requirements as the borrower.
15. **Gear** is defined to include nets, pots, trawls, long line skates, anchors, buoys, hooks, leads, corks, EPERBS, survival suits, rafts, gen-sets, knives, boots, and rain gear. Gear does not include galley supplies, fuel, insurance or other upkeep expenses, cash advances, airplane tickets, moorage or Coast Guard fees.
16. **Permit purchases**
- A borrower should have experience in either the gear type or area for which the loan is being made.
 - Vessel lease expense should not exceed 25% of projected gross income.
 - Permits and applicants must be cleared through the CFEC prior to the loan decision. Sellers and applicants must be checked for outstanding IRS liens that may adversely impact the collateral.
 - If a permit has already transferred to the applicant, obtain a copy of the transfer form and purchase agreement from CFEC.
 - Loans to purchase permits in areas where the fishery is closed can be made if the applicant intends to fish it when it opens.
17. **Prequalifications**
- More than one commitment can be issued to a borrower at the same time only if both permits can be fished during the same season.
 - The interest rate that is approved remains the same for the entire 60-day period, regardless of any interest rate changes during that period. The interest rate may be adjusted downward at the time of converting a prequalification to a new loan if the rate changed between the prequalification approval and the new loan submittal.
 - When converting a prequalification to a new loan, the loan amount may be increased if:
 - the borrower has a signed purchase agreement for a specific permit
 - the borrower requests an increase
 - the limited entry value has gone up, in which case the loan amount cannot exceed the approved loan-to-value ratio times the purchase price or appraised value, whichever is less.

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18. **Vessel purchases and upgrades**
- a. Vessel must be documented if it can be documented. Only U.S. citizens may own a documented vessel.
 - b. Items that may be included in financing as part of the cost of a vessel are:
 - origination fee
 - freight expenses
 - brokerage commissions if included in the purchase price
 - c. Items that may not be included in financing are:
 - marine survey fee
 - insurance premiums
 - inspection fees
 - d. For a vessel upgrade, if ADI has the first on the vessel, the first lien requirement can be met by co-equaling the loan. The note must include language that the lien placed on the vessel is of co-equal priority for both loans and that default on one constitutes default on both.
 - e. Applicants must have access to the fishery the vessel being purchased with loan proceeds will be used for as described in 3 AAC 80.055 (f). Possession of an Interim Use Permit may be used to satisfy this requirement.
 - f. In cases where the upgrade will be made to a vessel owned by a corporation the loan may only be approved under the following conditions:
 - All owners of the corporation must meet the eligibility requirements contained in AS 16.10.300 - 16.10.370.
 - The "borrower" will be all of the individuals owning the corporation.
 - The corporation must be registered as an Alaskan corporation.
 - The corporation must guarantee the loan and sign appropriate loan documents.
19. **Vessel upgrades to improve the quality of Alaska seafood products as authorized under AS 16.10.310(a)(1)(B).**
- a. Replacing or rebuilding an engine may qualify if the work is being done as a part of a vessel upgrade to improve the quality of Alaska seafood products.
 - b. Refrigeration, RSW, insulating fish hold, expanding fish hold, and slider reels do qualify. (See Appendix D for description of a slider reel.)
 - c. Second liens are allowed as long as the first lien requirement is met with other collateral.

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- d. Vessel must be documented if possible. Only U.S. citizens may own a documented vessel.
- e. If ADI has the first on the vessel, the first lien requirement can be met by co-equaling the loan. The note must include language that the lien placed on the vessel is of co-equal priority for both loans and that default on one constitutes default on both.
- f. In cases where a portion of the interim or construction loan was not used for eligible purposes, a loan may be made if 90% or more of the remaining balance was made for eligible purposes. If more than 10% of the remaining balance was used for a non-eligible purpose, a loan may only include that portion used for an eligible purpose.
- g. In cases where the upgrade will be made to a vessel owned by a corporation the loan may only be approved under the following conditions:
- All owners of the corporation must meet the eligibility requirements contained in AS 16.10.300 - 16.10.370.
 - The "borrower" will be all of the individuals owning the corporation.
 - The corporation must be registered as an Alaskan corporation.
 - The corporation must guarantee the loan and sign appropriate loan documents.

VOLUNTEER TAX AND LOAN PROGRAM



2002 IN REVIEW



ALASKA BUSINESS
DEVELOPMENT
CENTER, INC



**ALASKA BUSINESS
DEVELOPMENT CENTER, INC.**

Volunteer Tax and Loan Program

Annual Report

Cover photos taken by Program participants:

- ❖ Background – view from the Uyak Bay Lodge, Larsen Bay, Kodiak Island
- ❖ Inserts left to right: student volunteer from Ithaca College, NY, trying on a Native dress in Akhiok
- ❖ Program team walking to the store in Toksook Bay, Western Alaska
- ❖ Ice sculptures in Fairbanks
- ❖ Dog race witnessed by Program team in Interior
- ❖ Program volunteer riding from airstrip to village with a local resident in Western Alaska

Executive Summary

The following publication is the annual report for the Volunteer Tax and Loan Program (VTLP), organized and conducted by the Alaska Business Development Center, Inc.(ABDC), based in Anchorage, Alaska.

ABDC 's Volunteer Tax and Loan Program is the only non-profit and non-governmental program in Alaska that travels to the remote communities of the state to provide income tax assistance to rural residents, free of charge to individuals. It has now operated for seven seasons, and has acquired a wide recognition among rural entities.

By bringing together volunteers and sponsors throughout the state, in 2002 alone ABDC's VTLP generated the following results:

- ◆ **Traveled to 56 rural communities in seven regions within Alaska**
- ◆ **Assisted 3,6. 8 individuals – within two months of the tax season**
- ◆ **Prepared and filed 1,881 current tax returns – *all free of charge to individuals***
- ◆ **Filed 83% of all current returns electronically, to ensure faster turnover and increased accuracy**
- ◆ **Prepared 89 tax returns from previous years**
- ◆ **Generated \$1,920,538 in tax refunds to the rural residents**
- ◆ **Attracted 21 student volunteers and 9 Team Supervisors; from accounting professionals in Anchorage to faculty members from the University of Alaska in Anchorage and Juneau, as well as Ithaca College in New York**

This Program is built on volunteer work and community involvement. We are proud of all the relationships the Program has developed over the years. ABDC' VTLP is supported by local banks, CDQs (Community Development Quota groups), Native entities, local IRS representatives, and other community members. The Program collaborates with different branches of the University of Alaska to give the accounting students a unique chance to travel to "bush" Alaska and use the acquired knowledge to provide assistance to rural residents. Many of our student participants come back the following years to lead the new teams back to the villages.

The Program also relies greatly on involvement of local village representatives. In the past seven years the Program has developed a wide network of contacts among multiple communities of the state.

This publication reports on Program design, resources, and results generated during the 2002 tax season, as well as Program history and implementation.

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Program Concept

Alaska Business Development Center, Inc. (ABDC) is a non-profit corporation established in 1978 for the purpose of providing business-consulting assistance to commercial harvesters and small business participants in the Alaska Seafood Industry. ABDC focuses on entities facing financial obstacles and those seeking to improve their operations by offering expanded employment in the industry, especially projects that promote value-added processing or improve product quality. ABDC assists in the survival and development of Alaskan fisheries by providing qualified business consulting, loan package preparation, customized business-related workshops and seminars, as well as low-income tax assistance to its clientele. ABDC works closely with its clients, utilizing a hands-on approach in providing personalized consulting services.

When the Volunteer Tax and Loan Program concept was developed in 1996, ABDC took on the responsibility to manage the Program. ABDC raises money to cover Program expenses in the form of grants, donations, and in-kind contributions from local banks, charitable organizations, Native entities, CDQs, and other sources. The University of Alaska perceives the Program as the unique opportunity for senior-level accounting students to volunteer their services for the community benefit, while receiving priceless hands-on experience of working in "bush" Alaska. Different branches of the University of Alaska now offer its students three upper-division credits towards a bachelor degree in accounting to volunteer their time for the Program.

The Program goal is defined as bringing together entities from all over the state to provide free tax preparation and business consulting services to Alaskan rural residents who have limited access to such services, due to geographic location, as well as income limitations. The Program teams are composed of senior level accounting student volunteers supervised by tax professionals, such as University faculty, ABDC consultants, or independent professionals from different regions of the state. The teams travel to multiple rural communities in the state and stay in each village for several days to assist taxpayers who need help preparing and filing their income tax returns, while educating village residents of their rights and responsibilities in regards to the IRS.

From the very beginning, ABDC's Volunteer Tax and Loan Program (VTLP) was created differently from common Volunteer Income Tax Assistance (VITA) IRS sites. Instead of setting up VITA sites in town for people to come to, the Program travels directly to the rural communities, bringing professional tax assistance, as well as business consulting and loan packaging services, to residents that would otherwise have limited or no access to such services. To this date, the Program continues to be the only non-IRS group who travels directly to remote villages of the state to bring free tax services to low-income clients and individuals with limited English language proficiency.

Program History

In the early nineties, the Alaska Division of Investments established the Tax Obligation Loan Program. The Tax Obligation Loan Program aimed at assisting commercial fishermen with their tax debt to the IRS. Commercial fishing is one of the primary income sources for many state residents, especially in the rural coastal communities. In order to engage in the commercial fishing industry within the state, limited entry permits are required. Such permits have a certain market value, and could be seized as assets by the IRS for back taxes owed. In such event, the permit would then be sold to the public, opening the possibility of the permit not only leaving the rural community, but the state as a whole. With each limited entry permit owned by a non-Alaskan resident, another employment opportunity for Alaska rural residents would be lost, which is why the Tax Obligation Loan Program was initiated.

To qualify for the State tax loan program, an individual had to be current on tax filing. When Division officers started working on the new Program, they became aware of alarming levels of non-compliance in rural communities. Some residents had not filed for years, many of them lacked an understanding of tax issues and their responsibilities to the IRS. The problem was aggravated by the state's unique geographic characteristics: many villages are very remote, there is no road infrastructure, and transportation options from remote villages to central cities with professional tax services are very limited. In most cases, to have a tax return prepared an individual would have to fly to a city in central parts of the state, which can be costly.

Even though some individuals in rural communities prepare their own tax returns (mainly school teachers and city administration officials), many residents find tax instructions complicated and hard to follow. In many Alaskan Native communities, residents primarily use their tribal languages and have limited English language proficiency. A significant part of the rural population is considered low-income, and many people cannot afford paying for tax services.

To deal with this grave situation, in 1996 the Director of Alaska Division of Investments, Martin Richard; President of ABDC, Gary Selk; and Head of the Accounting Department of the University of Alaska (UAA), Robert Maloney developed a concept for a program that would bring *free* professional tax preparation and business consulting services to Alaska rural residents.

During the 1996 Pilot Project, ABDC's Volunteer Tax and Loan Program served a total of seven communities, preparing roughly 185 tax returns. The project was funded through the Alaska Division of Investments and the Coastal Villages Region Fund (Western area CDQ).¹ The Pilot Project met statewide support and showed an existing demand for such services among all Alaskan rural residents, no matter what occupation.

Since 1996 the Program has continued to grow. New regions have continuously requested to be assisted by the Program. In the past seven years, the Program went from assisting seven communities in 1996 to 56 communities in 2002. The chart on the opposite page shows the Program's growth since the year of its inception.

¹ Community Development Quota groups (total of six), established to enable rural residents to participate in the groundfish fishery off their shores in a way that would bring significant economic development to the Bering Sea region.

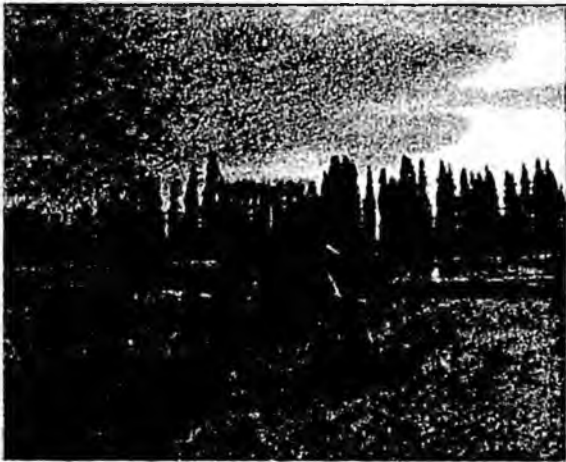
PROGRAM YEAR	STATE REGIONS SERVICED	VILLAGES VISITED	TAXPAYERS ASSISTED
1996	Western Bristol Bay	Kodiak Aleutians	7 185
1997	Western Bristol Bay Aleutians	Kodiak Southeast	11 409
1998	Western Bristol Bay Aleutians	Kodiak Southeast	17 683
1999	Western Bristol Bay Aleutians	Kodiak Southeast	19 1,081*
2000	Western Bristol Bay Aleutians	Kodiak Southeast Yukon Delta	24 2,200
2001	Western Bristol Bay Interior	Kodiak Southeast Yukon Delta	33 2,943
2002	Western Bristol Bay Interior Pribilofs	Kodiak Southeast Yukon Delta	56 3,628

*Starting in 1999, the Taxpayers Assisted category includes children who must have their annual Alaska Permanent Fund Dividends reported for tax purposes, and who would otherwise not have to file.

2002 In Review

LOGISTICS

The main focus of the Program is bringing its services to remote villages of "bush" Alaska. One of the unique characteristics of the state of Alaska is the lack of state-wide road system. During winter, most of the state can only be accessed by flying or riding a snowmachine across the tundra. This factor not only limits access to professional tax services for rural residents, it also presents a unique challenge to the Program teams.



Program team boarding a plane in Shageluk

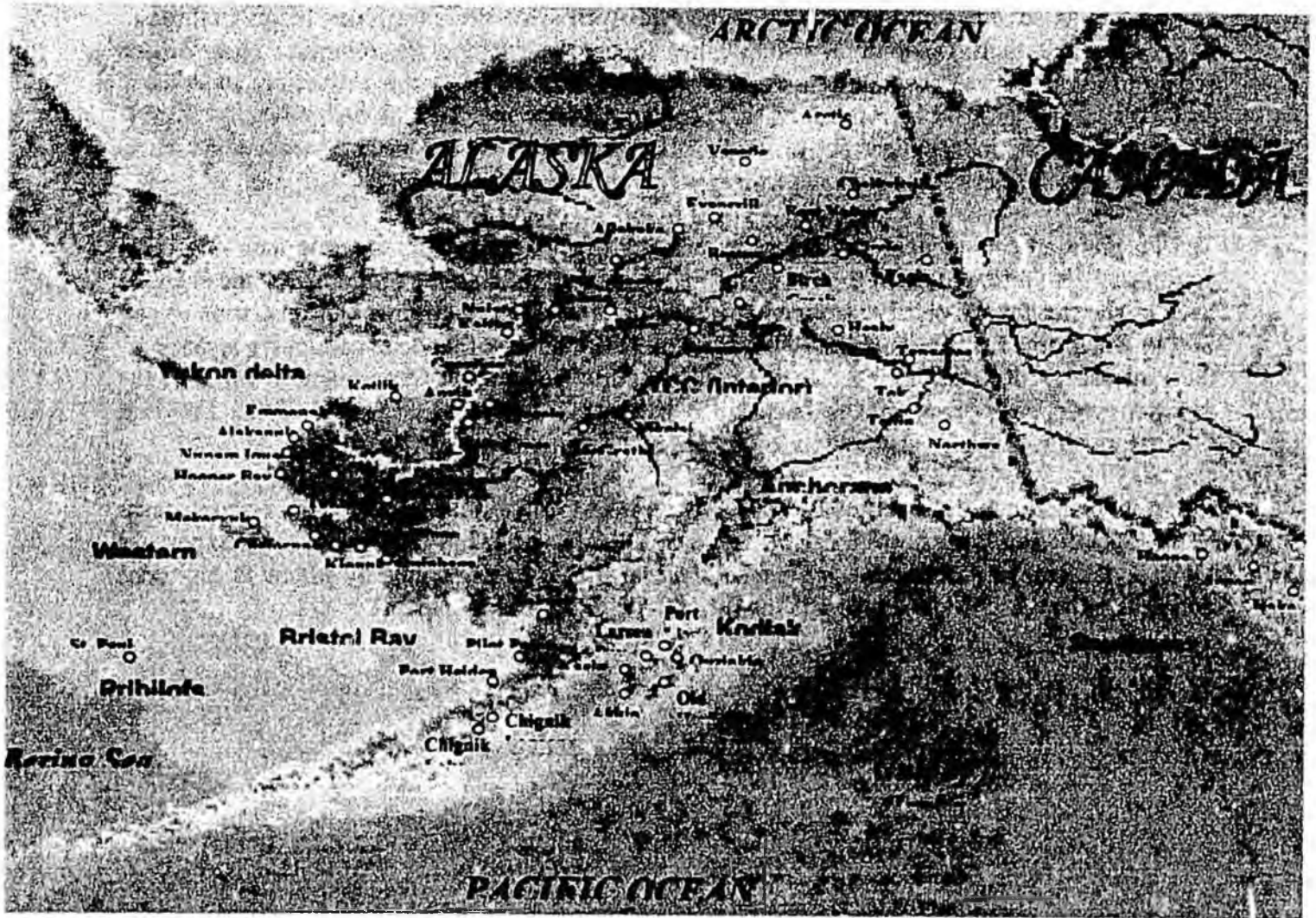
For all of its trips, the teams first take a jet flight to a hub town (Bethel, Juneau, Fairbanks, City of Kodiak, or King Salmon), where they switch to a smaller plane to get to a village. Very often those planes would be single-engine Sessnas or DeHavland six-sitters. These planes have weather limitations, which influences the Program schedule during frequent snow storms, as well as high winds typical for winter season in Alaska. In the Southeast area, the teams often take float planes to their final destination.

The cost of airfare for village flights presents a big challenge for the Program. For example, the regular roundtrip fare from Anchorage to St. Paul Island this winter was \$868 per person, costing the Program a total of \$3,472 for St. Paul airfare alone. The airfare cost of the village flights is the Program's largest expense. The Program usually request assistance from region CDQs or regional Native entities to cover this budget category.

Due to Program's the participants class schedules and other responsibilities, the teams are limited to travel during weekends or University Spring Break periods. On weekends, the teams leave early Friday morning, arriving in the village Friday afternoon, or later if changes occurred due to the weather. The teams usually leave the village on Sunday, arriving back home by the end of Sunday. Due to high cost of airfare, it is too costly to turn around due to weather problems and return to service the village the following weekend. Thus, there are no working hours set for Program teams – the objective is to assist all taxpayers in line before the flight back home. This season, several teams fell behind schedule due to weather delays and had to complete three days' work in a day or less when they finally got to the villages, working well into late hours of the night.

Another cost-saving strategy is grouping nearby villages into a single 10-day trip, which can be completed by a team during Spring Break periods, saving the airfare cost from the Anchorage to hub town. See the opposite page for a map of villages assisted by the Program in 2002.

Communities Assisted in 2002




PROGRAM PERSONNEL

The Program personnel consist of both year-round positions and seasonal positions. The Program is managed throughout the year by one of the ABDC's consultants, who is responsible for raising funds, promoting the Program, training the personnel, handling the logistics, and provide reports to different agencies. The Assistant Program Manager position is filled only during fall and spring university semesters,

During the tax season – mid-February through mid-April – the Program forms teams of three to five individuals to travel to rural communities to prepare income tax returns. These teams consist of senior level accounting student volunteers, mostly from the University of Alaska, accompanied by Team Supervisors. The Team Supervisors can be University faculty, ABDC representatives, or independent tax professionals. Team Supervisors manage team logistics in the field, as well as assist the students with more complicated tax returns.

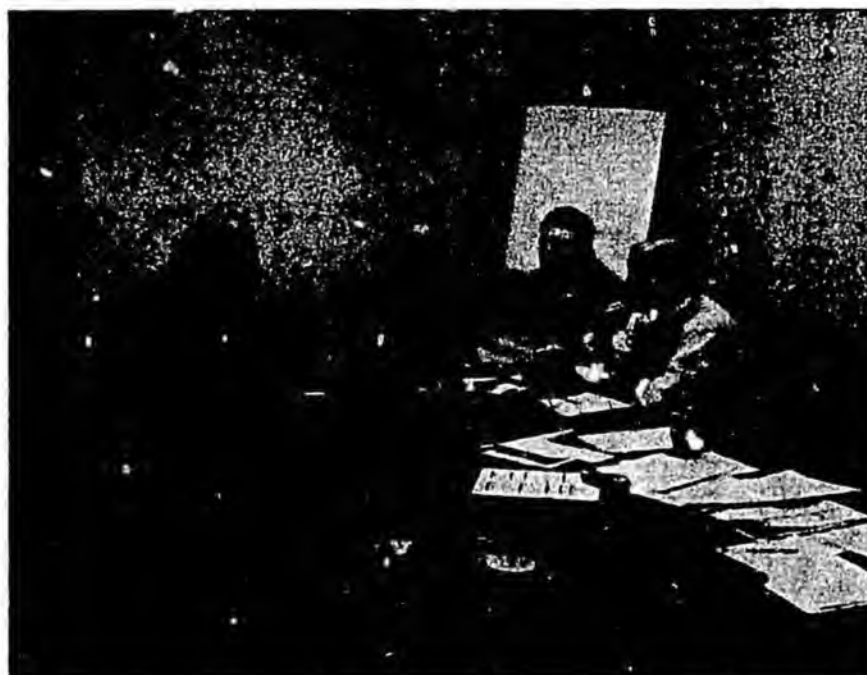
The Program attracts student volunteers by offering them three credits towards their degree in accounting for participation of the Program. In order to complete the requirements, the students have to register for the elective course in accounting, and take either three weekend trips or one Spring Break trip for the Program. The selection and grading of student volunteers is done by the Professor of Record, assigned to the course by the Accounting Department. Most of the Program years, this position has been filled by Mr. Robert Maloney, one of the Program originators. Mr. Maloney also travels to villages as a Team Supervisor.

To provide additional informational support to the teams in the field, as well as to ensure access to any specific tax law knowledge they may need, the Program has an On-Call Tax Expert - a highly qualified, knowledgeable tax professional available to the teams by phone at any time during their travel. Provided below is the list of 2002 Program participants.

 2002 Program Personnel	
<p style="text-align: center;">ABDC Staff</p> <ul style="list-style-type: none"> • Marie Buthorina, Program Manager • Janella Thibart, Assistant Program Manager (Fall semester) • Brenda Povonka, Assistant Program Manager (Spring semester) 	<p style="text-align: center;">Team Supervisors</p> <ul style="list-style-type: none"> • Robert C. Maloney, Professor of Record, UAA • Dana Ackerman, UAS • P.J. Hill, UAA • George Masak, UAS • Carmen Frisby, prior year student • Niki Little, prior year student • Rebecca Bowen, prior year student
<p style="text-align: center;">Tax Expert On-Call</p> <ul style="list-style-type: none"> • Leslie Schmitt, CPA 	<p style="text-align: center;">Student Volunteers</p> <ul style="list-style-type: none"> • Melissa Anderson, UAA • Heather Bellis, UAA • Jackie Blom, UAS • Tamara Carlton, UAA • Melodie Jackson, UAA • Andrea Johnson, UAA • Jesse Jones, UAS • Marge Kalra, UAA • Virginia Kistrick, UAA • Seth Khemwongse, UAA • Svetlana Nink, UAA • Maxim Marmontov, UAA • Amanda Mason, UAS • Monica Mellon, UAA • Chad Montgomery, UAA • Jorge Perez-Garcia, UAA • Pia Peralta, UAS • Bill Schlegel, UAA • Matthew Wood, UAS • Neldora Yarnal, UAA
<p style="text-align: center;">Haka College, NY team</p> <ul style="list-style-type: none"> • Alan Conner, Professor • Matthew Mico, student volunteer • Shannon Mustart, student volunteer 	

In 2002, the Program hosted its first out-of-state team. During a professional conference in the previous year, the ABDC President Gary Selk and Program Manager Maria Bukhonina met with Professor Alan Cohen of Ithaca College, NY, who manages a VITA site for Ithaca College School of Business. Mr. Cohen showed interest in the Program, and suggested coming to Alaska during the tax season with a student team to provide assistance to the Program.

In March of 2002 the Ithaca College team arrived to Anchorage – Professor Alan Cohen, and student volunteers Matthew Misco and Shannon Mostert. They spent a day in Anchorage with ABDC staff training in Alaska-specific tax issues, such as claiming the Alaska Permanent Fund Dividend on income tax returns, filing Schedules C for commercial fishermen and other small business owners, as well as depreciation schedules for typical Alaskan assets.



ABDC President Gary Selk talking to NY team about his experiences in rural Alaska

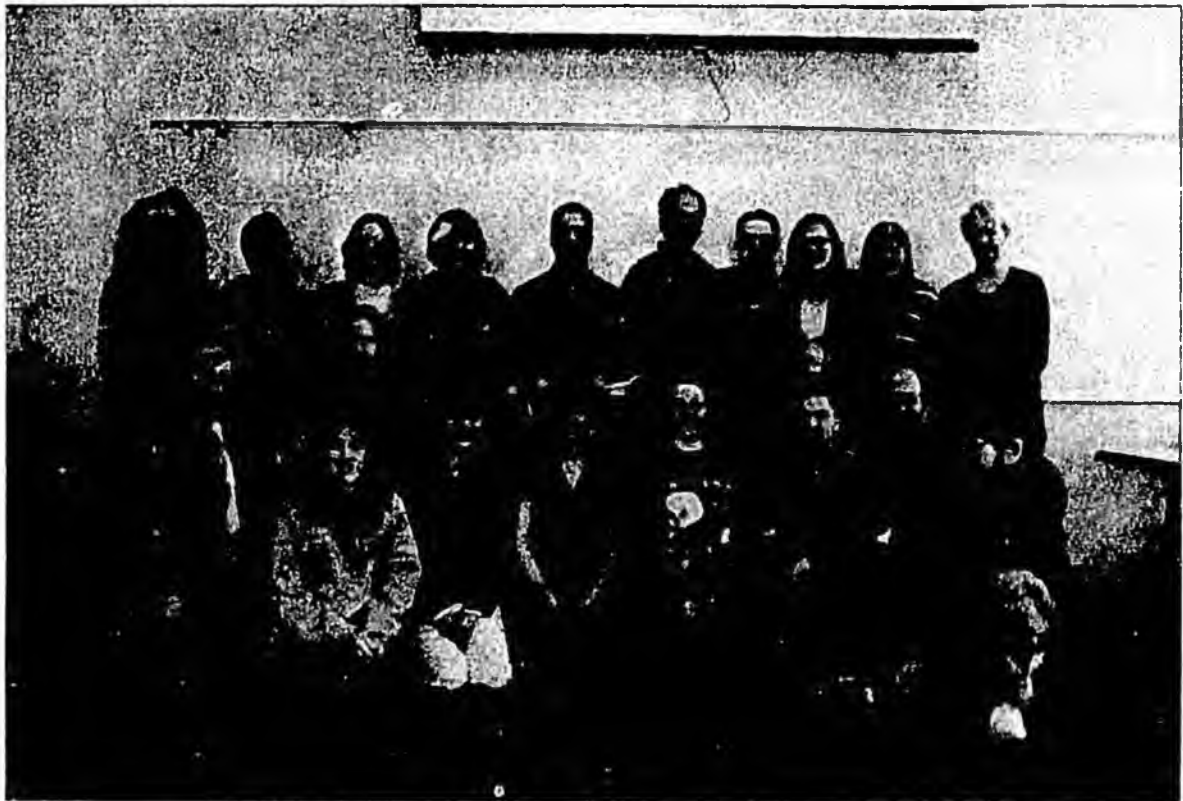
Program Manager joined the New York team for a Spring Break trip to the Island of Kodiak, where the team assisted villages of Akhiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions. The team greatly enjoyed their trip to one of the spectacular regions of Alaska, where they had an opportunity to assist 196 taxpayers and prepare 116 returns.

The team also got a taste of real Alaska – beautiful and unpredictable. As the Program always encounters in Kodiak during the month of March, the trip schedule had to change on the spot several times due to heavy snow storms, which make flying conditions prohibiting for small planes, which are used to relocate around the Island. However, the New York participants enjoyed their adventure and promised to come back next year. The Program hopes to sustain and develop this relationship, as well as establish partnerships with other VITA sites from all over the country.

TRAINING

The University student volunteers are selected for participation in the Program based on several factors. The candidates are required to finish the personal income tax course with a high grade, as well as have good overall academic standing. After the students request to participate in the Program, the accounting faculty reviews the list and makes recommendations to the Program Manager.

Beside the accounting background, the Program considers personal characteristics, such as ability to work as a team, responsibility for their work, good customer skills, and love for adventure. The Program has developed a strong reputation in the state in the past seven seasons, and it places a great deal of emphasis on its level of customer service.



2002 UAA student volunteers with Program Manager (top row, first on the right), Assistant Program Manager (middle row, second on the left), and Professor of Record (bottom row, second on the right)

The candidates selected for participating in the Program first have to receive IRS VITA certification before being enrolled. After finalizing the list of participants, the Program provides both its student volunteers and team supervisors with special training. In 2002, the Program participants received about 25 hours of Program training.

The participants were trained in using the TaxWise software and preparing e-file returns for a current tax year, as well as other years using previous version of the software. A great deal of time was devoted to Alaska-specific issues and how to enter them into TaxWise correctly: claiming the PFD amounts for adults and children, filing for Alaska Native dividends, Schedule C for certain types of small businesses, filing status issues, etc. The training consisted of three theory and three practice sessions, along with some homework assignments. The Program used

real-life examples for its practice returns. Actual W-2s, 1099s, cannery statements, and other tax documents were sanitized of individual information to be used in training. The students were trained to recognize the hidden problems and to deal with them.

The student volunteers also had to pass the Program test upon completing the training. The test represented a comprehensive tax return to be prepared for a couple with multiple children, Alaska Permanent Fund dividends for some members of the family, both W-2 and 1099-Miscellaneous income, unemployment compensation from the state agency, small business income, etc. The final test return included most of the topics the teams would encounter in the field, and used copies of actual tax documents.

In 2002, the Program expanded the cultural portion of the training. Russian Orthodox priest, Father Michael Oleksa, was invited to speak with the UAA student volunteers. The Russian Orthodox Church is a prevailing religion in the Western parts of the state. Father Michael has lived and worked in different villages in Alaska most of his life and dealt with the Alaska Native population on a daily basis. Being married to an Alaska Native woman, Father Michael had an opportunity to closely explore gender and generation relationships within a Native family, as well as gain better understanding of many aspects of Alaska Native culture.

Father Michael talked to the UAA team about Alaska Native culture, its traditional values and centuries-old world perception, and how all that creates difficulties in cross-cultural communication. He talked to the students about linguistic differences, such as how the speech tempo and voice pitch used by non-Native individuals disagree with Alaska Native perception levels. He also explained how priorities differ between the two population groups, as well as how environment influences daily life of an Alaskan Native village resident. This part of the training was very unique and useful to the Program participants, and will be included in future years.

Throughout training sessions, emphasized to the Program participants was the Program priority – educating Alaska bush residents of their rights and responsibilities in regards to the IRS, as well as providing quality assistance to the taxpayers who would otherwise have no or limited access to income tax services. They are taught to be respectful and understanding, as it is a cornerstone of forming a trustful relationship with the clients.

One of the Program objectives is to bring out people who have fallen out of the system and are afraid to come back in. In the past seven years, the Program has brought many taxpayers back into compliance with the IRS, which shows the level of trust village residents have in the Program. Such trust is only gained after taxpayers realize that the Program teams are not IRS collection officers, and are there to help them.

IN THE VILLAGES



*Katag team riding to the village
from the airstrip*

Upon landing at the village airstrip, the team is met by a local representative and transported to the village. Due to absence of paved roads in most of Western and Interior villages, the team is usually taken to a village in a wooden sled pulled by a snowmachine.

The teams usually work out of the village's Community Hall or Tribal Council office. Program teams bring with them laptops with TaxWise software, as well as printers. Upon completing a return, team participants print out a copy for the taxpayer, and then collect the taxpayers' signatures to accompany the electronic files they bring back to Anchorage. In Anchorage, the qualifying returns are filed electronically (e-filed) which increases return accuracy and provides faster turnover. In case of problems with SSN or other information, the Program contacts the taxpayer, corrects the return, and re-files it again.

While some villages are big enough to have a guest house or rooms for rent, most villages do not offer such services. In many cases, the teams are accommodated overnight in village schools or clinics. More often than not, teams bring along sleeping bags and other camping gear and sleep on the floor in school libraries or similar places. The meals are sometimes limited. Bigger villages have groceries stores that offer small selections of food and have limited working hours. Smaller villages sometimes do not have groceries stores, as their residents hunt and fish for food, and order other foods in bulk from Anchorage. Thus, the teams often bring their own food for the duration of the trip. This presents another logistic challenge – the small planes have weight limitations, yet team members have to bring their own camping gear, warm clothes, food, as well laptops and printers.



Tribal Council office in Venetie

The teams sometimes get weathered in the village. This means that the work is done, but the weather prohibits flying back to hub town to take a jet flight to Anchorage. At least once every season a team returns back to Anchorage late Monday night instead of Sunday, which causes team members to miss a day of work or school. However, the Program participants see all these factors as an interesting challenge, rather than an obstacle. Most people living in Alaska are familiar with the concept of "bush" travel, and appreciate the opportunity to experience rural Alaska in this unique way. Many of the Program teams go places in rural Alaska where they would never get to visit on their own.

PROGRAM RESULTS

The Program's results for tax year 2002 are provided on the following pages. The categories listed are *Returns Prepared*, *People Assisted*, *Multiple Years*, *Tax Owed*, *Refund Due*, and *Commercial Fisherman*.

Returns Prepared represents the actual number of returns that were prepared. This does not account for the number of family members on each return. For example, a joint return prepared for a couple with four children counts as one return.

The *People Assisted* category accounts for each individual assisted by the Program. For example, the return mentioned above would count as six people assisted. Each spouse on the return is counted as one person, as well as each child for whom their parents had to file Form 8814. As every Alaskan resident (with few exemptions) receives the annual Alaska Permanent Fund Dividend (PFD), there are two ways in which that amount can be reflected on income tax return. Residents over the age of fourteen simply add their PFD as other income on their returns. Parents of residents under the age of fourteen must include their children's income on their own return. To do so, they fill out form 8814, which taxes child's income at a lower rate. As children with PFD as their only income would otherwise not have to file, they are accounted by the Program as People Assisted.

The *Multiple Years* category represents tax returns prepared for years other than 2001. For different reasons, some residents do not submit their tax returns when due. Since the residents are now familiar with the Program and place their trust in Program staff, they use this opportunity to catch up on their filing. Returns prepared by the Program teams can go as far back as 1997.

The *Taxes Owed* and *Refund Due* columns are simply the amounts each village owes in taxes and expects to receive as refunds. The amounts of the Refund Due column are higher than Taxes Owed because most of the Program clientele are the low-income population and qualify for the Earned Income Tax Credit (EITC), which often constitutes the larger portion of the refund.

The Program also keeps track of *Commercial Fishermen* assisted. Commercial fishing is one of the primary income sources in many rural villages in Alaska. Being up-to-date on their filing is required for commercial fishermen to qualify for state loan funds, as well as allows them to keep their fishing permits from being seized for tax delinquency.

We are proud to report that due to increased participation in the villages and by adding new communities to the Program scope, the overall number of returns prepared in the year 2002 exceeds that of the year 2001 by 70%.

ABDC Volunteer Tax and Loan Program - 2002

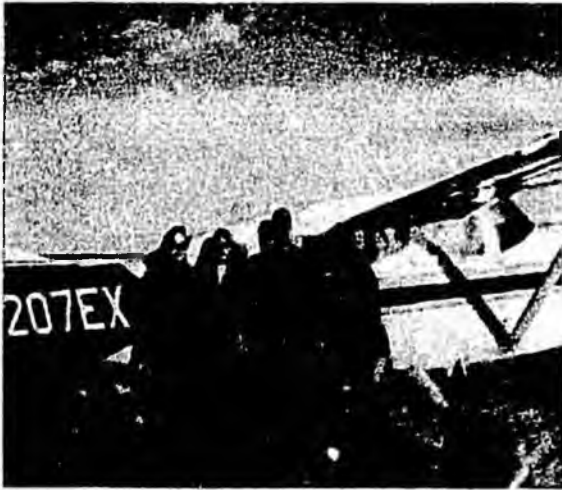
Village Name	Returns Prepared	People Assisted	Multiple Years	Tax Owed	Refund Due	Commercial Fisherman Permit Holder	Fisherman Crew
WESTERN							
Chevak	193	376	10	\$32,908	\$165,590	2	1
Hooper Bay	273	525	0	\$19,584	\$242,880	0	0
Kwigillingok	37	96	0	\$3,308	\$49,602	2	0
Mekoryuk	35	69	1	\$6,641	\$24,395	16	1
Napaskiak	73	170	3	\$8,429	\$79,273	8	0
Quinhagak	90	159	2	\$18,344	\$89,054	7	2
Toksook Bay	157	398	7	\$6,306	\$219,831	33	46
Kipnuk	37	87	7	\$3,661	\$28,791	2	2
Chefornak	33	79	0	\$1,911	\$44,065	0	0
TOTAL WESTERN	928	1,959	30	\$101,092	\$943,481	70	52
YUKON DELTA							
Alakanuk	85	201	3	\$3,229	\$130,393	3	0
Emmonak	62	125	3	\$4,537	\$77,546	0	0
Kotlik	36	87	0	\$1,052	\$29,327	1	2
Nunam Iqua	25	71	2	\$2,842	\$31,848	0	0
TOTAL YUKON	208	484	8	\$11,660	\$269,114	4	2
KODIAK							
Akhiok	17	28	3	\$584	\$20,105	0	1
Karluk	13	25	2	\$821	\$17,494	0	0
Larsen Bay	11	19	3	\$111	\$7,443	1	0
Old Harbor	40	67	1	\$16,316	\$37,705	0	4
Ouzinkie	20	30	0	\$845	\$38,028	0	1
Port Lions	15	27	1	\$6,919	\$13,732	0	5
TOTAL KODIAK	116	196	10	\$25,596	\$134,507	1	11
BRISTOL BAY							
Chignik Lagoon	10	15	0	\$7,888	\$3,596	2	6
Chignik Lake	15	22	0	\$1,866	\$15,316	0	1
Naknek	14	20	4	\$3,921	\$8,246	1	1
Pilot Point	12	25	0	\$5,610	\$11,744	2	3
Port Heiden	6	11	0	\$644	\$7,229	1	1
TOTAL BRISTOL BAY	57	93	4	\$19,929	\$46,131	6	12
SOUTHEAST							
Angoon	94	156	5	\$6,785	\$57,685	7	3
Hoonah	35	60	6	\$7,487	\$27,058	0	0
Kake	56	82	1	\$8,366	\$36,114	1	2
TOTAL SOUTHEAST	185	298	12	\$22,638	\$120,857	8	5

ABDC Volunteer Tax and Loan Program - 2002

Village Name	Returns Prepared	People Assisted	Multiple Years	Tax Owed	Refund Due	Commercial Permit Holder	Fisherman Crew
TCC							
Allakaket	13	26	0	\$5,247	\$12,832	0	0
Anvik	7	15	2	\$2,889	\$6,236	0	0
Arctic Village	11	15	0	\$19	\$12,418	0	0
Beaver	20	28	2	\$10,106	\$14,045	0	0
Bettles	2	2	0	\$0	\$836	0	0
Birch Creek	7	8	1	\$1,784	\$1,015	0	0
Chalkyitsik	2	2	0	\$339	\$375	0	0
Circle	23	37	1	\$342	\$23,251	0	0
Eagle	16	35	0	\$941	\$12,209	0	0
Fort Yukon	13	22	0	\$2,753	\$13,113	0	0
Galena	26	32	0	\$3,888	\$16,073	0	1
Grayling	18	38	2	\$1,883	\$11,569	0	0
Healy Lake	1	1	0	\$0	\$452	0	0
Holy Cross	19	33	1	\$5,395	\$17,993	0	0
Hughes	18	25	0	\$3,620	\$16,399	0	0
Kaltag	13	20	0	\$243	\$8,489	0	0
McGrath	19	30	2	\$3,950	\$12,057	0	0
Minto	17	21	0	\$2,488	\$7,890	0	0
Nenana	7	10	0	\$1,700	\$11,298	0	0
Northway	5	9	4	\$268	\$3,377	0	0
Nikolai	2	2	0	\$0	\$525	0	0
Nulato	20	25	0	\$1,342	\$12,329	0	0
Ruby	11	16	0	\$1,171	\$10,230	0	0
Shageluk	24	41	0	\$1,620	\$19,290	0	0
Tanacross	4	6	0	\$121	\$1,903	0	0
Tetlin	4	5	0	\$0	\$3,407	0	0
Tok	2	2	0	\$503	\$0	0	0
Venetie	24	28	0	\$2,186	\$21,346	0	0
TOTAL TCC	348	534	15	\$54,798	\$270,957	0	1
PRIBILOFS							
St. Paul Island	43	64	10	\$5,385	\$35,491	0	4
TOTAL PRIBILOFS	43	64	10	\$5,385	\$35,491	0	4
TOTAL PROGRAM	1,881	3,628	89	\$241,098	\$1,820,538	0	94

INDIVIDUAL AREAS

Western. Western Alaska is where it all began. The Program first brought its services to residents of Western Alaska during the Pilot Project in 1996. The Program visited two villages in the area then, assisting over a hundred people. The Program proved to be so needed and helpful to area residents, it has been asked to return every year since then. It is also an area with very remote villages, where the closest tax preparation services are located in Bethel, hundreds of miles away.



Quinhagak team leaving the village



Chefornak team preparing for rest

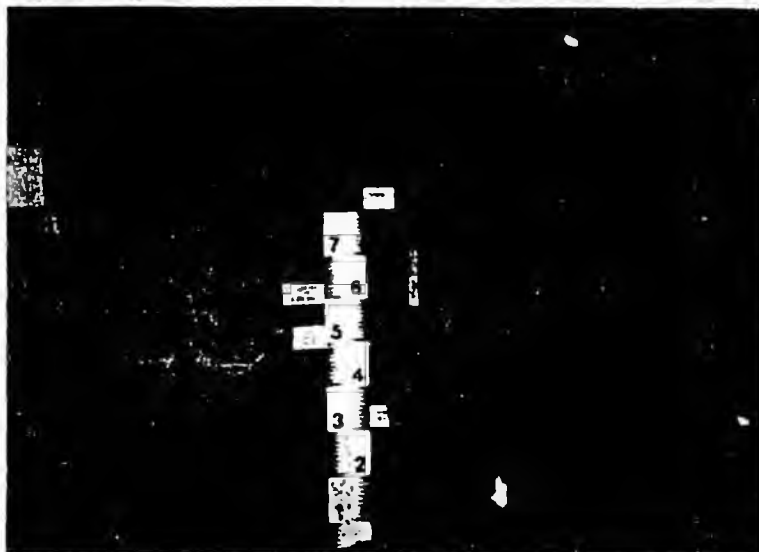
One of the reasons for the Program's success in the area is a major involvement by the area CDQ, Coastal Villages Region Fund (CVRF). This entity consistently helps the Program to cover the airfare cost to all seven communities in the region. The Program is working closely with CVRF representative, Mr. Moses Tulim in Chevak. Due to Mr. Tulim's efforts and participation, last year the Program had all accommodation costs in the area donated by local Tribal Councils and Native Villages.

Since the Program has provided services to this area for seven years now, local residents are now very familiar with the Program personnel on a first name basis. This makes it easier for delinquent individuals to trust the teams and bring their tax problems to the Program. A lot of local entities are also involved in bringing the Program to the area. The following is the complete list of local supporters.

COASTAL VILLAGES REGION FUND (CVRF)

- Chevak Traditional Council
- Chefornak Traditional Council
- Sea Lion Corporation
- Kipnuk Traditional Council
- Native Village of Kwigillingok
- Native Village of Kwinhagak
- City of Mekoryuk
- Napaskiak Tribal Council
- Napaskiak School
- Toksook Bay School

Yukon Delta. The Yukon Delta area joined the Program two years ago, due to interest shown by the area CDQ – Yukon Delta Fisheries Development Association (YDFDA). After YDFDA representative, Mr. Doug Redfox, had met with Program Manager at the annual Fish Expo in Seattle, the Association offered to provide support to the Program in the area. The Program assisted villages of Emmonak, Kotlik, and Alakanuk in 2000, and proved to be a very needed service. In 2001, a village of Nunam Iqua (former Sheldon Point) was added to the list. In 2002, the Program assisted all four of the villages.



Alakanuk team outside after a long day of work

Once again, the area CDQ plays the important role in Program's success in the area. The Association covers the airfare expenses associated with the travel to the area, and provides a network of contacts for the teams in each village, since many officials in the assisted communities are shareholders and employees of the Association. One of the most influential contacts in the area is Mr. Douglas Redfox, who has been continuously working with the Program on behalf of the Association. See the full list of local contributors below.

YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION (YDFDA)

- Grant Aviation
- Alakanuk Native Corporation
- City of Alakanuk
- City of Emmonak
- Emmonak Native Corp.
- City of Kotlik
- Kotlik Native Corporation
- Native Village of Nunam Iqua

Kodiak Island. The residents of Kodiak Island are very familiar with Alaska Business Development Center's staff due to multiple projects carried out by ABDC in the area. In 2002, the Island was assisted by a team from Ithaca College, NY.



Kodiak team at work in Port Lions



Approaching Akhiok, view from the plane

Kodiak Island is one of the areas where the Program schedule is greatly affected by ever-changing weather. Since the only transportation mode between the villages on the Island is by small planes, their flights are often re-scheduled due to difficult flying conditions. To be able to work around the weather and still service all the scheduled villages, the Program traditionally schedules a week-long trip to the Island during the University Spring Break period. This gives a team enough time to adjust the trip's schedule, if necessary, for the weather to change and a flight to the next village to become feasible.

The airfare from Anchorage to the City of Kodiak, as well as flights between villages, were covered by contribution from Kodiak Area Native Association, which has become the Program's largest partner in the area. Below is the complete list of local contributors in the area:

KODIAK AREA NATIVE ASSOCIATION (KANA)

- *Island Air*
- *City of Akhiok*
- *City of Karluk*
- *City of Larsen Bay*

- *City of Ouzinkie*
- *City of Port Lions*
- *Uyak Bay Lodge*
- *Old Harbor Native Corporation*

Bristol Bay. Bristol Bay is another area where ABDC's involvement expands beyond the Volunteer Tax and Loan Program. ABDC's Michelle Kern travels to the area on a regular basis to assist residents with various business projects, as well as a Team Supervisor during tax season. The Program has provided services to this area for seven years now, and many of its clients receive other kinds of assistance from ABDC staff. In 2002, the Program added a community of Naknek to the list its villages. Residents of nearby King Salmon were invited to come to Naknek to use Program's services, as well.



Program clients in Pilot Point



The beach view

Bristol Bay region also features notorious weather conditions. Based on previous experience with travel in this area, the Program makes a flexible schedule for assisting villages in Bristol Bay. These are combined into one Spring Break trip, where a team first travels by a jet from Anchorage to King Salmon. The order of trips and length of stay in each community is further decided based on weather conditions.

Bristol Bay residents are very involved with commercial fishing, which has been problematic in recent years. This makes area residents highly appreciate the Program's free tax services. In Bristol Bay, the Program is supported by many local entities, as well as the local CDQ, the Bristol Bay Economic Development Council. The Council covers airfare to some villages in the area. Due to many personal connections ABDC staff has made in the area over the years, and because area residents believe the Program provides a very valuable service, they frequently help the teams with their logistics and accommodations. Below is the list of local contributors in the Bristol Bay area.

BRISTOL BAY ECONOMIC DEVELOPMENT COUNCIL (BBEDC)

- *Chignik Lagoon Native Corporation*
- *Native Village of Chignik Lagoon*
- *Native Village of Chignik Lake*
- *City of Pilot Point*
- *Native Council of Port Heiden*
- *City of Naknek*

Southeast. The Southeast area of Alaska has been assisted by Program teams for the past six years. The Program recruits students and faculty from the Southeast branch of the University of Alaska in Juneau to travel to Southeast villages, to decrease the airfare cost. In 2002, all three of Southeast participating villages were assisted by UAS students. The UAS volunteers also participated in assisting multiple villages in the Interior area.



Program team working in Kake

The list of participating villages in Southeast keeps changing due to Program's impact in the area. After the Program showed substantial demand, two individuals in the community of Hydaburg are now offering tax preparation services to village residents. The Program can now change its schedule to include new villages with no professional tax preparation services available.

The Program is supported by Native Councils and City offices in every community in Southeast. However, the Program lacks support of large Native entities. In 2001, the Program received a one-time assistance with the airfare cost from the largest Native entity in the region – the Sealaska corporation. The Program did not receive similar support from the Corporation in 2002, but it's hoping to build this relationship in future years. The 2002 Program contributors in the area are listed below.

- City of Angoon
- Chatnam School District
- City of Hoonah

- Huna Totem Corporation
- Kake Tribal Corporation
- Organized village of Kake

Interior. In 2001, the Program expanded into a whole new area – Interior Alaska. The Program was approached by the area’s largest Native organization – Tanana Chiefs Conference (TCC). Most of TCC’s 33 villages are very small and remote, which makes professional tax assistance to be scarce, if available at all. The Program conducted its Pilot Project in the area in 2001, assisting a total of eight villages. The results showed a definite need of the Program services in the area, so the Program expanded significantly within the area in 2002.

In 2002, all 38 TCC villages were offered Program service, however only 28 communities requested and received Program services. The Program worked closely with Ms. Debra McCarter and Mr. Greg Dotzenko of the Tanana Chiefs Conference to coordinate the Program’s effort in the selected villages. The organization’s representatives in each community assisted with the team’s transportation within the villages, as well as setting up at the local offices.



Interior team on a Spring Break trip



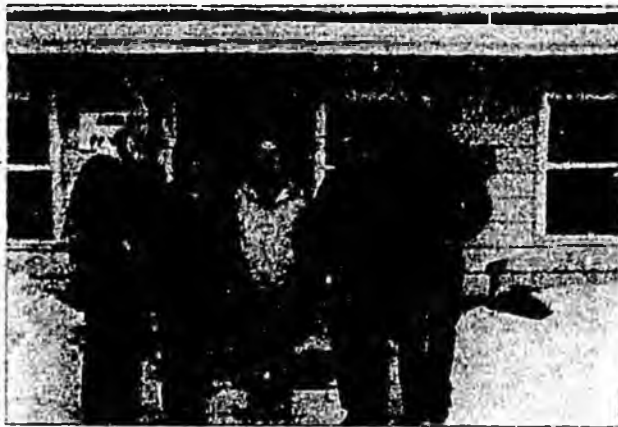
Program volunteer catching up on her studies while on a flight to a village

One of the challenges for the Program in the area is the transportation. Since Program teams mostly travel on weekends, regularly scheduled flights often do not satisfy the Program’s schedule. For that reason, the Program in the area mostly uses charter flights which explains the high airfare expense in the area. However, the Program is completely supported by TCC – besides airfare, the entity offered to cover other Program expenses in the area. Such active participation in the Program by the area’s largest Native entity ensures the Program’s further development and success in the Interior Alaska.

TANANA CHIEFS CONFERENCE (TCC)

St. Paul Island. In 2002, the Program expanded into another new area of Alaska – Pribilofs, the Island of St. Paul. This is one of the most beautiful places in Alaska, a world-famous habitat of many species of sea life, as well as bird species. The Island of St. Paul encompasses slightly over 40 sq miles of land, and lies about 750 air miles from Anchorage. There are many commercial fishermen, both permit holders and crew members, living on the Island.

Due to its geographic location, the only means of transportation to and from the Island during winter is by plane. There is only one airline currently servicing the Island, and flights are sometimes limited to 3 times a week. In order to be able to assist the Island residents within Program scheduling limits, in 2002 the Program team had to travel to St. Paul Island on Saturday and stay through Monday.



*St. Paul team with local contact Debbie Lestenko;
(second from the right)*



St. Paul Russian Orthodox Church

The community of St. Paul was added to Program list after Aleut Community Tribal Government representative, Debbie Lestenkof, approached ABDC and requested the Program's assistance. The Program trip proved to be a success, with 64 people assisted and 43 returns prepared on the Island, including 10 past-due returns. The logistics of the Program trip to the Island were greatly facilitated by attention and efforts of Debbie Lestenkof and Faith Rukovishnikoff of the Tribal Government of Aleut Community of St. Paul Island.

In future years, the Program hopes to receive support from the area's CDQ – Central Bering Sea Fishermen's Association (CBSFA), especially in covering the airfare to the Island, which equaled a total of \$3,472 in year 2002. The 2002 Program contributors are listed below:

- *St. Paul Aleut Community Tribal Government*
- *Tanadgusix Corporation*

Conclusion

Year 2002 was another successful year for ABDC Volunteer Tax and Loan Program. In spite of logistical difficulties, the Program managed to expand again – by about 70% in returns prepared comparing to year 2001. Aside from adding 23 new villages, the Program assisted more taxpayers in villages serviced by the Program for several years now.

The Program expanded its staff by attracting its first volunteers from out of state – a team of three from Ithaca College, NY came to Alaska in mid-March to service six villages on Kodiak Island during their week-long stay in the state. The Ithaca College team helped the Program solve its staffing problem, while providing hands-on assistance to low income “bush” Alaskan residents, as well as experiencing the beauty and unpredictability of Alaska.

The Program staff is extremely proud of its results: increased awareness among Alaskan rural residents of their rights and responsibilities in regards to tax issues; amount of money returning to villages in the form of tax refunds; as well as number of University of Alaska graduates who will return next year to act as Team Supervisors to new teams, and hopefully join the Program’s volunteer staff for many years to come.

The Program is planning to expand even more – until all villages in Alaska are assisted with their tax problems one way or another. Every year, the Program continues to look for assistance of volunteer students, tax professionals, regional corporations, banks, granting organizations, tribal councils, and other entities to help realize the Program’s goals. The Program is also looking to establish collaboration with local legal firms to be able to provide pro bono legal representation in tax matters to low-income taxpayers.

Please join the Program’s staff in our efforts, whether you would like to support the Program generally, contribute financially, volunteer your time, share your knowledge, or provide an in-kind donation.

The next tax season is approaching, and ABDC’s Volunteer Tax and Loan Program is preparing for another great year. The Program staff would like to congratulate all the partners and contributors with the success of the Program in 2002, and welcome them to join ABDC’s VTLP for its next season.

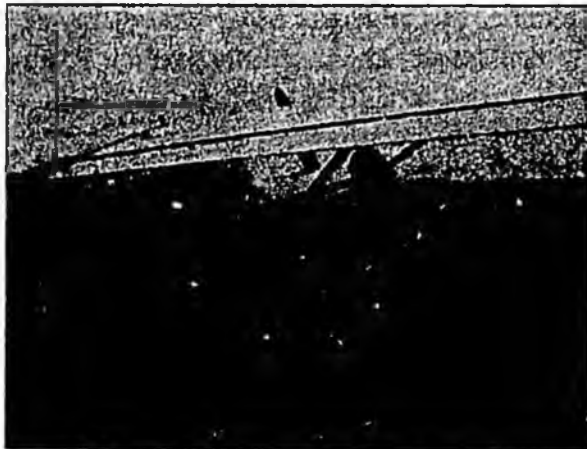
More pictures from the field...



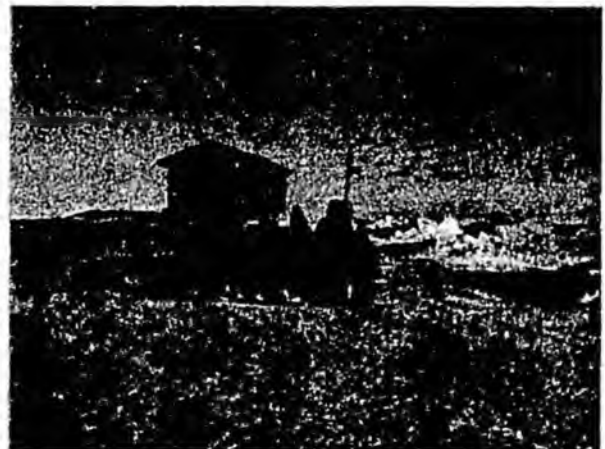
Program volunteer (third in the back) with local kids in Western village



Team's roommate in Kipnuk



Pilot tying volunteer's luggage onto a plane's wing



Village delegation meeting team at the Kwiqillinqok airstrip



End of March in the village of Grayling



NY volunteer riding to Old Harbor airstrip in the back of the truck

Subject:

Re: FW: Task Force: On-line submission form

Date:

Tue, 11 Mar 2003 13:55:02 -0800 (PST)

From:

Bill Crump <bscrump@yahoo.com>

To:

ufa1@ufa-fish.org

CC:

Representative John Harris <representative_john_harris@legis.state.ak.us>,

Representative Paul Seaton <Representative_Paul_Seaton@legis.state.ak.us>, Jerry

McCune <ufa2@ufa-fish.org>,

Cheryl Sutton <cheryl_sutton@legis.state.ak.us>, Phelan Straube

<phelan_straube@legis.state.ak.us>,

Sue Aspelund <cdfu@ptialaska.net>

Tom,

HB 105 is a misguided attempt to help the Salmon industry. Loaning State money to fishermen (to pay back federal taxes) whom will have almost no chance in paying back the money is of little help to the industry and probably hurts it in the long run. The DOI already has many loans that are delinquent to the point that they will have to be written off. To continue to artificially inflate this already overcapitalized industry is the wrong approach. It will also be very unfair to the few fishermen who have been keeping up on their payments. How would you feel if you sacrificed to make your payment every year only to find that the State forgave everyone who made no payments in recent years?

There is no one Silver bullet that I know of that will save the Salmon Industry. It will no doubt take many changes, that when taken as a whole, will be enough to save the industry.

There is one small thing in this Section that if changed would help a little. Eliminating the refinance charge of .5% would be of some small help.

In general the Legislature must think in terms of legislating out inefficiencies and legislating in efficiencies. They must come to the realization that the industry will and must have fewer participants. The new Alaska Salmon industry will have fewer fishermen.

Regards, Bill

Subject:
HB 105
Date:
Tue, 11 Mar 2003 13:43:25 -0900
From:
"Gordon Jackson" <gjackson@ccthita.org>
To:
<Cheryl_Sutton@Legis.state.ak.us>

I just wanted to add our name for supporting HB 105. Several years ago, I worked with a committee of the Alaska Federation of Natives seeking a solution to the increasing problem of the State and Federal government seizing Limited Entry Permits to satisfy their Federal Income Tax liability. Many permits were seized and auctioned and many fishermen were left on the beach without work because they no longer have their permit to fish. The opportunity to apply for and use the loans and pay off the IRS liens stopped a lot of this activity. In Southeastern Alaska I know of at least four of my family and friends who have made good use of this law and satisfied their tax obligation. If it were not for this law, more rural Alaskans would be without their permits and would not have a way to make their living. We fully support this piece of legislation and urge its passage as soon as possible.

Thank you and if you need more information, please let us know.

HB

105

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 10 2003
SENATE FINANCE COMMITTEE

DATE: 5/2/03

FURTHER:

DATE TURNED
IN TO OFFICE: 10 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 105(FIN)

HB 105 COMMERCIAL FISHING LOANS

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	3/10/03		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i> Ben Stevens			✓	
COCHAIR: <i>[Signature]</i> Lyda Green				✓
COCHAIR: <i>[Signature]</i> Cory Withed				✓

FISCAL NOTE

REPORTED OUT

MAY 10 2003

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: SENATE FINANCE
Bill Version: HB 105 COMMITTEE
(H) Publish Date: 3/12/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title: Commercial Fishing Loans BRU: Investments (122)
Component: Investments
Sponsor: Representative Stevens
Requester: House Special Committee on Fisheries Component No. 383

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (21608)	(30.2)	(13.4)	(13.4)	(13.4)	(13.4)	(13.4)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Please see analysis continuation.

Prepared by: Greg Winegar, Director Phone 907-465-2625
Division: Investments Date/Time 3/10/03 3:00 PM
Approved by: Edgar Blatchford, Commissioner Date 3/10/2003
Agency: Department of Community & Economic Development

FISCAL NOTE #1

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 105

ANALYSIS CONTINUATION

This legislation allows Alaska harvesters to refinance existing Commercial Fishing Revolving Loan Fund (CFRLF) loans. Current law requires the Division to charge a one-half percent fee to refinance.

Section 1 of HB 105 removes the one-half percent refinancing fee and that will result in a reduction of income to the CFRLF. Interest rates are currently at record lows and as a result, the Division anticipates that the majority of borrowers eligible to refinance will do so prior to the effective date of this legislation. We expect approximately 180 refinancing applications in FY 04 and then approximately 80 applications per year thereafter. This will result in a reduction to the fund in FY 04 of \$30,150 and a reduction of \$13,400 each year thereafter through FY 09. These reductions were calculated as follows:

180 loans x \$33,500 (average loan size) = \$6,030,000 x .005 = \$30,150

80 loans x \$33,500 = \$2,680,000 x .005 = \$13,400

These calculations are based on interest rates remaining relatively flat or increasing gradually through FY 09.

Joint Legislative Salmon Industry Task Force

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Sculzi, Alternate



Public Members

Sue Aspelund
Sam Cotten
Duncan Fields
Don Gilles
John Lowrance
Robin Samuelson
Gary Slaven
Stephanie Madsen, Alternate
Chris Moss, Alternate

SPONSOR STATEMENT

House Bill 105

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

House Bill 105 will reenact a provision that was in effect in fiscal years 1995-1997 and 2001-2003. This provision allowed fishermen to obtain secured loans for Internal Revenue Service (IRS) debt retirement. It would add another option to the commercial fishing revolving loan portfolio.

The long-term crisis facing the Alaska salmon industry due to dramatic increases in world salmon production, coupled with the equally dramatic reductions in salmon prices, makes this provision all the more important. If Alaska fishermen are forced out of the water because creditors take their limited entry fishing privileges, everyone in Alaska loses.

The genesis of the original provision was prompted by actions of the IRS to seize limited entry permits that were in federal tax arrears. The IRS, through electronic means, was able to match fish tickets with their filing data base and they moved rapidly to seize limited entry permits whose holders were in arrears. This posed a significant problem for the state's and holders' interests.

The Division of Investments, Department of Community and Economic Development, in conjunction with the IRS, developed a very successful program called the "Tax Obligation Loan Program." The Tax Obligation Loan Program aimed at assisting commercial fishermen with their tax debt to the IRS. The success of this program can be measured. In FY 95-97, the Division of Investments issued 287 tax obligation loans. The program was established and in FY 2001-2003, 20 tax obligation loans were issued. This demonstrates the effectiveness of the program. The total number of loans issued in FY 1995-1997 and FY 2001-2003 is 307 and the average tax obligation loan is \$21,095.

If this measure were adopted, the Department of Community and Economic Development believes the number of applicants would be much smaller than in previous years. This prediction is due largely to the successes of the Tax Obligation Loan Program. In the past seven years, the program expanded from assisting 7 communities in 1996, to 56 communities in 2002.

Permit holders seeking a loan under the provision in House Bill 105 must have been a state resident for a continuous period of two years preceding application and a resident at the time of application. In addition, applicants must be current on their federal tax filings and have an agreement with the IRS for payment of past due taxes. Applicants must also have had a crewmember or commercial fishing license for the year immediately preceding the date of application and any other two of the past five years. They must have actively participated in the fishery during that period of time; not have occupational opportunities available other than commercial fishing because of lack of training or employment opportunities in the area where they live; or, be economically dependent on commercial fishing for a livelihood with commercial fishing having been a traditional way of life.

Another element of this measure is that it eliminates the one-half percent refinancing fee for debt refinanced by borrowers with state loans. These borrowers must meet the qualifications of the Division of Investments. This change was incorporated as a small means to assist fishermen who may want to take advantage of lower interest rates. The job of the Joint Legislative Salmon Industry Task Force is to seek means to alleviate, to the extent possible, some of the stresses affecting the commercial salmon industry. This change would provide some assistance.

The final provision of the measure is the elimination of the word "promptly" as it applies to the advertising and sale of repossessed permits. This provides some flexibility to the Department of Community and Economic Development and may prevent their having to sell a permit at a low price.

The Joint Legislative Salmon Industry Task Force seeks your support for this measure.

Joint Legislative Salmon Industry Task Force

Legislative Members

Senator Ben Stevens, Chair
Representative Gary Stevens, Vice-Chair
Senator Kim Elton
Representative Bill Williams
Senator Alan Austerman, Alternate
Representative Drew Scalzi, Alternate



Public Members

Sue Aspelund
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Stephanie Madsen, Alternate
Chris Moss, Alternate

SECTIONAL ANALYSIS

House Bill 105

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

Intent

To make available through the state's commercial fishing revolving loan fund the option of securing a loan to satisfy past due federal taxes; to eliminate the loan refinancing origination charge; and, to provide some latitude to the Division of Investments on the time frame for advertising and selling foreclosed permits.

Sectional Analysis

Section 1.

- Amends AS 16.10.310 to add an option to the commercial fishing revolving loan portfolio to satisfy past due federal tax obligations and delineates the requirements that must be met to receive a "tax" loan. *(Page 2, lines 27-31 - Page 3, lines 1-12)*
 1. The fisherman must be a state resident at the time of application and must also have been a state resident for a continuous period of two years immediately preceding the loan application date. *(Page 2, lines 27-30)*
 2. Applicants must be current on all their federal tax filings. *(Page 2, lines 30-31)*
 3. Applicants must have an agreement with the federal government for repayment of past due taxes. *(Page 2, line 31 - Page 3, line 1)*

- Applicants must:
 1. Have had a crewmember or commercial fishing license for the year immediately preceding the date of application and any other two of the past five years; *and (Page 3, lines 2-5)*
 2. Have actively participated in the fishery during that period of time; *or (Page 3, lines 5-6)*
 3. Does not have occupational opportunities available other than commercial fishing because of lack of training or other employment opportunities; *or (Page 3, lines 7-9)*
 4. Is economically dependent on commercial fishing and commercial fishing has been a traditional way of life. *(Page 3, lines 10-12)*

- Eliminates the one-half percent loan refinance charge. *(Page 4, lines 8-11)*

Section 2.

- Amends AS 16.10.320(d) to allow a borrower to obtain a secured loan not to exceed \$30,000 to satisfy past due tax obligations and describes this loans relationship to other loans the borrower may have under this program. *(Page 4, lines 22-25)*

Section 3.

- Amends AS 16.10.337(b) by removing the word "promptly" to allow the Division of Investments more flexibility on advertising and selling foreclosed permits. *(Page 4, line 31)*
- This change could provide the Division of Investments the ability to secure a better price on repossessed permits. This would assist the borrower and the state.
- Ensures payments on child support liens if proceeds are distributed from the sale of a foreclosed permit. *(Page 5, line 3)*

Alaska State House of Representatives
Twenty-Third Legislature
First Session

RCS# 267
Item 8

5-01-03
11:07:11

CSHB 105 (FIN)
Third Reading
Final Passage

Yeas:	37	Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Fate, Foster, Gara, Gruenberg, Guttenberg, Harris, Hawker, Heinze, Holm, Joule, Kapsner, Kerttula, Kohring, Kookesh, Kott, Lynn, Masek, McGuire, Meyer, Morgan, Moses, Ogg, Samuels, Seaton, Stoltze, Weyhrauch, Whitaker, Williams, Wolf
Nays:	0	
Excused:	2	Gatto, Wilson
Absent:	1	Rokeberg

SENATE FINANCE COMMITTEE

SIGN-IN

HB 105-COMMERCIAL FISHING LOANS

NAME: Kelley Sharp Subject/Bill No: HB 105
Co./Dept./Title: Division of Investments Phone: 465-2510
Address: PO Box 34159 Juneau AK Zip: 99803

Do you wish to testify? Yes No Respond To Questions

NAME: BRUCE TWOMLEY Subject/Bill No: HB 105
Co./Dept./Title: COMM. FISH. ENTRY COMMISSION Phone: 790-6942
(LIMITED ENTRY)
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

106

SFIN

FILE

HB 106

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

SENATE FINANCE COMMITTEE
5/29/2003 COMMITTEE ACTION

Bill Number	HB 106		
Amendment	Report from		
Motion	Committee		
<u>Motion by</u>	Taylor		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Taylor	✓		
Senator Bunde	—		
Senator Hoffman	✓		
Senator Olson	✓		
Senator Stevens	—		
Co-Chair Green	✓		
Co-Chair Wilken	—		
<u>Tally</u>			
Yea	4		
Nay	—		
Absent	3		
<u>MOTION</u>	? Pass?		

rollcall taken after Co-Chair Sen. Wilken
 a journaled meeting

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 106(JUD)
(H) Publish Date: 5/18/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Definition of Lobbying BRU Regulatory Commission of Alaska (399)
Component Regulatory Commission of Alaska
Sponsor House Judiciary
Requester House Judiciary Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 - RCA Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB106(JUD) provides for changes in telecommunications utility regulation and rates, policies regarding carrier interconnection agreements, expedited 90 day adjudication of certain carrier interconnection rate filings, and a report to the Legislature by the Commission concerning the status of competition in Alaska telecommunication markets. Accomplishing the mandates of this legislation may impact the commission's ability to meet its statutorily mandated performance measures for completing case work assignments in a timely manner. Provisions of this legislation may also conflict with federal law. This could result in indeterminate legal expense. The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Dave Harbour, Chair Phone 907-276-6222
Division: Regulatory Commission of Alaska Date/Time 5/20/03 6:19 PM
Approved by: Edgar Blatchford, Commissioner Date 5/20/2003
Agency: Department of Community & Economic Development

Alaska State Legislature

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Representative Lesil McGuire

Chair, Judiciary Committee

CSHB 106(JUD) am SPONSOR STATEMENT

"An Act relating to retail tariffing standards in a competitive local exchange service area; and to exemptions from retail tariff filing requirements and certain other provisions in competitive telecommunications markets; setting a policy regarding unbundled network elements in the telecommunications market; relating to depreciation expense rates for certain telecommunications utilities; requiring the Regulatory Commission of Alaska to conduct an investigation, take certain actions, withhold certain actions, and issue a report; and providing for an effective date."

The regulatory policies we have in place today have performed admirably in providing incentives for competitors to enter the local exchange service business. However, now that we have effective competition in local markets, these policies need to change. As the regulators have slow to respond to changes in Alaska's telecommunications marketplace, it is incumbent upon us, the duly elected policy-making body of the State of Alaska to provide greater direction and guidance to the Regulatory Commission of Alaska in order to make responsible decisions in changing market conditions.

What we currently have is a system that provides incentives to competitors by obligating legacy carriers to lease their facilities at rates substantially below cost. It is plainly apparent that competitors will be successful if they have a substantial cost advantage over the incumbent carrier. As an example, in Anchorage, the main competitor now has approximately 45% of the market share. If we maintain these policies, the competitor's market share could foreseeable grow to an extent that the incumbent carrier's operations may cease to be profitable, effectively removing them from the marketplace, removing competition, and thus ultimately harming the consumer.

Where competition exists and consumers have a choice of facilities-based carriers, Alaska must remain consistent with provisions of the federal Telecommunications Act of 1996 and allow market forces to work. Alaska has been in the forefront with the most competitive local exchange markets in the country and it is imperative that we continue to lead the country by demonstrating that where competition exists, retail pricing should be deregulated.

Alaska's major cities no longer suffer from monopoly control of local exchange markets. All consumers in Anchorage, Fairbanks, and Juneau now have a choice of facilities based carriers. It is time to update Alaska's laws to reflect this new reality and I urge your support for CSHB 106.

Alaska State Legislature

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Representative Lesil McGuire
Chair, Judiciary Committee

CSHB 106(JUD) am SECTIONAL ANALYSIS

"An Act relating to retail tariffing standards in a competitive local exchange service area; and to exemptions from retail tariff filing requirements and certain other provisions in competitive telecommunications markets; setting a policy regarding unbundled network elements in the telecommunications market; relating to depreciation expense rates for certain telecommunications utilities; requiring the Regulatory Commission of Alaska to conduct an investigation, take certain actions, withhold certain actions, and issue a report; and providing for an effective date."

Section 1 – Amends AS 42.05.145 by adding a new subsection provides that upon the commission's approval of a carrier's application to provide local telecommunication service in an incumbent carrier's service area the incumbent carrier is subject to the same standards as the new carrier in areas where the commission has determined there is competition among the carriers. *This provision provides guidance to the regulators to treat all competitors in a market equally under the law.*

Section 2 – Amends AS 42.05 by adding a new section, AS 42.05.433 that reflects FCC regulations to detariff all retail interstate long distance offers pursuant to provisions of the federal Telecommunications Act of 1996 by allowing a local exchange carrier to petition the commission for a determination that one or more of its markets is a competitive service area. This section deregulates retail rates in markets where consumers have a choice of facilities-based providers. *Deregulation is achieved by eliminating retail tariffing requirements either in the entirety of a provider's service areas or only in portions of those service areas deemed competitive.* Further, Section 2 amends AS 42.05 by adding an additional section, AS 42.05.435, establishing the state telecommunications policy regarding the pricing of unbundled network elements (UNE). This section ensures fair rates for leased facilities consistent with federal law. In particular, the statute specifies that lease rates will be based on forward-looking incremental costs and establishes a methodology for determining forward-looking incremental costs based on labor, materials, and fill factors, adjusted for inflation.

Section 3 – Amends AS 42.05.471 by adding a new subsection that provides that the RCA shall accept a utility's proposed depreciation rates in competitive service areas provided that the underlying plant service lines are no shorter than the general depreciation system service lines

used by the Internal Revenue Service for federal income tax computations. This provision allows for recovery of plant investments in more reasonable time increments and is fully consistent with the FCC's guidance for regulating telephone providers in competitive areas.

Section 4 – Amends the uncodified law of Alaska by explicitly declaring The Legislature's intent with regard to telecommunications regulator policies in Alaska. Under this section, the RCA is directed to investigate the telecommunications industry and take such actions as are necessary to ensure that all participants bear the same regulatory burdens. Further, the RCA is directed to report back to The Legislature on the status of the industry in Alaska, rules or regulations proposed or adopted, and recommendations to The Legislature for further action.

Section 5 – Provides that the Act takes effect immediately pursuant to AS 01.10.070(c).

Telecommunications Terms

Alternative Regulation ("Alt Reg") – A form of economic regulation (implemented in the late 1980's as an alternative to rate of return regulation) designed to provide utility companies with incentives for increased efficiency and innovation. Under alternative regulation, utility commissions place price caps on some services and the companies are allowed to keep any profits gained by lowering their costs.

Central Office (CO) – Telephone company facility where telephone lines are connected to the telecommunications network. (See also "The Network")

Competitive Local Exchange Carrier (CLEC) – A local telephone company providing competitive local service within an incumbent's service territory.

DSL / Digital Subscriber Line – Traditional copper phone lines that have been modified in order to provide high speed Internet service.

Data Local Exchange Carrier (DLEC) – A company that only provides data transmission services.

Facilities-Based Carrier – A carrier that has its own facilities such as switches and transmission lines.

Incumbent Local Exchange Carrier (ILEC) – A telephone company which was given the exclusive, franchised right and responsibility to provide local telephone services in a given area.

Interconnection Agreement – Contracts between ILECs and CLECs that govern the rates, rights, and responsibilities of each party in order for a CLEC to have access to certain network facilities of the ILEC.

Interexchange Carrier (IXC) – A carrier offering long distance telephone service.

Local Access and Transport Area (LATA) – One of the 196 local geographic areas in the United States within which a local telephone company may offer telecommunications service. Illinois has 18 LATAs.

InterLATA – Telecommunications services that originate in one LATA and terminate in another LATA. Commonly referred to as long distance.

IntraLATA – Telecommunications services that originate and terminate in the same LATA. Commonly referred to as local and local toll or local long distance.

Local Exchange Carrier (LEC) – A carrier offering local telephone services.

Provided by Rep. McGuire

Local Loop – The phone line from a customer's home or business to a Central Office.

The Network - Interconnected set of communications equipment that allows for the transmission of voice or data.

Operations Support Systems (OSS) – Computer systems that process the complex back-office functions (such as customer orders and repairs) involved in providing telephone services to customers.

PICC/Pre-subscribed Interexchange Carrier Charge – A charge paid by long distance telephone companies to local carriers for the completion of the long distance call over the local loop.

Regional Bell Operating Company (RBOC) – One of the seven local phone companies formed by the breakup of AT&T in 1984.

Resale – A competitive entry strategy that involves buying local and /or long distance phone lines or services at wholesale rates and then selling them to customers.

SLC/Subscriber Line Charge – The federally ordered charge to fund the cost of the telephone lines that reach from the local service provider to homes and businesses.

Telecommunications Act of 1996 (TA96) – Federal law passed in 1996 that attempts to open local phone markets to competition:

Section 251 – Requires ILECs to open their local phone monopolies to competition from CLECs.

Section 252 – Requires ILECs to negotiate interconnection agreements with CLECs. Provides for arbitration and state public utility commission approval of interconnection agreements.

Section 271 – Allows RBOCs to provide long distance service once they meet a 14-point checklist designed to ensure that local phone monopolies are opened to competition.

TELRIC Total Element Long Run Incremental Cost. The FCC First Order and Report (a.k.a. *Local Competition First Report and Order*) established the price for unbundled network elements (UNEs) to equal TELRIC plus a reasonable allocation of forward-looking joint and common costs. TELRIC, as defined by the FCC, reflects the forward-looking cost of each UNE over a period long enough such that all of a firm's costs become variable or avoidable. The TELRIC cost of an element is measured by the FCC based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent local exchange carrier's wire centers. This "hypothetical network" standard was rejected by the 8th Circuit Court of Appeals in its July 18, 2000 opinion (*Iowa Utilities Board, et al., v. Federal Communications Commission and United States of*

America, No. 96-3321). This issue is currently under review by the U.S. Supreme Court. See Docket 96-0486/96-0569 Second Interim Order (February 17, 1998) on Ameritech Illinois' UNE rates, terms and conditions. See Unbundled Network Elements.

Unbundled Network Element (UNE) – The Telecommunications Act of 1996 allows CLECs to lease different “elements” of the Incumbent carrier’s pre-existing network. Examples include the Loop, Switch, Shared Transport and OSS.

UNE-Platform (Unbundled Network Element Platform or the “Platform”) – A combination of all of the network elements that allow a CLEC to provide local service.

Provided by
Gary Wilken

Subject: CSHB106 (JUD) am

Date: Tue, 20 May 2003 08:39:57 -0800

From: Dave Harbour <dave_harbour@rca.state.ak.us>

Organization: Regulatory Commission of Alaska

To: "Senator_Con_Bunde@legis.state.ak.us" <"Senator_Con_Bunde"@legis.state.ak.us>

TO: Honorable Con Bunde
Senate Finance Committee

FROM: Dave Harbour
Regulatory Commission of Alaska

Dear Senator Bunde:

Since Chairman Wilken asked you to chair the HB 111 hearing yesterday, I am assuming you will also chair this morning's hearing on CSHB106 (JUD) am.

I hope you will find the information below to be of value in your consideration of this legislative proposal:

1. The version I downloaded from BASIS, if it is the same as your version, seems to contain a mistake at the beginning of what is now Section 4. The language of subsection (a) seems to have been mistakenly replaced with language which also appears in Section 2. Accordingly, this version appears to contain a clerical error and does not seem to represent the version the House actually passed.

2. CS FOR HOUSE BILL NO. 106(JUD)
BILL ANALYSIS

· The bill is internally inconsistent.

o Sec. 2 provides conflicting instructions on when a market is a "Competitive Service Area" and subject to retail rate deregulation.

§ Under (a) the Commission must decide in 90 days whether to grant or reject a petition for deregulation.

§ Under (b) the petition is effective upon filing.

· The bill allows rate deregulation for customers with no competitive choice.

o This proposal would allow retail rate deregulation even though 50% of the carrier's retail customers in a community had no competitive choice.

§ For example, if customers in the downtown area had a competitive choice, and the carrier met the 50% benchmark, then service to the rural customers without a competitive choice would also be rate deregulated.

§ The carrier would no longer be required to provide *just and reasonable* retail rates to these rural customers.

o Depending upon interpretation, the proposal may allow a carrier the option of applying for deregulation if 50% of its Service Area faces competition.

§ If so, a carrier's entire service area would be deregulated even though it may face competition in only a few of its exchanges.

o It is unclear whether rate deregulation of local exchange service could occur if the area faced only cellular service competition.

· Various parts of Proposed AS 42.05.435 may conflict with Federal law or intent, leading to increased potential for litigation or preemption by the FCC.

o Section (a) allows rates to recover the carrier's "forward looking incremental costs." In contrast federal regulations require rates to be based on "total element long-run incremental costs" and a reasonable allocation of "forward-looking common costs". 47 CFR 51.505(a)(1).

o Paragraph (a) allows the carrier to recover the forward-looking costs the carrier "expects to incur" for unbundled network elements. While the meaning is somewhat vague, it may require the commission to accept the carrier's proposal even if consumers/competitors disputed costs.

o Paragraph (a)(1) states that to the maximum extent allowed by federal law, the "best evidence" of the forward looking incremental costs shall be based on "current reasonable costs" adjusted for inflation. In contrast, FCC regulations state that among the factors that cannot be considered when developing costs are the "costs that the incumbent LEC incurred in the past and that are recorded in the incumbent LEC's book of accounts." 47 CFR 51.505(d)(1).

The presumption of Paragraph (a)(3) that costs be developed using "the most efficient technology the telephone utility has actually deployed" violates a landmark Verizon Supreme Court case where this approach had been rejected.

· Section 3. The proposed depreciation section AS 42.05.471 offers no protection from unreasonable practices, leading to rate increases for carrier-to-carrier rates.

o This provision would apply to carrier's rates for services in a "competitive service area".

o As previously indicated, a competitive service area could include portions of a community where the incumbent held a monopoly or lacked effective competition.

o Given that retail rates in competitive service areas are rate deregulated under other provisions of this proposal, this section appears targeted at rates for carrier-to-carrier services.

o This provision does not require the utility to submit to the Commission the same depreciation expense or rate it developed for tax purposes.

o This provision allows the utility to submit to the Commission any depreciation rate provided it meets one simple rule --- any rate is justified provided the life employed is no shorter than the service life permitted by the IRS. The proposal removes virtually all other limitations, *including* that the utility stop recovering depreciation expense once the cost of an asset has been fully recovered.

o While the proposal limits the depreciation rate to the extent "allowed by law", it is ambiguous. When applied to interconnection rates, the proposal would appear to conflict with federal policies that require such rates to be set on a forward-looking cost basis and developed through negotiation and arbitration. This raises the question of whether the proposal can achieve its intended purpose.

o Given the prohibition on the Commission's ability to require a depreciation study, this proposal would appear to curtail the Commission's authority to enforce the existing statutory

requirement that depreciation rates for services not be excessive in "competitive service areas". AS 42.05.471 (FOOTNOTE BELOW)

Sec 4: IMMEDIATE REVIEW, INTENT

This section, in part, requires the Commission to file a report to the legislature in 180 days. Your approval of yesterday's version of HB 111 already requires production of a review and draft regulations covering a similar array of issues over a similar period of time.

FOOTNOTE: This provision does not require compliance with IRS standards except for that of service life. In contrast see the IRS' Publication 946 comprising about 107 pages on limitations and requirements for setting depreciation expense for tax purposes.

BILL ANALYSIS**SENATE BILL 885**

LEGAL	Tim Fox		
RESEARCH	Jack Unzicker (782.1310) ne		
SPONSOR	S. Davis / Clayborne		
DATE	5/2/03	UPDATE	5/7/03
COMMITTEE	Public Utilities		

HOUSE AMENDMENT #1 BECOMES THE BILL**EXECUTIVE SUMMARY (pending HA#1)**

SB 885 directs the Illinois Commerce Commission to raise the monthly (wholesale) rates competitors pay SBC Illinois (the incumbent local exchange carrier) to lease its "unbundled network elements" in order to provide for local telephone service to customers. The Commission must use "fill factors" (the portion of a facility or element that will be filled with network usage) and "depreciation rates" (forward-looking) in determining these rates. In addition, the Commission must adjust rates, currently in effect, within 30 days.

Current monthly rates will be frozen for two years for the first 35,000 telephone "voice grade" lines leased from SBC (by a competitor). After two years, monthly rates increase to the higher level set by the Commission. Telecommunication companies that lease more than 35,000 lines pay the higher fee, set by the Commission, for any lines over 35,000. Rates for leasing "undesignated voice grade" lines (i.e. not one of the 35,000 lines selected by the carrier) are not eligible for a two year rate freeze and are set by the Commission.

Access lines leased to payphone companies, by SBC, are not eligible for the two year rate freeze. Also, the rate freeze does not apply to any company or its affiliate that leases lines to payphone companies.

- **Proponents** of HA#1 argue that current law fails to reflect the cost of upgrading and maintaining the phone lines and equipment it must share with competitors. The current state-imposed formula for determining what wholesale rates SBC can charge competitors – the cost of the shared element plus 10% markup for sales, marketing and other costs – is out of date and needs to be changed. HA#1 contains SBC's proposed changes to current law.
- **Opponents** argues that competition is working in Illinois and SBC's proposed rate increases (for competitors to lease parts of SBC's network) will only increase telephone rates for both residential and business customers and effectively kill competition for local telephone service in the State.

SENATE ACTION

Committee: 11-0-0 Environment & Energy
 Third Reading: 54-1-2 4/3/03

Provided by Rep. Mc Guire

BILL ANALYSIS - SENATE BILL 885

Page 2

5/6/03

HOUSE ACTION

Comn ittee: 12-5-1 Public Utilities
Third Reading 66-39-10 5/7/03

CURRENT LAW/POLITICAL BACKGROUND**Federal Law**

The Federal Communications Commission (FCC) requires SBC to lease any part of their phone networks, including separate pieces known as "unbundled network elements" (UNE), to competitors and give phone customers a choice of local telephone companies.

NOTE: SBC argues that this requirement goes beyond the requirements of the federal Telecommunications Act of 1996 which only requires companies like SBC, which is the incumbent local telephone service provider, to lease parts of its network that were deemed necessary to provide "ordinary service" to customers.

The federal Telecommunications Act gave state commissions the authority to apply FCC pricing principles (called TELRIC) in determining the wholesale rates competitors pay for individual unbundled network elements (UNE). The U.S. Supreme Court recently upheld the FCC's pricing principles.

State Law

In 2001, Illinois' telecommunications law was revised (PA 92-0022). Section 13-801 (220 ILCS 5/13-801) requires SBC (the local telephone service provider) to open its telephone network to competitors (Competitive Local Exchange Carriers). The law authorizes the Illinois Commerce Commission to require SBC to provide interconnection [Sec. 13-801(b)], collocation [Sec. 13-801(c)], network elements [Sec. 13-801(d)(1), (2) and (3)] and access to operation support systems to competitors on just, reasonable, and nondiscriminatory terms, rates and conditions.

The wholesale rates are based on costs developed over time through exhaustive investigations at the ICC using FCC pricing principles. The ICC determines these rates using cost-based information provided by SBC through a judicial process, which permits the participation by interested parties (the Attorney General, CUB, the U.S. Department of defense, SBC, Competitors, etc.).

Illinois Commerce Commission

In late December 2002, SBC proposed to the Commission (Docket 02-0864) an increase in rates it charges for the "loop" when sold to competitors as "unbundled network elements" (UNE).

The UNE rates being investigated include:

- Recurring and non-recurring (one-time) charges for all types of "local loops" (i.e. the line from the customer to the central office and includes basic voice and data loops);
- Non-recurring charges only for UNE-Platform (UNE-P)(mostly the one-time hook-up fees paid by a competitor when it signs up a new customer); and

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- Non-recurring charges only for "Enhanced Extended Loops" and "Special Access" conversions (high-speed "transport facilities" used to transmit large amounts of aggregated voice traffic).

This case is still pending and the Commission is expected to issue final order on November 23, 2003.

DETAILED DESCRIPTION OF ORIGINAL BILL

SB 885, which is a shell bill, makes a technical change to the Telecommunications Article of the Public Utilities Act.

AMENDMENT ANALYSIS

HA#1, which becomes the bill, adds two new sections to the Telecommunications Article of the Public Utility Act regarding "unbundled network element rates." The amendment defines the key factors that the Commission must use to calculate wholesale rates that SBC is allowed to charge competitors for the use of its system.

Specific provisions include:

Section 13-408 (new). Unbundled network element rates.

- Findings

The General Assembly should provide direction to the Illinois Commerce Commission regarding the establishment of the monthly recurring rates that a company providing local telephone service (i.e. incumbent local exchange carrier) shall charge competitors for unbundled loops, whether provided on a standalone basis or in combination with other unbundled network elements, in order to insure:

- (i) that such rates are consistent with the requirements of the federal Telecommunications Act of 1996, the regulations adopted under this Act, and under Illinois law (Subsection (g) of Section 13-801), and
- (ii) that a company providing local telephone service should be able to recover the efficient, forward-looking costs of creating, operating, and maintaining the network outside plant infrastructure capacity and switching and transmission network capacity necessary to permit such local telephone providers to meet the obligations, under Illinois law (Section 13-801), in a timely manner and adequate fashion.

- Setting rates

The Illinois Commerce Commission shall set the recurring rates that local telephone providers (i.e. Incumbent local exchange carrier) receive for providing access to unbundled loops, whether provided on a standalone basis or in combination with other unbundled network elements as follows:

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- (a) Fill factors – the Illinois Commerce Commission is directed to use fill factors – the proportion of a facility or element that will be “filled” with network usage – that represents a reasonable projection of the actual total usage of the elements in question, in accordance with applicable federal law. The existing actual total usage of the elements that affected local telephone company (i.e. incumbent local exchange carrier) are required to provide to competitors (as reflected in the current actual fill factors for the element in question) is the most reasonable projection of actual total usage. Therefore the Commission is directed to use current actual fill factors that reflect such existing total usage on a going forward basis in establishing cost-based rates for such unbundled network elements.

In addition, the Commission shall adjust all existing Commission-approved rates for unbundled loops, whether provided on a standalone basis or in combination with other unbundled network elements, that are currently in effect, to make such rates consistent with this provision.

- (b) Depreciation rates – the Illinois Commerce Commission is directed to use depreciation rates that are forward-looking and based on economic lives as reflected in the local telephone provider's (i.e. incumbent local exchange carrier) books of accounts as reported to the investment community under the Securities and Exchange Commission regulations. Use of accelerated depreciation mechanism is required in all cases. Use of a depreciation rate based on historical rate-of-return regulation derived lives of the elements and facilities in question is prohibited.

In addition, the Commission shall adjust all existing Commission-approved rates for unbundled loops, whether provided on a standalone basis or in combination with other unbundled network elements, that are currently in effect, to make such rates consistent with this provision.

- (c) Rate adjustments required under subsections (a) and (b) above must be completed within 30 days after the legislation becomes effective.
- (d) Notwithstanding anything to the contrary contained in Section 13-505.1 (requirements for changes in rates for competitive services), unbundled network element rates, established in accordance with the requirements of this section (13-4048), shall not require any increase in any retail rates for telephone services.

Section 13-409 (new). Application of Unbundled Network Rates

- (a) Rates during first two years – the monthly rates paid by competitors for the first 35,000 “voice grade equivalent access lines” and the unbundled network elements associated with those lines are frozen at current levels for two years from the effective date of this legislation.
- (b) Rates after two years – after two years the monthly rates paid by competitors shall be in accordance with rates established by the Commission, under the provisions of Section 13-408.
- (c) Rates for over 35,000 Lines – competitors that lease over 35,000 “voice grade

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equivalent access lines," and the unbundled network elements associated with those lines, must choose which lines will have the rates frozen for a two-year period (as provided in subsections (a) and (b)). If a competitor loses the customer leasing an access line, during the two-year period when rates are frozen, the competitor may not substitute another customer at the frozen rate, but must lease the line at the full recurring rate established by the Commission under Section 13-408.

NOTE: "Voice grade equivalent lines" do not include high volume data transmission over DS1 (24 lines) or DS 2 (76 lines) lines.

In addition, all unbundled network elements leased to provide service over "undesigned voice grade" equivalent access lines (i.e. is not one of 35,000 lines selected by the carrier) shall be subject to the full monthly recurring rate established by the Commission according to Section 13-408.

- (d) **Rates for under 35,000 Lines** – competitors that lease under 35,000 "voice grade equivalent access lines," and the unbundled network elements associated those lines, must choose which lines will have rates frozen for a two-year period (as provided in subsections (a) and (b)). If a competitor loses the customer leasing an access line, during the two-year period when rates are frozen, the competitor may not substitute another customer at the frozen rate, but must lease the line at the full recurring rate established by the Commission under Section 13-408.

In addition, all unbundled network elements leased to provide service over "undesigned voice grade" equivalent access lines (i.e. is not one of the 35,000 lines selected by the carrier) shall be subject to the full monthly recurring rate established by the Commission according to Section 13-408.

- (e) For the purposes of determining when an individual telecommunications carrier has reached 35,000 voice grade equivalent lines, a specific carrier (carrier affiliate, any carrier serving as a sales or marketing agent and carrier with whom that carrier has a cooperative sales or marketing agreement) shall be treated as a single "individual" carrier.
- (f) Access lines leased to payphone service providers are not eligible for the rate freeze or discount provided for the first 35,000 voice grade equivalent access lines (under subsections (a) and (b)). In addition, the provisions of subsections (a) and (b) do not apply to unbundled network elements that are leased by individual telecommunications carriers to provide local telephone service to payphone providers.

Section 99. The bill has an immediate effective date.

PROponents/OPponents

Proponents: SBC Illinois, International Brotherhood of Electrical Workers (IBEW Locals #21 & 134), Chicago Federation of Labor, Communications Workers of America, Illinois AFL-CIO, Interface Computer Communications, Nash Brothers Construction, IHC Construction Company, LECG, Reliable Contracting, RAW Construction, Phone Masters

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- SBC argues that current law fails to reflect the cost of upgrading and maintaining the phone lines and equipment it must share with competitors. The current state-imposed formula for determining what wholesale rates SBC can charge competitors -- the cost of the shared element plus 10% profit plus a 35% markup for sales, marketing and other costs -- is out of date and needs to be changed. HA#1 contains SBC's proposed changes.

Opponents: Illinois Attorney General, American Assn. of Retired Persons (AARP), Citizens Utility Board (CUB), Citizens Action, Illinois Lt. Governor, AT & T, MCI/World Com., Sprint, IL. Public Telecommunications Assn., COVAD, Competitive Local Exchange Coalition of Illinois, Access One, CIMCO Communications, McLeod USA, Globalcom, Time Warner Telecom, Z-Tel, Talk America, Cable Television & Communications Association of Illinois, Comcast Corp., and McLeod USA.

- Opponents argue that competition is working in Illinois, and SBC's proposed rate increases (for competitors to lease parts of SBC's network) will only increase telephone rates for both residential and business customers and effectively kill competition for local telephone service in the State.

No Position: Illinois Commerce Commission, Verizon, and IL. Independent Telephone Assn.

Scott Wiseman
Executive Director

Position: NO POSITION
Date: 5/6/03

ILLINOIS COMMERCE COMMISSION
93rd GENERAL ASSEMBLY
POSITION PAPER

Bill Number: SB 885

House Sponsor: S. Davis

Amendment: HA1

Senate Sponsor: Clayborne

Brief description of major bill components:

This bill would legislate wholesale prices by establishing in the law the ratemaking guidelines for SBC Illinois related to unbundled network elements (UNEs). The bill has several major components:

- Depreciation rates and fill factors are the major inputs used to calculate wholesale Unbundled Network Element rates. This bill sets these inputs at "actual levels" for unbundled loops (the line connecting a customer to a central office).
- This bill requires the ICC to use SBC's cost models and methodology as introduced by SBC in a pending case (ICC Docket No. 02-0864) and to complete the necessary rate adjustments within 30 days after the effective date of this act.
- The effect of these first two components is an increase in SBC's current wholesale rates.
- The new wholesale rates would automatically be incorporated into all interconnection agreements and all tariffs (contracts between SBC and its competitors).
- The bill abates ICC Docket No. 02-0864, the current case investigating these same SBC wholesale rates.
- To promote competition, a different section of the Public Utilities Act (Section 13-505.1) requires SBC to increase its retail rates if the increased wholesale rates go above current retail rates. This bill nullifies the impact of that section and provides that irrespective of the increase in wholesale rates, even if SBC's wholesale rates exceed SBC's retail rates, retail rates "shall not be required to increase."
- For 2 years, recurring wholesale rates will be frozen for "the first 35,000 voice grade equivalent lines used by" a competitor. The carrier in question would have to designate the lines to be frozen.
- Payphone wholesale rates are excluded from this wholesale rate freeze.

Provided by Rep. McGuire

Changes in existing law:

This bill adds new Sections 13-408 and 13-409 to the Public Utilities Act.

Apparent reason(s) bill was introduced:

To guarantee increases in SBC's wholesale UNE loop rates and to automatically incorporate these rates into all of SBC's interconnection agreements.

Prior legislative history:

None

Possible impact on current agency policies and operations:

This represents a major departure from Federal and Illinois telecommunications regulatory policies and operations. The intent of the Federal Act, the State statutes, and FCC/ICC regulations has been to create an environment where consumers will realize the benefits lower costs and be given more choices if there is competition for their telephone service. The FCC gave state commissions the task of applying FCC pricing principles (called TELRIC) in determining the wholesale rates that competitors pay for individual Unbundled Network Elements ("UNEs" - the piece-parts of the telephone network). The ICC determines these rates using cost-based information provided by SBC through a judicial process, which permits participation by interested parties (the Attorney General, CUB, the U.S. Department of Defense, SBC, Competitors, etc.).

This bill would statutorily define the key factors used to calculate the wholesale rates that SBC is allowed to charge competitors for the use of its system and would set these wholesale rates until such time that this provision of the law is changed. In effect, the bill transfers the determination of just and reasonable wholesale rates to the General Assembly. This bill would result in significant increases for certain UNE rates over the current approved rates. Furthermore, the bill automatically incorporates these new rates into all of SBC's interconnection agreements with its competitors, and is a departure from freedom of contract laws and the Federal Telecom Act of 1996.

In addition, it is the policy of the Illinois Commerce Commission to reduce regulations where appropriate and replace them with market forces. This bill sets forth an elaborate set of regulatory burdens on the Illinois telecommunications industry and potentially has a negative impact on the competitive environment.

Probable increased/decreased fiscal impact:

Internal: Decrease in the short run as the bill abates a major case currently before the ICC. The bill could produce a long-term increase however, due to an increase in complaints by competitors and consumers if competition diminishes and a need to reevaluate retail rates results.