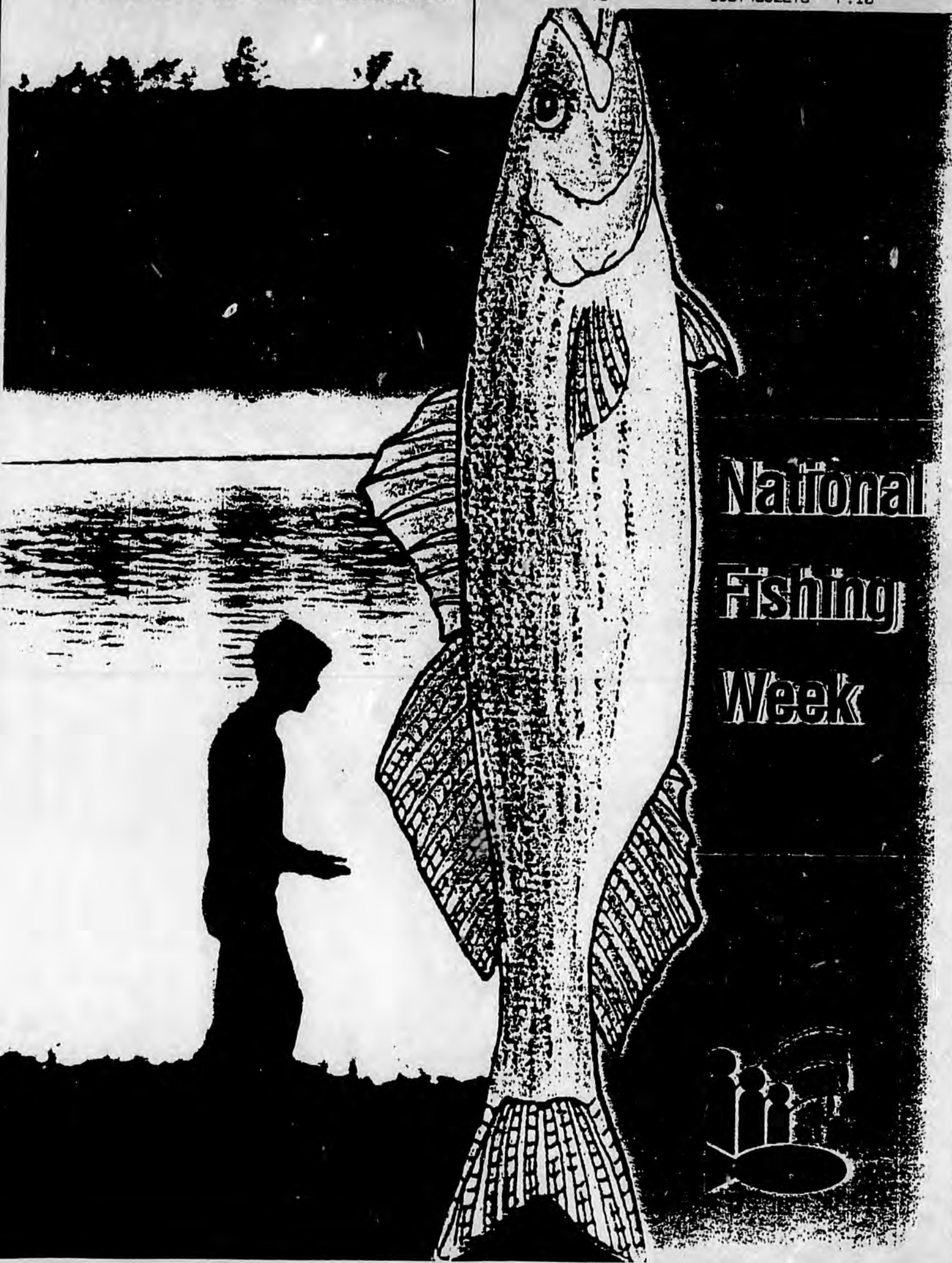


ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2307 SCOMM 95: HOUSE SPEC. COMM. ON FISHERIES 1995-1996



MAY 18 1992



Fishing is a healthy outdoor recreational activity in New York which grows more popular every year. The reasons are as many and diverse as the waters where the sport can be pursued.

New York is a state truly rich in water resources. The mammoth Great Lakes, sprawling reaches of Long Island's coastal shores, legendary Catskill streams, rare splendor of our Finger Lakes, miles of rivers and tiny Adirondack ponds all have their beauty and each offer unparalleled fishing potential.

That potential is made real for present day fishermen by the continuance of New York's century-old tradition of sound fisheries management carried forward by dedicated professionals. Their efforts have resulted in a breadth and scope of fishing opportunity unmatched in the nation. We also help people learn about fishing so they can enjoy this lifetime recreation.

Fishing has a particular fascination for children of all ages. Mindful of this affinity, New York makes available to young anglers a formal and enjoyable educational program. The Sportfishing Aquatic Resources Education Program (SAREP) uses trained volunteers to impart to our youth a feeling for the traditions of sportfishing and solid knowledge about conservation, management and wise use of our aquatic resources. More than 2.3 million anglers 16 years and older and about one million children enjoy angling in New York each year. Cumulatively they fish more than 50 million days and spend in excess of \$2.5 billion annually in pursuit of their favorite fish.

To give both residents and nonresidents an opportunity to savor the joys of fishing in New York, we again invite the public to enjoy two free days of fishing on June 27-28, 1992. No license is required for this weekend, allowing first-time anglers and those who have gotten away from the sport a chance to wet a line and perhaps ignite a lifetime love affair. Good stewardship of our natural resources is an easier goal to attain when all of our citizens have an appreciation for and a stake in those resources. Fishing is a great place to start that linkage. This year we celebrate this observance throughout June, beginning with National Fishing Week, June 1-7, and culminating with our free fishing days on the last weekend.

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the state of New York, do hereby proclaim June, 1992, as

FISHING MONTH

In New York state.



BY THE GOVERNOR:

G I V E N under my hand and the
Privy Seal of the State at the
Capitol in the City of Albany
this fourth day of May in the
year one thousand nine hundred
hundred and ninety-two.

Mario M. Cuomo

Andrew J. Tambelli
Secretary to the Governor



Alaska Sportfishing Association

P. O. Box 24-1847

Anchorage, AK 99524-1847

Representative Pete Kelly
State House
Juneau, Ak 99801
Via Fax

Dear Representative Kelly,

We have just been advised of HB 256 which authorizes the Commissioner of Fish and Game to establish free sport fishing days.

The Alaska Sportfishing Association (ASA) feels that the bill provides everyone the opportunity to take part in one of Alaska's premier activities. It should increase the awareness of both Alaskans and our visitors to the sport of fishing and the use of our incredible Alaska outdoors.

ASA wholeheartedly supports HB 256 and urges its passage.

 3/14/95
Phil Cutler, President

STATE OF OKLAHOMA



EXECUTIVE DEPARTMENT

Proclamation

WHEREAS, there are over one million anglers including women, children, senior citizens and handicapped, who enjoy fishing reservoirs, lakes, ponds, streams and rivers in Oklahoma; and

WHEREAS, June 7 - 13, 1993 has been proclaimed as National Fishing Week; and

WHEREAS, fishing is an established recreational activity in Oklahoma enjoyed by over one million anglers, including women, children, senior citizens and handicapped; and

WHEREAS, fishing generates more than \$442 million annually to the benefit of local economies; and

WHEREAS, the Oklahoma Wildlife Conservation Commission has recognized June 12 and 13 during National Fishing Week as "Free Fishing Days" in Oklahoma;

WHEREAS, of "Free Fishing Days" in Oklahoma, the first state in the nation to designate a "Free Fishing Day" celebration;

NOW THEREFORE, I, David Walters, Governor of the State of Oklahoma, do hereby proclaim the week of June 7 - 13, 1993, as

NATIONAL FISHING WEEK

In the State of Oklahoma.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed.



Done at the Capitol, in the City of Oklahoma City, this 26th day of May, in the Year of Our Lord one thousand nine hundred and ninety-three, and of the State of Oklahoma the eighty-fifth year.

John Kramer
SECRETARY OF STATE

David Walters
GOVERNOR

SCOMM

95:27

9-LS0897F

Utermohle

2/21/96

CS FOR HOUSE BILL NO. 265()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE WILLIAMS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the export of live dungeness crab."

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

3 * Section 1. AS 16.10.240 is amended by adding a new subsection to read:

4 (b) Notwithstanding (a) of this section, live dungeness crab, species Cancer
5 magister, may be taken, shipped, transported, or sent from the state by means of
6 surface transportation if the crab are taken at a time and location in the state for which
7 the Department of Environmental Conservation does not require seafood processors to
8 test dungeness crab for the presence of marine toxins.

**For the District
Re: Dungeness Crab Bill HB 265**

If John Servier asks:

At present, everyone in the state can transport or export dungeness crab by air. Now with HB 265, crabbers can transport dungeness via water or land if DEC has a PSP testing exemption for that area. This is very unlikely for the Kodiak area as this area is known as a "hot" area with high incidence of PSP.

HB 265 was replaced with CSHB 265 (FSH) which makes the intention of legislation clearer.

Alaska State Legislature



Representative William K. Williams

Committees:

House Resources
Co-Chairman
World Trade &
State Federal Relations
Transportation
Rules
Oil & Gas

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
352 Front Street
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

SPONSOR STATEMENT

Committee Substitute House Bill 265
An Act relating to the export of live dungeness crab.

Committee Substitute for House Bill 265 is an economic development bill. I introduced this bill in response to constituents who are struggling to develop a live crab market in British Columbia. Currently, if you have established an out-of-state live dungeness market, you are required by law to ship your product through the air. Air transportation of live crab is tricky and in many cases cost prohibitive. As we all know, there are frequent weather and other delay problems associated with flying in Alaska. These problems don't particularly lend themselves to crab surviving the journey to the marketplace. Despite these obstacles, air transportation is the only way to get live crab to markets which are many miles away.

I have constituents who are trying to make inroads into the British Columbia live dungeness market. Requiring them to air freight their catch to either Prince Rupert or Seattle has a crippling affect on their ability to capture a place in the growing B.C. market.

Committee Substitute for House Bill 265 would remove the "air transportation only" restriction when shipping live dungeness crab out of state. The bill goes further by answering concerns about marine toxins, particularly PSP, by not allowing "surface transportation" to occur in areas where the Department of Environmental Conservation is requiring the testing of crab for marine toxins.

This requirement will address concerns for areas outside of Southeast Alaska. For instance, the Kodiak fishery tests "hot" nearly all the time requiring crab to be sectioned and the viscera removed. There are no other areas in the state where dungeness fisheries occur in any significance. There is a small fishery in the Port Moller area.

Alaska State Legislature



Representative William K. Williams

Sponsor Statement

House Bill 265, "An Act relating to the export of live dungeness crab"

Plain and simple, House Bill 265 is an economic development bill. I introduced this bill in response to a constituent who was struggling to develop a live crab market in British Columbia. Currently if you have established an out of state live dungeness crab market, you are required to ship your product through the air. Air transportation of live crab is tricky and in many cases cost prohibitive. As we all know, there are frequent weather and other delay problems associated with flying in Alaska. These problems don't particularly lend themselves to crab surviving the journey to the marketplace. Despite these problems, air transportation is the only way to get live crab to markets which are many miles away.

There are markets which are much nearer to Alaska that could be developed if the cost of air transportation wasn't involved. I have constituents who are trying to make inroads into the B.C. live dungeness market. Requiring them to airfreight their catch to either Prince Rupert or Seattle has a crippling effect on their ability to capture a place in the growing British Columbia market. House Bill 265 would remove the "air transportation only" restriction when shipping live dungeness crab out of state. This would allow entrepreneurs to use other means in transporting dungeness crab to the nearby markets of B.C. This is beneficial for a couple of different reasons. First it would lower shipping costs and secondly it could improve the survivability of the product on its way to market.

The passage of House Bill 265 is just one small step we can take to help Alaskans better compete in the international marketplace. I urge your support for House Bill 265. Thank you.

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
352 Front Street
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

All the reporting requirements are in place for this fishery to occur. All the appropriate taxes will be paid and the catch statistics gathered. In your packets you will find a memorandum from the Legislative Research Agency on this subject.

This bill will allow fishermen to expand their markets. It will provide an opportunity for diversification and is a good economic development bill.

Legislative Research Agency

Alaska State Legislature



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

March 30, 1995

MEMORANDUM

TO: Representative Bill Williams

FROM: Linda Brooks *LB*
Legislative Analyst

RE: **Live Crab Exports to Canada: Reporting Requirements**
Research Request 95.171

You posed this question: if Alaska fishermen could deliver live crab to Canadian ports by boat, how would the volume of these sales be recorded? That is, are there reporting requirements that would allow U.S. authorities to know the extent of the trade?

Alaska fishermen who export crab must comply with four state reporting requirements, but the data collected from those reporting requirements would not reveal the volume of live crab being exported to Canada. It appears that information about the amount of Alaska crab exported to Canada could be obtainable from Canadian and U.S. Customs data.

State Reporting Requirements

Alaska fishermen who sold crab directly from their boats to processors in Canadian ports would be classified as "catcher-exporters," and they would have to comply with four state reporting requirements:

- Intent to Operate Application
- Fish tickets
- Processors' annual reports
- Fisheries business license tax return

The fishermen would first file "Intent to Operate" applications with the Alaska Department of Fish and Game (ADF&G). They would also obtain Fisheries Business Licenses from the Alaska Department of Revenue. Fishermen could not begin to export crab until ADF&G approved their Intent to Operate applications. As a condition for approval, fishermen would have to provide

Representative Williams

March 30, 1995

Page 2

ADF&G with proof that they had met the Alaska Department of Revenue's surety bond and fisheries business license tax prepayment requirements.

After fishermen satisfied the Department of Revenue's requirements and obtained approval of their Intent to Operate applications, ADF&G would provide them with fish tickets. Fishermen would have to submit completed fish tickets for their catches to ADF&G before exporting any live crab (5 AAC 39.130). Fishermen would record on the tickets where they caught the crab, the number of pots used, and the number of pounds of crab sold on each ticket.

Fish tickets would be a continuous reporting requirement. Fishermen who directly exported crab would complete a fish ticket for each catch. Fishermen "catcher-exporters" also would face two annual reporting requirements: completion of an Alaska Commercial Operator's Annual Report and a Fisheries Business License Tax return. Both the report and the return would have to be filed by April 1st and would cover all activity from January to December of the preceding year. Fishermen "catcher-exporters" would record on the annual report the amount of crab caught by fishing area and would indicate the price received when sold. Tax forms for the fisheries business license tax would be obtained from the Alaska Department of Revenue, and fishermen "catcher-exporters" would be responsible for paying the tax due.

Nevertheless, while the fishermen "catcher-exporters" would have to comply with the different state reporting requirements, the data collected through these reporting requirements would not reveal the volume of live crab being exported by Alaska fishermen directly into Canadian ports. Fish tickets provide ADF&G with data on the amount of crab being harvested in various areas of the state so that biologists have the information necessary to manage the fishery. The fish tickets would quantify the amount of crab harvested, but they would not indicate the geographical destination of any crab that was exported and sold out-of-state. Likewise, annual processors' reports and business license tax returns would provide no information about the geographical destination of live crab exported from Alaska.

The State of Alaska would have both fiscal and fishery management interests in assuring that fishermen "catcher-exporters" complied with the state reporting requirements. Normally fish processors handle fish tickets, processors' annual reports, and fisheries business license taxes so that fishermen who sell their catches in Alaska are not personally involved in any of these reporting requirements. However, fishermen who act as "catcher-exporters" would be responsible themselves for initiating the reporting processes and complying with all requirements. Some "catcher-exporters" might evade compliance to avoid paying the fisheries business license tax; others might be unaware of the reporting requirements. Failure to submit fish tickets would nonetheless hamper ADF&G's ability to manage the fishery properly. Fish and Wildlife officers from the Alaska Department of Public Safety enforce the ADF&G fish ticket regulations, but fishermen "catcher-exporters" who failed to submit fish tickets would only face a \$3,000 fine for a first offense. In terms of fish tax revenues, the amount lost would depend on the number of "catcher-exporters" who failed to obtain licenses and to pay taxes. The Alaska Department of

Representative Williams
March 30, 1995
Page 3

Revenue enforces tax laws, but the penalty for first-time offenders who failed to obtain a fisheries business license would only be a \$5,000 dollar fine.

U.S. and Canadian Customs Data

U.S. and Canadian Customs data offer the best hope for tracking the volume of live crab exported by Alaska fishermen into Canadian ports. The North American Free Trade Agreement has eliminated the requirement for fishermen to file export declarations, but import data are still kept. Bill Aberle, who works at the Alaska Center for International Business at the University of Alaska, explained that Canada and the United States exchange import data with each other. The United States relies upon Canadian import data to gauge the volume of U.S. exports into Canada. Mr. Aberle said that the Canadians' import data would be detailed enough to track the volume of Alaska dungeness crab received in Canadian ports. Because airports and seaports are tracked separately, it would also be possible to discern the amount of crab arriving by vessel. Mr. Aberle was only unsure of whether or not live crab could be differentiated from other types such as frozen crab.

Furthermore, while Alaska fishermen no longer need to file export declarations with U.S. Customs, they still have to stop en route to Canada at U.S. Customs. At U.S. Customs the fishermen "catcher-exporters" would obtain permits that allow them to conduct trade in foreign ports. Upon their return from Canada, the fishermen again would be required to stop at U.S. Customs. Alaska fishermen re-entering the state would have to file cargo declarations with U.S. Customs. Doug Harmon, port director for the U.S. Customs office in Ketchikan, said that for documentation purposes, they would generally ask fishermen to produce fish tickets for cargo that they might have sold in Canada. Although the Ketchikan U.S. Customs office does not track goods sold in Canada on a regular basis, Mr. Harmon thought that his office might be able to enter into an interagency law enforcement agreement with the Alaska Department of Revenue or the Alaska Department of Public Safety to ensure that fishermen "catcher-exporters" were complying with state reporting requirements for live crab that they sold in Canada. If Alaska officials wished to establish such an agreement, Mr. Harmon said they should contact Mr. Jensen or Mr. Blackmore in the U.S. Customs Enforcement Office in Anchorage.

Finally, in addition to customs data, Alaska fishermen who sold live crab in Prince Rupert would have to obtain permits from the Prince Rupert Fisheries and Oceans Office. A Canadian fisheries official said that each permit would describe the approximate weight of the product, who the product was sold to and its approximate value. The Canadian fisheries official thought his office might be able to share such information with the U.S. National Marine Fisheries Office, if U.S. officials requested information about the amount of Alaska dungeness crab being sold in Prince Rupert.

We hope this information is useful to you. Please do not hesitate to call if you have further questions.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501**

**Telephone: (907) 269-7644
Fax: (907) 269-7654**

January 23, 1996

The Honorable Bill Williams
House of Representatives
Room 128, Capitol Building
Juneau, Alaska 99801

Dear Representative Williams:

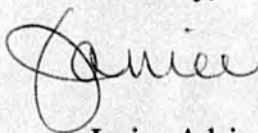
This letter is in response to your request that we provide you with a summary of DEC's recent actions relating to the testing of crab viscera for PSP.

In early October, 1995 our Food Safety Lab compiled the results of the viscera testing that had been conducted over the past 2 years. It was clear that during the winter months in Southeast and the Bering Sea, PSP is not a problem in crab viscera. We took that information to FDA for their concurrence. With it, we were able to suspend the winter PSP testing of crab viscera in these two areas. The testing is still required in and around Kodiak.

I've enclosed a copy of the press releases we issued on this topic. They outline the timelines for which the testing is not required as "winter" varies between the two areas. As you'll note, and I think it's important to point out, we will be doing "spot" monitoring to be sure the PSP levels aren't on the rise. If we find increases, the PSP testing requirement would be reinstated.

Please let me know if you have any questions.

Sincerely,



Janice Adair
Director

JA/la (g:\eh\PSP.WILLIAMS)

Enclosures

cc: Michele Brown, Acting Commissioner
Shari Kochman, Governor's Legislative Office

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 4, 1995

The Honorable Bill Williams
Representative
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: House Bill No. 265
Export of Dungeness Crab

Dear Representative Williams:

This is a response to a request by Pete Ecklund of your office for written comments on constitutional concerns presented by House Bill No. 265 (HB 265) and the underlying statute AS 16.10.240.

AS 16.10.240 prohibits transport of live king, Dungeness, or Tanner crab except via air freight after prepackaging. HB 265 would remove the restriction on Dungeness crab. The current statute burdens interstate commerce, but may be defensible due to health and safety concerns. Removal of Dungeness crab from the statute would undermine these health and safety arguments and would probably place the statute in violation of the Commerce Clause of the U.S. Constitution.

AS 16.10.240 was adopted during the 1960's, prior to the development of much of the modern law concerning burdens on interstate commerce under the U.S. Constitution. In Pike v. Bruce Church, Inc., 397 U.S. 137 (1970), the Supreme Court held that an Arizona statute, requiring the packaging of Arizona cantaloupes in Arizona, was an impermissible burden on interstate commerce. In Hughes v. Oklahoma, 441 U.S. 322 (1979), the Supreme Court invalidated an Oklahoma statute which prohibited the export of minnows which were procured from the natural waters of Oklahoma. The Court overruled Geer v. Connecticut, 161 U.S. 519 (1896), which had treated restrictions on wildlife differently than other restrictions on interstate commerce, and adopted a three-part analysis for statutes burdening interstate commerce.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- ☐ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697
- ☐ KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846
- ☒ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Under the three-part analysis, the first question is whether the statute discriminates against interstate commerce on its face or regulates "evenhandedly" with only "incidental" effects on interstate commerce. Facial discrimination invokes strict scrutiny for the remaining analysis. The second question is whether the statute serves a legitimate local purpose, and the third question is whether alternative means could achieve this purpose without discriminating against interstate commerce. Hughes v. Oklahoma, 441 U.S. at 336-37. Local processing requirements, because of their protectionist nature, are virtually per se invalid because of their effects on interstate commerce. See, e.g., South Central Timber Development, Inc. v. Wunnicke, 467 U.S. 82, 100 (1983).

Where a statute facially burdens interstate commerce, the state bears a difficult burden in justifying both the statute's purpose and the means used to achieve it. Id. at 336. However, in Maine v. Taylor, 477 U.S. 131 (1986), the Supreme Court upheld a Maine statute forbidding the importation of live baitfish, where there was no satisfactory way to inspect shipments of live baitfish for parasites or commingled species which could potentially disrupt Maine's fisheries. Id. Similarly, state legislation intended to promote safety or protect consumers from contaminated or unfit goods may survive despite placing burdens on interstate commerce. See Pike v. Bruce Church, Inc., 397 U.S. at 143.

As a result of Commerce Clause analysis, the existing statute may be unconstitutional unless it serves a legitimate purpose, such as protection of health and safety, which cannot be accomplished through less discriminatory means. We understand that crab which are packaged and airfreighted are sampled for Paralytic Shellfish Poisoning (PSP) by the Department of Environmental Conservation (DEC) and that crab processed in Alaska are also sampled for PSP. Many other states do not require sampling for PSP in imported crab. Therefore, despite the fact that the current statute burdens interstate commerce, it may be defensible.

However, Dungeness crab are the species most likely to present health concerns due to the presence of PSP. There is less incidence of PSP in the two species that would remain subject to the export restriction if HB 265 is passed. Thus, the public health rationale for AS 16.10.240 would be weakened. Unless there are other legitimate concerns of which we are unaware at this time, the passage of HB 265 would thus make AS 16.10.240 more vulnerable to challenge under the Commerce Clause of the U.S. Constitution.

The Honorable Bill Williams
House Bill No. 265

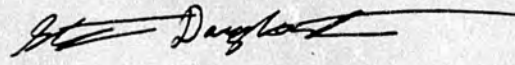
April 4, 1995
Page 3

We hope this analysis is of assistance to you. We will be happy to provide additional information or clarification if needed.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Steven A. Daugherty
Assistant Attorney General

cc: Pat Pourchot
Legislative Director
Office of the Governor

Bruce Botelho
Attorney General

Barbara Ritchie
Deputy Attorney General

Deborah Behr
Assistant Attorney General
Legislation and Regulations Section

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No. HB 265

Sponsor: Representative Williams

Division: Commercial Fisheries Management and Development

Bill Title: Export of Live Dungeness Crab

Department Position: Support

Background/Legislative Intent:

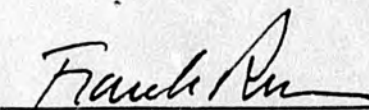
AS 16.10.240 was adopted by the Legislature in 1962 in response to industry concerns about crab which had been shipped live out-of-state and had arrived either dead or spoiled. The concern was that if such activities continued the markets for Alaskan crab the industry was attempting to create would be destroyed. Since the early 60s, the markets for live crab, particular Dungeness crab, have grown significantly. Additionally, improvements in the methods of retaining and shipping crab live, such as refrigerated sea water systems, have been made.

Since the subject has been raised through this bill, the Legislature might also consider repeal of the prohibition for red king crab and Tanner crab species *C. bairdi*. It should be noted that the current statute does not prohibit or restrict the live shipment of blue and brown king crab, opilio Tanner crab, or hair crab; fisheries that have developed since the last amendment to the statute in 1969.

Analysis of Bill/Program Effects:

Passage of this bill or repeal of the statute will have not impact on the division's programs.

Commissioner's Signature



Frank Rue, Acting Interim Commissioner

Date

3-24-85

Don Munhoven
F/V Blue Fin
P. O. BOX 6335
Ketchikan, Ak.
99901
(907-225-5328)

IAR 1 8 199:

Attn: Bill Williams,

We are in favor of lifting the ban of shipping live crab only via air freight
in regards to Alaska Statue Sec. 16.10.240.

We know this creates unnecessary hardship on the fishermen and their
markets and only financially benefits the airlines.

Lifting the ban would allow fishermen to create a better quality product
and would create more jobs.

Thank-ycu,

Don Munhoven

A handwritten signature in dark ink, appearing to be 'Don Munhoven', with a long horizontal flourish extending to the right.

3-17-95

Don Munhoven

Attn: Pete Ecklund,

In regards to lifting the ban on only shipping crab live I have listed the reasons why it should be changed and to show there are adequate safeguards in keeping track of the crab deliveries.

For instance in trading with Canadian markets there are numerous procedures one must follow through with in order to sell live seafood.

One must go through U.S. Customs and Canadian Customs.

One must notify D.F.O. (Dept. of Fisheries and Oceans) and also have a landing permit each time you unload. You must report back to U.S.

Customs with your fish tickets. One must file Alaska Dept. of Fish and

Game fish tickets being a licensed processor and buyer and deal with a

licensed customs broker. (ONE MUST BE a licensed processor)

Also the State of Washington requires you to have a business and wholesale license and a landing permit with the Dept. of Fish. Lifting the ban better allows

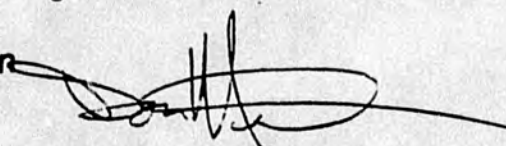
Alaska fishermen to compete with the current crab markets and allows them

better quality control of their product where by air freighting fishermen

must deal with costly packaging, freight charges not to mention the chance

their live product will be bumped or the chance of losing their entire load.

Don Munhoven



3-17-95



Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3715

MEMORANDUM

TO: Representative Alan Austerman
Chair, House Special Committee on Fisheries

FROM: Representative Bill Williams *W. Williams*

DATE: February 11, 1996

RE: Scheduling of House Bill 265 - Export of live dungeness crab

I respectfully request the scheduling of HB 265 for a hearing. The difficulties encountered the last time you heard the bill have been resolved.

My staff, Cheryl Sutton, will work with Representative Moses to answer his concerns. Both the Department of Fish & Game and Environmental Conservation have met to discuss this bill and their questions have been answered.

I would be glad to have Cheryl work with you and Amy in advance of a hearing to provide any information you may need. Thank you for considering my request.

DEC NEWS RELEASE

**Alaska Department of Environmental Conservation
Environmental Health Division
555 Cordova St. 5th Floor
Anchorage, Alaska 99501
Phone: (907) 269-7501 Fax: 269-7510**

November 3, 1995

Contact: Manny Soares or Mike Ostasz, DEC Anchorage

CRAB MONITORING PROGRAM REVISED FOR SOUTHEAST ALASKA

Weekly sampling of Southeast Alaska commercial crab for paralytic shellfish poison (PSP) is no longer required of processors, following review of two years worth of lab data by the Department of Environmental Conservation.

"We can lift this requirement from processors for the time being, and will do periodic testing to ensure the levels remain low," said Janice Adair, Director of DEC's Division of Environmental Health. "If levels go back up, we will likely need to reinstate the weekly monitoring to ensure unsafe product isn't being sold." Adair said that the change applies to the crab fishery between October 1 - March 31.

Widespread testing of crab for PSP was initiated several years ago to meet federal requirements when the toxin was found in the viscera of commercially-caught crab. Testing will continue in other parts of the state where toxin levels remain high.

DEC reviewed the PSP data for crab from Southeast Alaska, for a two year period, to re-evaluate the appropriateness of the fall/winter monitoring requirement. This work by the Palmer Laboratory showed that levels now are and have been well within the action limits, with little or no detectable toxin.

The change in the monitoring program applies to all species of crab caught in Southeast Alaska, and allows the sale of crab with the viscera intact, in live or whole-cooked form.

###

crabPSP11/3/95.rel

DEC NEWS RE

Alaska Department of Environmental

Environmental Health Division

555 Cordova St. 5th Floor

Anchorage, Alaska 99501

Phone: (907) 269-7501 Fax: 269-7510

Post-It™ brand fax transmittal memo 7671		# of pages » 1
To	MANNY S.	
Co.	Jal	
Dept.	Phone #	
Fax #	269-7510	

December 26, 1995

Contact: Mike Ostasz shellfish coordinator
(907) 269-7638 or

Manny Soares, manager, Seafood program
(907) 269-7640

REVISED OPILIO TANNER CRAB MONITORING PROGRAM FOR BERING SEA

The Department of Environmental Conservation has announced that, effective immediately, weekly PSP crab sampling of Opilio Tanner crab from the Bering Sea is no longer required by seafood processors for the period of January 15, 1996, until the close of that fishery by the Alaska Department of Fish and Game.

According to Manny Soares, manager of DEC's seafood program, the agency has just completed review of Paralytic Shellfish Poison (PSP) data from a three year period for the Bering Sea crab to re-evaluate the winter monitoring requirement.

Soares said, "Evaluation of the PSP test result data from DEC's Palmer Laboratory for this time period has shown the levels are well within the action limits, with little or no detectable toxin. As a result, we've discontinued the weekly testing requirement but will test periodically to ensure the levels remain low."

The announcement applies to Opilio Tanner crab from the Bering Sea and allows the sale of crab with the viscera intact, live, or whole cooked form.

###

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 265

Revision Date: _____
Title: Export of Dungeness Crab
Sponsor: Rep. Williams
Requestor: (H) FSHDepartment Affected: Environmental Conservation
BRU: Environmental Health
Component: Seafood/Sanitation Inspections

COMPONENT SERIAL NO. 1936

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES 0.0 0.0 0.0 0.0 0.0 0.0

CHANGE IN REVENUES () 0.0 0.0 0.0 0.0 0.0 0.0

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

HB 265 allows the shipment of Dungeness crab by any means of transportation such as truck, boat, air, etc.

Prepared by: Larry Jones
Division: Director, Division of Administrative Services

Phone: 465-5010

Date: 3/24/95

Approved by: Commissioner
Agency: Department of Environmental Conservation

Date: 3/24/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 265

Revision Date: _____ Dept. Affect Fish and Game
 Title: Export of Live Dungeness Crab BRU: CFMD
 Component: Fisheries Management
 Sponsor: Rep. Williams
 Requester: House Special Committee on Fisheries **COMPONENT SERIAL NO.** 1941

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bob Clasby
 Division: CFMD
 Approved by Commissioner: Frankie
 Agency: _____

Phone: 465-4210
 Date: 3/22/95
 Date: 3-24-95

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS HB265(FSH)

Revision Date: 2/22/96
Title: Export of dungeness crab

Dept. Affected: Fish and Game
BRU: CFMD
Component: Fisheries Management

Sponsor: Rep Williams
Requester: House Fisheries

COMPONENT SERIAL NO. 1941

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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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						
TOTAL						

Estimate of any current year (FY96) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Paul Larson
Division: Commercial Fisheries Management and Development
Approved by Commissioner: Frank Rue
Agency: Fish and Game

Phone: 485-6120
Date: 2/22/96
Date: 2/22/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 265 (FSH)

Revision Date: 22-Feb-96
 Title: Export of Live Dungeness Crab
 Sponsor: Rep. Williams
 Requestor: Rep. Williams

Department Affected: Environmental Conservation
 BRU: Environmental Health
 Component: Seafood and Sanitation Inspections

COMPONENT SERIAL NO. 1936

Expenditures/Revenues:

(Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING EXPENDITURES						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
 Division: Director, Division of Environmental Health

Phone: 907-269-7645
 Date: 2/22/96

for/Approved by Commissioner: *Lawrence*
 Agency: Department of Environmental Conservation

Date: 2/23/96

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 265

Revision Date:		Dept. Affect	Fish and Game
Title:	Export of Live Dungeness Crab	BRU:	CFMD
		Component:	Fisheries Management
Sponsor:	Rep. Williams		
Requester:	House Special Committee on Fisheries	COMPONENT SERIAL NO.	1941

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bob Clasby
 Division: CFMD
 Approved by Commissioner: Franklin
 Agency: _____

Phone: 465-4210
 Date: 3/22/95
 Date: 3-24-95

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SCOMM

95:28

What is CFAB?

Alaska Commercial Fishing and Agriculture Bank (CFAB) began operations in 1980. Its sole mission is to provide financing of all kinds to the commercial fishing industry and the agriculture industry (including timber) in Alaska.

What kinds of loans and repayment programs are available from CFAB?

CFAB can make loans for almost any fishing-related or farming-related purpose. The most common purposes are the purchase, modification, or refinancing of a vessel; purchase of a limited entry permit; gear, engine, or equipment replacement or upgrade; general operating capital; and fish processing, etc. There are no "standard" repayment terms or programs — we work with each applicant to determine a repayment schedule appropriate to that particular loan transaction.

Who may borrow from CFAB?

In order to be eligible for consideration as a CFAB borrower, an applicant must be commercially involved in one of the industries mentioned earlier. An individual applicant must be a bona fide Alaska resident. A partnership must be comprised of Alaska residents. If the applicant is a corporation, the majority ownership and control must rest with Alaskans. There are some exceptions to the latter rule for companies which are involved in shorebased fish processing.

Eligibility, however, is only a first step. To obtain a CFAB loan, an applicant must be found by CFAB to be capable and creditworthy within the context of the specific loan request. The standards used by CFAB are essentially the same as those of any responsible lender. However, CFAB's specialized purposes, and the experience we have gained, may permit us to consider a broader range of applicants than do most other lenders.

Who owns CFAB?

CFAB is a cooperative. This means that each borrower becomes an owner through a modest purchase of CFAB stock when a loan is made. The State of Alaska is also an owner. CFAB was established by a special Alaska statute, and the State made an initial investment of "seed money" — that money is expected to be returned to the State as borrowers' ownership grows.

Does that mean the State operates CFAB?

CFAB's statute provides for it to be operated as a private cooperative rather than as a State agency. Its basic policies and directions are established by a seven-person Board of Directors, which hires professional management and staff to operate the business. Five of the Directors must be borrower-owners of CFAB and are elected by the total borrower-ownership. The other two Directors are appointed by the Governor of Alaska. All Directors' terms are for three years. CFAB holds an ownership meeting each year - borrower-owners have the opportunity to vote on important matters, to receive reports from Directors and management, and to elect Directors. The State's stock is non-voting, although CFAB provides periodic reports to State officials.

Where does CFAB get its money to loan?

CFAB is not limited as to its source of funds. Since its inception, CFAB has borrowed funds for re-lending from the Federal Farm Credit System.

What is CFAB's interest rate and how is it set?

Although CFAB occasionally makes fixed rate loans, the vast majority of its loans are on a variable rate basis. That is, the rate will change — up or down — as CFAB's costs change. There is no single initial rate — the initial rate is based on the

kind of loan involved. Most important, we use a procedure to objectively analyze the credit-worthiness of each individual applicant, which permits us to offer the most favorable interest rates to the most desirable risks. CFAB's interest rates overall are set to provide sufficient income to pay its own interest costs and operating expenses and to provide a small margin. Since CFAB is a cooperative, any margin which is actually produced is either returned to the borrower-owners or otherwise used to their benefit.

How does one do business with CFAB?

That's easy. Although CFAB's only office is in Anchorage, we also have a network of local and independent **Loan Correspondents** available to assist you. For the name of the one nearest you, just call us and ask to speak with a loan officer, or drop us a line. If you're in Anchorage, stop in and visit. There's only one basic requirement — **YOU MUST BE AN ALASKAN COMMERCIAL FISHERMAN.** That's who we're here for!

Alaska Commercial Fishing and Agriculture Bank
2550 Denali St., Suite 1201
Anchorage, Alaska 99503
(907) 276-2007

Toll-free in Alaska and the Pacific Northwest
800-544-2228





REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

Concurrence on HB 284

Representative Austerman supports the Senate changes to HB 284.

The changes were as follows:

Section 8 and 9 - The changes in these sections were adopted unanimously by the House Finance Committee but were omitted inadvertently in the version brought to the House Floor and corrected in Senate Finance. The language change now requires CFAB to retire 100% of the State's investment. The new language beginning on page 3 line 31 of the new Senate CS identifies CFAB as an agent of the state in its role of financing limited entry permits. This language replaces the language in earlier versions which sought to retain \$1 million of state ownership for that same purpose.

Section 10 - The Senate Finance Committee amended this section with the intent to mandate removal of a director whose borrowing relationship is substandard.

Section 20 - This section was amended on the Senate Floor and inserted a new "(5)" to reflect a long-standing state policy and effort to avoid out-of-state sales of permits by IRS.

Section 28 - On the last line of the bill, the words "on or" were removed from the effective date clause per Legal Services advice.

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 2, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/13/96

The FINANCE Committee considered:

HB 284

HOUSE BILL NO. 284

AK COMMERCIAL FISHING & AGRICULTURE BANK

"An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

recommends it be replaced

with the following committee substitute

CS HB 284 (FIN)

☒ the same title

☐ a new title

☐ additional referral to _____ Committee

☐ attached amendment(s)

ADOPTS: HFC Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

☐ fiscal note(s)

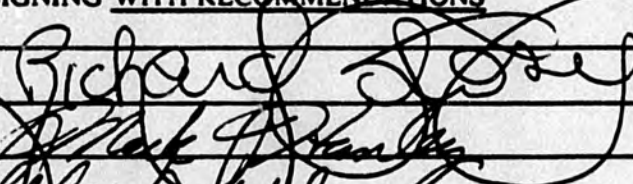
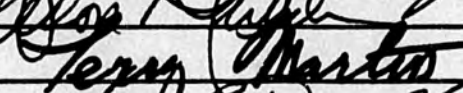
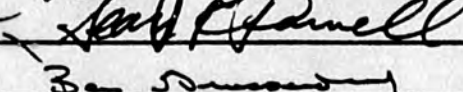
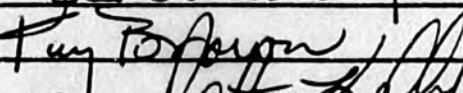
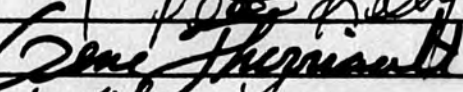
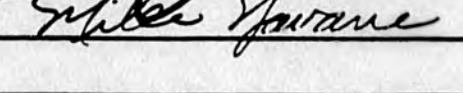
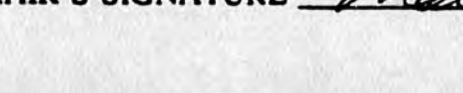
☐ fiscal note(s)

☒ zero fiscal note(s)

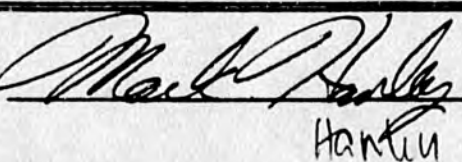
com fishing and ag

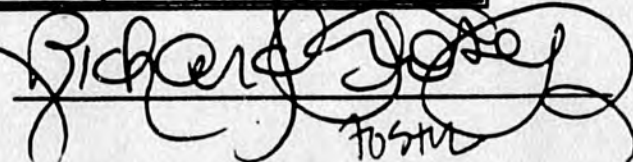
☐ zero fiscal note(s)

Revenue

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	FOSTER	X			
	Hankley	X			
	Mulder	X			
	Martin	X			
	Pannell	X			
	Grussendorf	X			
	BROWN			X	
	Kelly	X			
	Theriault	X			
	Nivarske	X			

CO-CHAIR'S SIGNATURE


Hankley


Foster



Alaska State Legislature

**House of Representatives
Special Committee on Fisheries**

RE: AMENDMENT TO HB 284

**TO BE OFFERED BY REP. AUSTERMAN
March 11, 1996**

The amendment offered in the House Finance Committee affects only Sections 8 and 9 of HB 284 and is best explained by addressing those sections in reverse order.

Section 9 of HB 284, as it passed out of the Fisheries and Labor & Commerce committees, includes a provision for the state to maintain a permanent \$1.0 million stock investment in CFAB. The purpose of that feature was to provide foundation for a future legal assertion that CFAB is acting as an agent of the state with respect to its financing of limited entry permits. The amendment removes that feature, leaving CFAB obligated to return the entire state investment to the state.

The amendment adds a new (third) sentence to Section 8 of HB 284. That sentence provides a more precise and clearly limited expression of CFAB's relationship to the state in its financing of limited entry permits.

TO BE OFFERED BY REP. AUSTERMAN
ON MAR. 11, 1996

January 15, 1996

POTENTIAL AMENDMENT - HB 284

Sec. 8. AS 44.81.010(a) is amended to read:

(a) There is established the Alaska Commercial Fishing and Agriculture Bank. The exercise by the bank of the powers conferred by this chapter is considered to be for a public purpose. In the exercise of its powers under AS 44.81.215(7) the bank is acting under the express authority and reservations of the state as the issuer of limited entry permits under AS 16.43. The bank is exempt from the provisions of AS 06.05 (Alaska Banking Code) and AS 10.15 (Alaska Cooperative Corporation Act) in its structure and operations and in the exercise of powers granted by this chapter.

Sec. 9. AS 44.81.010(b) is amended to read:

(b) For the purpose of acquiring and accumulating capital [THE FUNDING] of the bank [BANK'S OPERATIONS], the board [OF DIRECTORS] may issue nonvoting, preferred shares of stock in the bank and determine the value of each share. The state, through the Department of Revenue [APPROPRIATE AGENCIES], may purchase the nonvoting, preferred shares issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years after their purchase by the state, the commissioner of commerce and economic development may appoint a receiver to direct, manage, and operate [DISSOLVE] the bank until the shares have been repurchased. Upon voluntary or involuntary liquidation of the bank, and upon repayment of all legal debts and obligations of the bank, all shares of nonvoting, preferred stock owned by the state have priority for redemption over all other forms and amounts of ownership of the bank.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 284

1 Page 3, line 31, following "purpose":

2 Insert "In the exercise of its powers under AS 44.81.215(7), the bank is acting as
 3 an agent under the express authority and reservations of the state as the issuer of
 4 limited entry permits under AS 16.43."

5 Page 4, lines 8 - 9:

6 Delete "If the cumulative value of the shares [SHARES]"

7 Insert "Shares"

8 Page 4, lines 9 - 10:

9 Delete "exceeds \$1,000,000, the shares representing the excess"

10 Page 4, line 11:

11 Delete "representing the excess"

12 Page 4, line 14:

13 Delete "representing the excess"

AMENDMENT FOR CSHB 284 (FIN)

Page 18, line 31:

delete "on or"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 284

1 Page 3, line 31, following "purpose":

2 Insert "In the exercise of its powers under AS 44.81.215(7), the bank is acting as
3 an agent under the express authority and reservations of the state as the issuer of
4 limited entry permits under AS 16.43."

5 Page 4, lines 8 - 9:

6 Delete "If the cumulative value of the shares [SHARES]"

7 Insert "Shares"

8 Page 4, lines 9 - 10:

9 Delete "exceeds \$1,000,000, the shares representing the excess"

10 Page 4, line 11:

11 Delete "representing the excess"

12 Page 4, line 14:

13 Delete "representing the excess"

#4

AMENDMENT

TO: CS HB 284 (Fin)

BY: Sen. Zharoff

Page 11, line 15:

Add new subsections to read:

"(5) the payment of obligations incurred in the support of a borrower and the persons who are dependent upon that borrower if the majority of the borrower's earned income is derived through commercial fishing under the borrower's permit;

(6) the enhancement of the productivity or diversification of the commercial fishing activities of a borrower;

(7) the payment of obligations whose status places the permit of a borrower in jeopardy of attachment, distraint, or sale on execution of judgment or under a process or order of a court;"

Renumber subsections accordingly.

YOU NEVER KNOW WHAT'S GOING
TO CAPTURE THEIR INTEREST !

Be Brief

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 18, 1996

SUBJECT: Sectional Summary of CSHB 284 (FIN)
(Work Order No. 9-LS0584\K)

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: *TB*
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill draft should not be considered an authoritative interpretation of the bill draft and the bill draft itself is the best statement of its contents.

Section 1 corrects the CFAB cross-references to conform to the new CFAB provisions.

Section 2 corrects the CFAB cross-references to conform to the new CFAB provisions.

Section 3 corrects the CFAB cross-references to conform to the new CFAB provisions.

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Section 5 corrects the CFAB cross-reference to conform to the new CFAB provisions.

Section 6 corrects a CFAB cross-reference to conform to the new CFAB provisions.

Section 7 corrects a CFAB cross-reference to conform to the new CFAB provisions.

Section 8 establishes the Alaska Commercial Fishing and Agriculture Bank. Provides that the exercise of bank powers is considered to be for a public purpose. Exempts the bank from the Alaska Banking Code and the Alaska Cooperative Corporation Act in the bank's structure, operations, and exercise of its powers.

Section 9 authorizes the bank to issue certain shares of stock in order to acquire and accumulate capital. Allows the state, through the Department of Revenue, to purchase the

stock shares. Requires the bank to repurchase the state's shares in the bank that exceed \$1,000,000. Sets a time for the repurchase. Authorizes the commissioner of commerce to appoint a receiver to manage the bank until the shares are repurchased, if the bank fails to make the repurchase within the set time. Gives the nonvoting, preferred stock shares of the state priority for redemption if there is a liquidation of the bank, after payment of all legal obligations of the bank.

Section 10 establishes a board of directors to govern the bank. Establishes the number of directors, the method of appointment and election, the duration of the terms, the staggering of the terms, the bases for removal from the board, the method of removal, the quorum for transacting business, the election of officers for the board, and the compensation the members will receive. Prohibits a board member from voting on a bank transaction under this chapter if the member is a party to the transaction.

Section 11 contains provisions about the officers and employees of the bank. Requires the board to employ a president. Restricts who can be president. States that the president serves at the pleasure of the board. Requires the board to appoint those officers provided for in the bylaws and as the board determines necessary for the bank. Limits who can be an officer. Authorizes the president to hire employees for the bank. Gives approval of salaries to the board. States that employees are not state employees and exempts them from the public employees retirement system chapter.

Section 12 states that the bank is to be structured and run as a cooperative corporation. Directs the board to issue membership stock shares. States that the membership stock may be issued to persons eligible to transact business with the bank. Allows the board to establish one or more mechanisms by which certain persons are required to provide or establish capital ownership in the bank.

Section 13 authorizes the board to adopt, alter, amend, or repeal bylaws for running the bank.

Section 14 allows the bank to indemnify its directors, officers, and employees. Allows the bank to maintain insurance on their behalf. Requires the indemnification and insurance to comply with an indemnification and insurance provision in the corporations code.

Section 15 states that the state pledges to and agrees with a lender to the bank that the state will not change the bank's powers and rights under this chapter to fulfill the terms of a contract made by the bank with the lender, or otherwise impair the lender's rights and remedies with regard to the bank. Indicates the limitations of the pledge.

Section 16 requires the board to publish an annual report to the bank's members and make the report available to the governor, legislature and the public. Indicates what the report must contain. Authorizes the board to publish other appropriate reports.

Section 17 lists the general powers of the bank.

Section 18 describes the lending powers of the bank, including to whom and for what purposes the bank may lend. The powers include making loans for limited entry permits and obtaining the pledge of a limited entry permit as security for a loan.

Section 19 allows a limited entry permit to be pledged as security for a loan. Requires the bank, after the loan has been paid, to certify the repayment to the Commercial Fisheries Entry Commission, so that the Commission can amend the permit certificate to list the equitable owner as the holder. Requires the annual permit cards to be in the name of the equitable owner, who remains responsible for compliance with permit requirements. States that co-borrowers and guarantors on the loan have no right in the pledged permit. Allows the equitable owner of a pledged permit to nominate a person to whom the permit may be transferred if the pledge is foreclosed.

Section 20 lists the purposes for which a permit may be pledged as security for a loan from the bank.

Section 21 adds five sections.

Sec. 44.81.241 requires the bank to notify the borrowers and guarantors (on a loan for which a limited entry permit is pledged) if there is a default on the loan. Lists what information must be included in the notice. This information includes a statement that the default may be cured under certain conditions.

Sec. 44.81.243 provides that if the borrowers and guarantors (on a loan for which a limited entry permit is pledged) fail to cure a default, the entire loan indebtedness becomes due and the bank can take any legal action to collect the loan. If the bank forecloses on the permit pledge, the section allows the bank to proceed with the foreclosure and its other remedies in any order the bank selects.

Sec. 44.81.245 allows the bank to foreclose on a permit pledge by sending a notice of foreclosure. Specifies how the notice is to be sent and what the notice must include.

Sec. 44.81.247 states that the equitable interest in the pledged permit terminates automatically without further notice after the foreclosure notice if the loan is not paid in full within the time allowed. Directs the Commercial Fisheries Entry Commission to cancel the entry permit card of the equitable owner of the permit when the commission receives a certificate of termination containing a copy of the required notices.

Sec. 44.81.249 authorizes the bank to cancel its initial notice of default and a foreclosure notice. Authorizes the bank to extend the time for curing the default. Allows the bank to personally deliver the notices rather than using certified mail.

Section 22 directs the bank, after foreclosing an entry permit pledge, to determine if the permit is subject to the buy-back program. If it is, directs the bank to offer the permit to the commission for the price of the outstanding indebtedness on the loan.

Directs the bank to sell the permit to an eligible person if the permit is not subject to the buy-back program or if the commission fails to buy back the permit within a certain time. Requires the bank to give preference to a state resident under certain circumstances. Requires the bank to pay the borrower the sale proceeds that exceed the indebtedness.

Allows the equitable owner or former equitable owner to nominate a qualified person to assume the loan at any time before foreclosure or within 30 days after foreclosure. Requires transfer of the permit to the nominee when the nominee assumes the loan.

States that the section doesn't affect certain other remedies of the bank.

Section 23 provides for the legislative auditor to cause the bank to be audited. Gives the legislative audit division access to the bank's records. Gives the division specific powers to carry out the audit.

Prohibits the legislative auditor and the auditor's employees from disclosing information acquired during an audit, unless required by law or court order.

Requires the bank to be audited annually by independent outside auditors. Allows the legislative auditor to confer with the outside auditors and to review the audit work papers. Directs the bank board to engage the auditors. Requires the bank to submit copies of the audit to the legislative auditor.

Requires state bank examiners to perform an annual qualitative examination and evaluation of the banks. Provides for payment of a fee for the examination. Directs the examiners to report to the board on the examination. Requires the examiners to prepare a summary report evaluating the bank's loan portfolio quality and addressing bank policies, practices, and management. Directs the examiners to distribute copies of the summary report to the bank, the legislature, and the governor. Subjects the other records related to the examination to a confidentiality and retainage provision in the state banking code.

Section 24 allows the bank to revoke certain distributions, redemptions, and payments if the distribution, redemption, or payment remains unclaimed for a specified period of time. Indicates that the revoked amount may revert to an unallocated capital account of the bank under certain conditions. Provides that the distribution, redemption, or payment is not subject to the state's unclaimed property provisions.

Section 25 amends the definition of "member of the bank" for the CFAB chapter.

Representative Alan Austerman
March 18, 1996
Page 5

Section 26 adds new definitions to the CFAB chapter.

Section 27 repeals certain present CFAB provisions.

Section 28 provides transition guidelines for the new provisions.

If I may be of further assistance, please advise.

TLB:klb
96-209.klb

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 22, 1995

SUBJECT: Sectional Summary of CFAB Bill Draft
(Work Order No.9-LS0584\F, 2-14-95)

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: 
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill draft. Please use this summary rather than the summary of February 17, 1995. This summary corrects a misstatement made in Section 9 of the earlier summary and rewrites the section.

As a preliminary matter, note that a sectional summary of a bill draft should not be considered an authoritative interpretation of the bill draft and the bill draft itself is the best statement of its contents.

Section 1 corrects the CFAB cross-references to conform to the new CFAB provisions.

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Section 26 adds new definitions to the CFAB chapter.

Representative Alan Austerman

February 22, 1995

Page 5

Section 27 repeals certain present CFAB provisions.

Section 28 provides transition guidelines for the new provisions.

If I may be of further assistance, please advise.

TLB:lmb:pl

95-127.lmb



Alaska State Legislature

House of Representatives Special Committee on Fisheries

SPONSOR STATEMENT

House Bill 284

"An Act relating to the Alaska Commercial Fishing and Agricultural Bank."

House Bill 284 enacts changes to AS 44.81 and AS 16.43. These statutes contain the enabling language of the Alaska Commercial Fishing and Agricultural Bank (CFAB) and set forth the operating procedures, structure, and authorities of the bank. Most of the changes contained in HB 284 are for purposes of clarification.

It has become increasingly apparent that the statutes which established CFAB require some adjustment to meet the needs of evolving commercial law and 1990s commercial fishing economies. Since CFAB's inception in 1978, there has been little modification or refitting of the statutes.

Perhaps the most significant change contained in HB 284 is the move to permanent ownership of CFAB by the state. The state's initial investment in CFAB was \$32 million in stock. This stock was to be retired by the year 2000. Section 9 of the bill will require CFAB to repurchase the state's shares in the bank that exceed \$1 million ensuring a permanent investment by the state and reinforcing CFAB's public purpose mandate. At present, CFAB has retired nearly \$22 million of the state's stock, and, at the current rate, will have retired all but \$1 million by mid-1998.

The other most significant changes appear in Section 20. This section broadens the purposes and circumstances under which a fisherman may use a limited entry permit as collateral for securing CFAB loan. CFAB is the only private commercial lender with the authority to accept a consensual lien on a limited entry permit. The changes in Section 20 reflect the needs of new economic pressures on resident fishermen.

Some of these changes include loans for the purchase or lease of quota shares, individual fishing quotas or other licenses; the purchase, construction, maintenance, repair, or improvement of commercial fishing boats, sites, gear or equipment; and, other purposes which will enhance diversification.

House Bill 284 will help the Alaska seafood industry compete more effectively in the world market as it proceeds to the twenty-first century. The state will benefit through more revenue and more jobs through industry diversification. We would respectfully request your support.



Alaska State Legislature

House of Representatives
Special Committee on Fisheries

SPONSOR STATEMENT

House Bill 284

"An Act relating to the Alaska Commercial Fishing and Agricultural Bank."

House Bill 284 enacts changes to AS 44.81 and AS 16.43. These statutes contain the enabling language of the Alaska Commercial Fishing and Agricultural Bank (CFAB) and set forth the operating procedures, structure, and authorities of the bank. Most of the changes contained in HB 284 are for purposes of clarification.

It has become increasingly apparent that the statute¹ which established CFAB requires some adjustment to meet the needs of evolving commercial law and 1990s commercial fishing economies. Since CFAB's inception in 1978, there has been little modification or refitting of the statutes. (X) (P)

Perhaps the most significant change contained in HB 284 is the move to permanent ownership of CFAB by the state. The state's initial investment in CFAB was \$32 million in stock. This stock was to be retired by the year 2000. Section 9 of the bill will require CFAB to repurchase the state's shares in the bank that exceed \$1 million ensuring a permanent investment by the state and reinforcing CFAB's public purpose mandate. At present, CFAB has retired nearly \$22 million of the state's stock, and, at the current rate, will have retired all but \$1 million by mid 1998.

ELIMINATION OF THE PROVISION FOR LAPSEATION
OF THE STATUTE UPON CFAB'S RETIREMENT
OF THE STATE'S \$32 MILLION INITIAL INVESTMENT.
THAT INVESTMENT IS SCHEDULED TO BE FULL RETIRED

Room 434, State Capitol, Juneau, Alaska 99801-1182 (907) 465-4230 or 465-2487

BY MID-1998.

~~The~~ Other ~~most~~ significant changes appear in Section 20. This section broadens the purposes and circumstances under which a fisherman may use a limited entry permit as collateral for securing CFAB loan. CFAB is the only private commercial lender with the authority to accept a consensual lien on a limited entry permit. The changes in Section 20 reflect the needs of new economic pressures on resident fishermen. ↩

~~Some~~ of these changes include loans for the purchase or lease of quota shares, individual fishing quotas or other licenses; ~~the purchase, construction, maintenance, repair, or improvement of commercial fishing boats, sites, gear or equipment; and, other purposes which will enhance diversification.~~

House Bill 284 will help the Alaska seafood industry compete more effectively in the world market as it proceeds to the twenty-first century. The state will benefit through more revenue and more jobs through industry diversification. We would respectfully request your support.

SPONSOR STATEMENT

HB 284 - "CFAB BILL"

March 13, 1996

House Bill 284 generally addresses AS 44.81 and AS 16.43. These statutes contain the enabling language of the Alaska Commercial Fishing and Agricultural Bank (CFAB) and set forth the operating procedures, structure, and authorities of the bank. Most of the changes contained in HB 284 are for purposes of clarification. It has become increasingly apparent that the statute which established CFAB requires some adjustment to meet the needs of evolving commercial law and 1990s commercial fishing economies. Since CFAB's inception in 1978, there has been little modification or refitting of the statutes.

Perhaps the most significant change contained in HB 284 is the elimination of the provision for lapsation of the statute upon CFAB's retirement of the state's \$32 million initial investment. That investment is scheduled to be fully retired by mid-1998.

Other significant changes appear in Section 20. This section broadens the purposes and circumstances under which a fisherman may use a limited entry permit as collateral for securing a CFAB loan. CFAB is the only private commercial lender with the authority to accept a consensual lien on a limited entry permit. The changes in Section 20 reflects the needs of new economic pressures on resident fishermen. These changes include loans for the purchase or lease of quota shares, individual fishing quotas or other licenses.

House Bill 284 will help the Alaska seafood industry compete more effectively in the world market as it proceeds to the twenty-first century. The state will benefit through more revenue and more jobs through industry diversification. We respectfully request your support.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT

HB 284

"An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

House Bill 284 enacts changes to AS 44.81 and AS 16.43. These statutes contain the enabling language of the Alaska Commercial Fishing and Agriculture Bank (CFAB) and set forth the operating procedures, structure and authorities of the bank.

Most of the changes contained in HB 284 are for purposes of clarification. It has become increasingly apparent that the statutes which established CFAB require some adjustment to meet the needs of evolving commercial law and fishing economies of 1990's. Since CFAB's inception in 1978, there has been little modification or refitting of the statutes.

Most of the significant changes contained in HB 284 appear in Section 20. This section broadens the purposes and circumstances under which a fisherman may use a limited entry permit as collateral for securing a CFAB loan. CFAB is the only private commercial lender with the authority to accept a consensus lien on a limited entry permit. The changes in Section 20 reflect the needs of new economic pressures on resident fishermen, for example, allowing loans for the purchase or lease of individual fishing quotas.

The state's initial investment in CFAB was \$32 million in stock. This stock was to be retired by the year 2000. At present, CFAB is paying at a rate of \$250,000 per month into Alaska's treasury and has retired nearly \$25 million of the state's stock to date.

Over the interim, by request of a House Finance Committee member, an audit was performed on CFAB. This audit has been released to the public and speaks favorably for this organization.

House Bill 284 will help the Alaska seafood industry compete more effectively in the world market as it proceeds to the twenty-first century. The state will benefit through more revenue and more jobs through industry diversification. We respectfully request your support.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 31, 1995

SUBJECT: Bill draft revising CFAB provisions
(Work Order No. 9-LS0584\A)

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of a bill that you requested to revise the chapter governing CFAB.

Please note that changes have been made to the text that was provided to this office; the changes are primarily those necessary to put the text into the state's drafting style according to the legislative drafting manual or to make the meaning clearer. If you would like more information on drafting style requirements, I would be happy to provide it. Initially, you are referred to AS 01.10.050 for some general guidelines and to AS 01.10.060 for general definitions that are used throughout the statutes.

Please note that the draft raises constitutional issues. They are included in the comments that follow.

The following comments and changes are brought to your attention:

1. in sec. 44.81.010(b) you may want to change the phrase, "shares in excess of \$1,000,000," to clarify whether it refers to the cumulative value of the shares or to individual shares worth \$1,000,000; in addition, the liquidation preference may unconstitutionally impair pre-revision contracts, unless its application is qualified;
2. in sec. 44.81.031(b), the phrase in your sec. 44.81.030(b), "as may be provided in the bank's bylaws," was not clear whether it only referred to the identification of the officers or was to include the procedure for their appointment as well; the draft takes one approach; you may want another;
3. in sec. 44.81.061, it would be clearer to spell out the procedure you want to use rather than referring to the procedure in AS 10.06.490; referring to another chapter in this way

frequently raises questions when it is being applied; please advise if you would like to spell out the procedure;

4. the state residency provisions in secs. 44.81.210(6) and (14), 44.81.215(a)(1) - (4), and 44.81.250(b) raise issues under the equal protection provision and the privileges and immunities provisions of the federal constitution;

5. the two-year durational residency requirement in sec. 44.81.215(a)(3) raises an issue under the federal constitution; the federal constitution will not permit a state benefit program which creates distinctions between concededly bona fide residents based on the length of residency (Zobel v. Williams, 457 U.S. 55 (1982));

6. since aliens legally in this country are entitled to the equal protection safeguards of the state and federal constitutions, the U.S. residency requirement in sec. 44.81.215(a)(4) may raise equal protection issues under the state and federal constitutions;

7. I suggest deleting "association" from the definition of "joint venture" in sec. 44.81.215(b), because it is not clear to me how a joint venture can be distinguished from an association;

8. to avoid confusion, the distributions, etc., covered by sec. 44.81.300 are exempted from the unclaimed property provisions in AS 34.45.110 - 34.45.780; also, I am not sure what "forfeit" means in sec. 44.81.300;

9. in definition of "member of the bank" in sec. 44.81.350(3), the draft splits out the parts to clarify what modified what; please examine to make sure it's what you want;

10. your sec. 44.88.210 (powers of the bank) is split into two sections (secs. 44.88.210 and 44.88.215) to make the contents easier to read;

11. in sec. 44.88.210(11), substituted "person, except for natural persons," for "corporation or legal entity"; "legal entity" could also theoretically include natural persons, because they are considered actual or "legal" entities;

12. sec. 44.81.210(15) was rewritten slightly;

13. it would seem appropriate to include limited liability companies whenever you refer to corporations, partnerships, and joint ventures collectively (as in sec. 44.81.215(a)(2));

14. your sec. 44.81.210(a)(1) was broken out into two paragraphs (sec. 44.81.215(a)(1) and (2)), and the reference to married couples was moved to sec. 44.81.215(a)(1), because the reference to married couples did not seem to fit with the requirements in the section for corporations, partnerships, and joint ventures; please advise how you want married couples handled;

Representative Alan Austerman
January 31, 1995
Page 3

15. parts of secs. 44.81.210 and 44.81.215 were rewritten to make them clearer;
16. sec. 44.81.231 has been written to limit its application to limited entry permits, because it appeared to be intended only to cover limited entry permits; a definition of "permit" has been added at the end of the draft;
17. in sec. 44.81.236(7), it was not clear why "other process" was used, so the draft just uses "process";
18. your sec. 44.81.240 has been broken out into several sections (secs. 44.81.241 - 44.81.249) to make it easier to read;
19. in sec. 44.81.270(d), the reference to AS 06.05.060 is not available, since the section was repealed effective January 1, 1994; the reference has been deleted, but can be replaced with another section of AS 06.05 that you request;
20. definitions of "resident fisher" and "resident farmer" have been added to the chapter;
21. the draft contains some brief transitional provisions at the end; please review these;
22. please advise if you want to insert a specific effective date for the bill.

If I can be of further assistance, please advise.

TLB:klb:glc
95-028.klb

Enclosure

CHANGES - SCSCSHB284 VS CSHB284

CHANGE	REFERENCES	
A.	CSHB284 P.3, LINE 31; P.4, LINES 8, 9, 11, 14 SCSCSHB284 P.3, LINE 31; P.4, LINES 1, 2, 12, 13, 15	RESTORES AMENDMENT ADOPTED UNANI- MOUSLY BY HOUSE FINANCE BUT OMITTED INADVERTENTLY IN HOUSE FLOOR VERSION. REQUIRES CFAB TO RETIRE 100% OF STATE INVESTMENT.
B.	CSHB284 P.4, LINE 30, 31; P.5, LINE 1 SCSCSHB284 P.4, LINE 31; P.5, LINE 1	SENATE FINANCE AMENDMENT INTENDED TO MANDATE REMOVAL OF A DIRECTOR WHOSE BORROWING RELA- TIONSHIP IS SUBSTANDARD.
C.	CSHB 284 P.11, LINE 15, 17 SCSCSHB284 P.11, LINE 15, 16, 17, 20	FLOOR SENATE ~~FINANCE~~ AMENDMENT TO REFLECT LONGSTANDING STATE POLICY AND EFFORTS TO AVOID OUT-OF-STATE SALES OF PERMITS BY IRS.
D.	CSHB 284 P.17, LINE 31 SCSCSHB284 P.18, LINE 2	SENATE FINANCE AMENDMENT FOR TECHNICAL PURPOSES RECOMMENDED BY LEGAL SERVICES.

9-LS0584M.1
Bannister
5/5/96

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 284(FIN)

- 1 Page 11, lines 15 - 16:
- 2 Delete all material and insert:
- 3 "(5) the payment of obligations whose status places the permit of a
- 4 borrower in jeopardy of sale as a result of United States Internal Revenue Service
- 5 enforcement action;"

CS FOR HOUSE BILL NO. 284(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/18/96

Referred: Rules

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

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

3 * Section 1. AS 16.43.150(g) is amended to read:

4 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215
5 [AS 44.81.210], 44.81.225, and 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], an
6 entry permit may not be

7 (1) pledged, mortgaged, leased, or encumbered in any way;

8 (2) transferred with any retained right of repossession or foreclosure,
9 or on any condition requiring a subsequent transfer; or

10 (3) attached, distrained, or sold on execution of judgment or under any
11 other process or order of any court, except as provided in AS 16.43.170(g) and (h).

12 * Sec. 2. AS 16.43.150(h) is amended to read:

13 (h) Unless an entry permit holder has expressed a contrary intent in a will that
14 is probated, the commission shall, upon the death of the permit holder, transfer the
15 permanent permit by right of survivorship directly to the surviving spouse or, if no

1 spouse survives, to a natural person designated by the permit holder on a form
2 provided by the commission. If no spouse survives and if the person designated on
3 the form, if any, does not survive, the permit passes as part of the permit holder's
4 estate. A designation under this subsection must be acknowledged before a person
5 authorized to administer an oath under AS 09.63.010 or must be witnessed by two
6 persons who are qualified under AS 13.11.170 to witness the will of the permit holder.
7 Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215 [AS 44.81.210], and
8 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], the permit is exempt from the claims
9 of creditors of the estate.

10 * Sec. 3. AS 16.43.170(a) is amended to read:

11 (a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.81.231 -
12 44.81.250 [AS 44.81.230 - 44.81.250], entry permits and interim-use permits are
13 transferable only through the commission as provided in this section and AS 16.43.180
14 and under regulations adopted by the commission. An involuntary transfer of an entry
15 permit in a manner inconsistent with the statutes of this state and the regulations of the
16 commission is void.

17 * Sec. 4. AS 16.43.170(b) is amended to read:

18 (b) Except as provided in (c) and (e) of this section, the holder of an entry
19 permit may transfer the permit to another person or to the commission upon 60 days
20 notice of intent to transfer under regulations adopted by the commission. No sooner
21 than 60 days nor later than 12 months from the date of notice to the commission, the
22 holder of an entry permit may transfer the permit. If the proposed transferee, other
23 than the commission, can demonstrate the present ability to participate actively in the
24 fishery and the transfer does not violate any provision of this chapter or regulations
25 adopted under it, and if a certificate for the permit under AS 16.10.333(b)(1) - (2),
26 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is not in effect, the
27 commission shall approve the transfer and reissue the entry permit to the transferee
28 provided that neither party is prohibited by law from participating in the transfer.

29 * Sec. 5. AS 16.43.170(g) is amended to read:

30 (g) A person may request the commission to transfer an entry permit due to
31 an execution on the holder's interest in that permit. The request shall be made in the

1 form and manner provided in this chapter and regulations adopted under this chapter.
2 The commission may deny a request for transfer of an entry permit due to an
3 execution of a holder's interest in that permit if

4 (1) the execution does not comply with legal requirements or otherwise
5 is not valid;

6 (2) the transfer violates this chapter or regulations adopted under this
7 chapter;

8 (3) the proposed transferee or other party to the transfer is prohibited
9 by law from participating in the transaction;

10 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
11 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is in effect at the time of
12 the proposed transfer;

13 (5) the proposed transferee of the entry permit, other than the
14 commission, cannot demonstrate the present ability to actively participate in the
15 fishery; or

16 (6) the holder of the entry permit as shown by the records of the
17 commission demonstrates, under regulations adopted by the commission, that the entry
18 permit is a necessary means of support for the holder and those dependent upon the
19 holder.

20 * Sec. 6. AS 16.43.960(i) is amended to read:

21 (i) An entry permit revoked by the commission under this section that is
22 pledged as security for a loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230]
23 shall be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

24 * Sec. 7. AS 16.43.970(f) is amended to read:

25 (f) An entry permit forfeited under this section that is taken as security for a
26 loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230] shall be reassigned as
27 provided in AS 16.10.337 or AS 44.81.250.

28 * Sec. 8. AS 44.81.010(a) is amended to read:

29 (a) There is established the Alaska Commercial Fishing and Agriculture Bank.
30 The exercise by the bank of the powers conferred by this chapter is considered to be
31 for a public purpose. The bank is exempt from the provisions of AS 06.05 (Alaska

1 Banking Code) and AS 10.15 (Alaska Cooperative Corporation Act) in its structure
2 and operations and in the exercise of powers granted by this chapter.

3 * Sec. 9. AS 44.81.010(b) is amended to read:

4 (b) For the purpose of acquiring and accumulating capital [THE FUNDING]
5 of the bank [BANK'S OPERATIONS], the board [OF DIRECTORS] may issue
6 nonvoting, preferred shares of stock in the bank and determine the value of each share.
7 The state, through the Department of Revenue [APPROPRIATE AGENCIES], may
8 purchase the nonvoting, preferred shares issued by the bank. If the cumulative value
9 of the shares [SHARES] purchased by the state exceeds \$1,000,000, the shares
10 representing the excess shall be repurchased by the bank within 20 years after their
11 purchase. If the bank fails to repurchase the shares representing the excess within
12 20 years after their purchase by the state, the commissioner of commerce and
13 economic development may appoint a receiver to direct, manage, and operate
14 [DISSOLVE] the bank until the shares representing the excess have been
15 repurchased. Upon voluntary or involuntary liquidation of the bank, and upon
16 repayment of all legal debts and obligations of the bank, all shares of nonvoting,
17 preferred stock owned by the state have priority for redemption over all other
18 forms and amounts of ownership of the bank.

19 * Sec. 10. AS 44.81.020 is repealed and reenacted to read:

20 Sec. 44.81.020. BOARD OF DIRECTORS. (a) The bank shall be governed
21 by a board of directors consisting of seven to nine natural persons. The number is
22 determined by the bank's bylaws. Two board members shall be appointed by the
23 governor of the state. The other board members shall be elected by the members of
24 the bank as provided in the bank's bylaws, except that at least one of the elected board
25 members must be a resident farmer.

26 (b) The members of the board shall serve for terms of three years and may
27 serve successive terms. Terms must be staggered. A member of the board who
28 releases confidential information in violation of AS 44.81.260, commits serious ethical
29 misconduct that relates to the member's fitness to serve as a member of the board, or
30 maintains a chronically and irredeemably substandard borrowing relationship with the
31 bank may be removed from the board by affirmative vote of a majority of the

1 members of the board.

2 (c) A majority of the members of the board constitutes a quorum for the
3 transaction of business and the exercise of the powers and duties of the board.

4 (d) A member of the board may not vote on a transaction of the bank under
5 this chapter if the member is a party to the transaction.

6 (e) The members of the board shall annually elect from among themselves a
7 chair and vice-chair and other board officers as may be provided in the bank's bylaws.

8 (f) Members of the board shall receive compensation not to exceed \$250 for
9 each day of a board meeting if they attend the meeting. Directors may also receive
10 compensation for personal time and efforts expended to further the bank's interests or
11 business other than on meeting days as may be determined by the chair under the
12 bank's bylaws.

13 * Sec. 11. AS 44.81 is amended by adding a new section to read:

14 Sec. 44.81.031. OFFICERS AND EMPLOYEES. (a) The board shall employ
15 a president. The president may not be a member of the board and serves at the
16 pleasure of the board. The president is the chief executive officer of the bank.

17 (b) The board shall appoint those officers of the bank that are provided for in
18 the bank's bylaws and as the board determines to be necessary for the effective
19 operations of the bank. An executive, operating, administrative, or other salaried
20 officer of the bank may not be a member of the board.

21 (c) The president may hire employees of the bank as may be determined
22 necessary for the efficient performance of the functions of the bank. The board shall
23 approve the compensation of the employees. Employees of the bank are not
24 employees of the state and are not considered to be employees of a public organization
25 for the purposes of AS 39.35.

26 * Sec. 12. AS 44.81 is amended by adding a new section to read:

27 Sec. 44.81.041. STRUCTURE AND MEMBERSHIP OF THE BANK. (a)
28 The bank shall be structured and operated as a cooperative corporation.

29 (b) The board shall issue shares of membership stock in the bank in the
30 amounts and with the value determined by the board and stated in the articles of
31 incorporation. The membership stock may be issued under this chapter and under the

1 bylaws of the bank to persons determined to be eligible to transact business with the
2 bank.

3 (c) The board may establish one or more mechanisms by which persons or
4 entities, or classes of persons or entities, who transact business with the bank are
5 required to provide or establish capital ownership in the bank. The mechanisms may
6 include the issuance of capital stock or other equity instruments or the allocation or
7 retention of net proceeds from the operations of the bank. The mechanisms shall be
8 established and imposed : a manner that the board determines equitably reflects the
9 nature and amount of business transacted with the bank.

10 * Sec. 13. AS 44.81 is amended by adding a new section to read:

11 Sec. 44.81.051. BYLAWS. The board may adopt bylaws for the bank for the
12 regulation and management of the affairs of the bank, and may alter, amend, or repeal
13 them. The bylaws shall be consistent with this chapter and other laws that apply to
14 the bank.

15 * Sec. 14. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.061. INDEMNIFICATION OF DIRECTORS, OFFICERS, AND
17 EMPLOYEES. The bank may indemnify directors, officers, and employees, or may
18 purchase and maintain insurance on behalf of directors, officers, and employees. The
19 indemnification and the insurance purchase and maintenance shall comply with
20 AS 10.06.490.

21 * Sec. 15. AS 44.81 is amended by adding a new section to read:

22 Sec. 44.81.101. PLEDGE OF THE STATE. (a) The state pledges to and
23 agrees with any lender to the bank that the state will not limit or alter the rights and
24 powers given to the bank by this chapter to fulfill the terms of a contract made by the
25 bank with the lender to the bank, or in any way impair the rights and remedies of the
26 lender to the bank. The bank is authorized to include this pledge and agreement of the
27 state in a contract with any lender to the bank.

28 (b) The pledge of the state is limited to the express provisions of (a) of this
29 section and is not a guarantee, surety, promise, undertaking, or assurance of repayment
30 or performance of any obligation of the bank.

31 * Sec. 16. AS 44.81.200 is amended to read:

1 Sec. 44.81.200. REPORTS AND PUBLICATIONS. The board [OF
2 DIRECTORS] shall publish an annual report to the bank's members. The report shall
3 be made available to the governor, the legislature, and the public. The report
4 [AND] must include financial statements audited by independent outside auditors, a
5 discussion [STATEMENT] of the bank's circumstances and operations
6 [INVESTMENTS, A DESCRIPTION OF THE BANK'S LOAN ACTIVITY] during
7 the period covered by the report [, AN ANALYSIS OF ECONOMIC AND OTHER
8 EFFECTS OF LOAN DECISIONS ON THE STATE'S COMMERCIAL FISHING
9 AND AGRICULTURE INDUSTRIES], and any other information that the board
10 believes would be of interest to the governor, the legislature, and the public, or that
11 the legislature requests the board to include. The board may [ALSO] publish other
12 reports considered appropriate [IT CONSIDERS DESIRABLE] to [CARRY OUT]
13 its purposes.

14 * Sec. 17. AS 44.81.210 is repealed and reenacted to read:

15 Sec. 44.81.210. GENERAL POWERS OF THE BANK. The bank may

- 16 (1) adopt, alter, and use a corporate seal;
- 17 (2) sue and be sued in the name of the bank;
- 18 (3) appoint officers, employees, trustees for certificate holders, and
19 agents, and establish their powers and duties;
- 20 (4) provide technical services to members of the bank; in this
21 paragraph, "technical services" includes services that will enhance the ability of a
22 member to obtain financial assistance from the bank;
- 23 (5) participate with state departments and agencies in formulating
24 policy and in planning for the development of commercial fishing and agriculture in
25 the state;
- 26 (6) engage in programs to support the efforts of resident fishers or
27 farmers in order to enhance the further development, efficiency, stability, or
28 profitability of commercial fishing or agriculture in the state;
- 29 (7) make contracts and execute instruments necessary to or convenient
30 for the exercise of its corporate powers;
- 31 (8) issue bonds to carry out its corporate purposes and powers;

1 (9) borrow money and issue secured and unsecured evidence of
2 indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding
3 obligations, and enter into agreements and contracts relating to these obligations;

4 (10) secure the payment of its obligations by pledge, mortgage, or other
5 lien on its contracts, revenue, income, or property;

6 (11) incur secondary liability by guaranty or endorsement of the
7 obligations of a person, except for natural persons, when, in the judgment of the board,
8 the action furthers the bank's corporate purposes;

9 (12) acquire real or personal property by purchase, lease, bequest,
10 devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold,
11 maintain, use, operate, and convey real or personal property;

12 (13) sell, lease as lessor or lessee, exchange, donate, convey, or
13 encumber in any manner by mortgage or by creation of another security interest, real
14 or personal property owned by it, or in which it has an interest, when, in the judgment
15 of the board, the action furthers its corporate purposes;

16 (14) establish wholly-owned or majority-owned subsidiary corporations
17 or limited liability companies to acquire, hold, operate, maintain, or liquidate property
18 received by the bank in a foreclosure action or other loan collection process or to
19 provide services to resident fishers or farmers, or other persons, if the services are
20 consistent with the corporate purposes and powers expressed in this chapter;

21 (15) acquire equity or other ownership interest in a domestic
22 corporation or limited liability company if the purpose of the acquisition is to enhance
23 the further development, efficiency, stability, or profitability of commercial fishing or
24 agriculture in the state;

25 (16) enter into agreements with public or private lenders or other
26 entities, or with state agencies or agencies of the federal government, to carry out the
27 purposes of this chapter;

28 (17) do what is necessary or desirable to carry out the corporate
29 purposes and powers expressed or implied in this chapter.

30 * Sec. 18. AS 44.81 is amended by adding a new section to read:

31 Sec. 44.81.215. LENDING POWERS OF THE BANK. The bank may

1 (1) make loans to individuals, including married couples, who are
2 residents of the state and who are engaged in commercial agriculture or fishing,
3 including harvesters, processors, suppliers, and marketers, if at least one of the primary
4 obligors on the loan is a member of the bank;

5 (2) make loans to corporations, partnerships, or limited liability
6 companies engaged in commercial agriculture or fishing if the majority interest of the
7 corporation, partnership, or limited liability company is beneficially owned by residents
8 of the state and a majority of the owners are residents of the state, and if at least one
9 of the primary obligors on a loan is a member of the bank; however, the bank may not
10 make a loan under this paragraph to a corporation, partnership, or limited liability
11 company for the purchase of a new or existing fishing boat or for the repair or
12 renovation of an existing fishing boat if the primary purpose of the fishing boat is to
13 commercially harvest fishery resources, unless the corporation, partnership, or limited
14 liability company is wholly owned and controlled by residents of the state, and unless
15 at least one of the primary obligors on the loan is a member of the bank;

16 (3) make loans for limited entry permits to individuals who fish
17 commercially if the individual is a state resident; loans made under this paragraph are
18 subject to AS 44.81.231;

19 (4) make a loan for capital investment or operating capital to a
20 shore-based fish processor, a timber processor, or an agricultural processor or harvester
21 who does not meet the resident ownership requirements of (1) or (2) of this section if
22 a facility of the processor or harvester is located in the state and the majority interest
23 in the processor or harvester is beneficially owned by residents of the United States;

24 (5) make a loan to a person, regardless of residency, if the board
25 determines that the loan is necessary to preserve the value of property held by the bank
26 as security for a loan that was made under AS 44.81.210 or this section and that is in
27 default;

28 (6) make loans, as provided in (1), (2), or (4) of this section, that are
29 secured by liens subordinate to valid first liens and security agreements granted to
30 another creditor;

31 (7) accept the pledge of a limited entry permit as security for a loan

1 made under this chapter subject to the conditions set out in AS 44.81.236 on pledges
2 of limited entry permits;

3 (8) make loans in participation with other lenders as provided in (1),
4 (2), or (4) of this section, whether or not an obligor is a member of the bank;

5 (9) purchase or acquire participations in loans from other lenders if the
6 participations conform to the provisions of (1), (2), or (4) of this section, whether or
7 not an obligor is a member of the bank;

8 (10) issue certificates of loan participation to members and to other
9 individuals, corporations, partnerships, and limited liability companies, but the bank
10 may not issue a certificate of loan participation if the certificate would allow
11 participation by the member, individual, corporation, partnership, or limited liability
12 company in loans that individually or cumulatively involve more than 20 percent of
13 the commercial fishery entry permits issued for one type of gear in a specific fishery
14 resource administrative area.

15 * Sec. 19. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.231. PLEDGE OF PERMITS. (a) A limited entry permit issued
17 under AS 16.43 may be pledged by the holder as security for a loan authorized under
18 AS 44.81.236 if the certificate for the pledged permit lists the bank as the legal owner
19 of the permit and the pledger as the equitable owner of the permit.

20 (b) Annual permit cards issued under the pledged permit must be in the name
21 of the equitable owner who shall be responsible for compliance with the laws that
22 govern the permit as if the equitable owner were the holder of the permit.

23 (c) Co-borrowers or guarantors on a loan secured by one or more pledged
24 permits do not have a right in the pledged permit of the equitable owner, whether by
25 subrogation or other manner.

26 (d) Upon payment of the loan, the bank shall certify to the Commercial
27 Fisheries Entry Commission that the loan has been repaid, and the commission shall
28 amend the permit certificate to list the equitable owner as the holder, and the legal
29 interest of the bank shall terminate.

30 (e) In anticipation of a possible foreclosure under AS 44.81.241 - 44.81.250,
31 the equitable owner of a permit that is pledged as security for the loan may nominate

1 a person to whom the permit may be transferred if the pledge is foreclosed under
2 AS 44.81.245.

3 * Sec. 20. AS 44.81 is amended by adding a new section to read:

4 Sec. 44.81.236. LIMITATIONS ON THE PLEDGE OF PERMITS. A loan
5 may not be secured by the pledge of a limited entry permit unless the proceeds of the
6 loan are used for

7 (1) the purchase of a permit;

8 (2) the purchase or lease of quota shares, individual fishing quotas, or
9 another license, permit, or other grant of commercial fisheries harvesting entitlements
10 that is issued and regulated under state or federal law;

11 (3) the purchase, construction, maintenance, repair, or improvement of
12 commercial fishing boats, sites, gear, or equipment;

13 (4) working capital, including insurance premiums, supplies, food, fuel,
14 bait, boat storage, and boat launching;

15 (5) the purchase of the bank's stock or other equity instruments and
16 loan costs; or

17 (6) refinancing of debts incurred for a purpose listed in (1) - (5) of this
18 section.

19 * Sec. 21. AS 44.81 is amended by adding new sections to read:

20 Sec. 44.81.241. INITIAL NOTICE OF DEFAULT. If there is a default on a
21 loan secured by a permit pledged under AS 44.81.231, the bank shall notify the
22 borrowers and guarantors on the loan of the default and of the right to cure the default
23 by sending a notice by certified mail to their last known address or addresses on file
24 with the bank. The notice must include

25 (1) the date of the notice;

26 (2) a description of the security given for the loan, including the
27 number assigned by the commission and the name of the equitable owner of each
28 permit pledged to secure the loan;

29 (3) the date and nature of the default;

30 (4) the amount of arrearages as of the date of the notice;

31 (5) the total indebtedness, including interest, penalties, and costs of

1 collection, remaining owing on the loan as of the date of the notice;

2 (6) the amount of daily interest to accrue from the date of the notice;

3 (7) a statement that the costs of collection of the loan incurred by the
4 bank after the date of the notice will be added to the total amount of the indebtedness
5 owing on the loan;

6 (8) a statement that the default may be cured within 60 days from the
7 date of the notice or within an extended time period that is specified in an extension
8 notice provided by the bank within the 60-day period under AS 44.81.249;

9 (9) the place where payment of arrearages or other cure may be made;
10 and

11 (10) a statement in at least 10 point bold type stating:

12 "IMPORTANT: UNLESS YOU CURE THE LOAN DEFAULT
13 WITHIN THE TIME SPECIFIED BY THIS NOTICE, THE TOTAL
14 INDEBTEDNESS OWING ON THE LOAN SHALL BE
15 IMMEDIATELY DUE AND PAYABLE TO THE BANK WITHOUT
16 FURTHER NOTICE TO YOU. ALSO, THE BANK SHALL THEN
17 BE ENTITLED TO TAKE ANY LEGAL ACTION AGAINST YOU
18 TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF
19 LAWSUITS AND THE FORECLOSURE OF THE PLEDGE OF ANY
20 PERMIT PLEDGED TO SECURE THIS LOAN."

21 Sec. 44.81.243. BANK REMEDIES AFTER FAILURE TO CURE. If the
22 borrowers and guarantors on a loan secured by a permit pledged under AS 44.81.231
23 fail to cure a default within the time stated in the notice given under AS 44.81.241,
24 the total indebtedness owing on the loan immediately becomes due and payable to the
25 bank, and the bank shall be entitled to take any legal action to collect the loan,
26 including the foreclosure under AS 44.81.245 of the permit pledge that secures the
27 loan and the institution of legal action. If the bank forecloses the permit pledge, the
28 bank may proceed in the order the bank selects, whether before, after, or concurrent
29 with other action taken to collect the loan.

30 Sec. 44.81.245. FORECLOSURE NOTICE. The bank may foreclose on a
31 permit pledge that secures a loan by sending to the equitable owner of the permit

1 pledged and any other borrowers and guarantors on the loan a notice of foreclosure.
2 The notice shall be sent by certified mail to their last known address or addresses on
3 file with the bank and must include
4 (1) the date of the notice;
5 (2) a statement that the total indebtedness owing on the loan became
6 due and payable to the bank because the loan default was not cured within the time
7 specified in the notice of default and right to cure provided under AS 44.81.241, and
8 that as a result the bank is entitled to take legal action to collect the loan, including
9 the forfeiture of a permit pledge that secures the loan and the institution of legal
10 action;
11 (3) a description of the permit pledge that is being foreclosed by the
12 notice, including an identification of the permit by the number assigned by the
13 commission and the name of the equitable owner;
14 (4) the amount of the total indebtedness owing as of the date of the
15 notice;
16 (5) the amount of daily interest that accrues from the date of the notice;
17 (6) a statement that the costs of collection of the loan incurred by the
18 bank after the date of the notice will be added to the total amount of the indebtedness
19 due on the loan;
20 (7) a statement that to avoid forfeiture of all rights of the equitable
21 owner of the permit identified in the notice, the loan must be paid in full within 60
22 days from the date of the notice or within an extended time period that is specified in
23 an extension notice provided by the bank within the 60-day period under
24 AS 44.81.249;
25 (8) a statement that once a forfeiture of all rights of the equitable owner
26 of a permit described in the notice occurs, the permit may not be redeemed;
27 (9) a statement of the right of the equitable owner to nominate a person
28 to assume the loan under AS 44.81.245;
29 (10) the place where payment in full may be made; and
30 (11) a notice in at least 10 point bold type stating:
31 "IMPORTANT: IF THE LOAN IS NOT PAID IN FULL BY THE

1 DATE SPECIFIED, ALL RIGHTS OF THE EQUITABLE OWNER TO
2 THE PERMIT IDENTIFIED IN THIS NOTICE WILL BE FORFEITED
3 WITHOUT FURTHER NOTICE TO YOU. IN THAT EVENT,
4 THERE WILL NOT BE A RIGHT OF REDEMPTION OF THE
5 PERMIT. IN ADDITION, THE BANK MAY NOW TAKE OTHER
6 ACTION TO COLLECT THE LOAN, INCLUDING THE
7 INSTITUTION OF LEGAL ACTION AGAINST YOU AND THE
8 FORECLOSURE OF OTHER PERMIT PLEDGES THAT SECURE
9 THE LOAN."

10 Sec. 44.81.247. TERMINATION OF PERMIT INTEREST. If a loan is not
11 paid in full within the time specified by the notice provided for the loan under
12 AS 44.81.245, the equitable interest in the permit identified in the notice terminates
13 by operation of law without further notice. The commission shall cancel an entry
14 permit card issued to the equitable owner of the permit immediately upon receipt by
15 the commission of a certificate of termination containing a copy of the notices required
16 by AS 44.81.241 and 44.81.245.

17 Sec. 44.81.249. CANCELLATION, EXTENSION, AND DELIVERY OF
18 NOTICES. (a) The bank may cancel a notice provided under AS 44.81.241 or
19 44.81.245 by delivering a written notice of cancellation to the persons who were given
20 the cancelled notice. The notice shall be given in the same manner as is required for
21 the cancelled notice.

22 (b) The bank may extend the 60-day period for curing a default under
23 AS 44.81.243 and the period before a forfeiture occurs under AS 44.81.247 by giving
24 a written notice of extension to the persons who were given the notice. The notice
25 shall be given in the same manner as is required for the giving of the notice being
26 extended.

27 (c) The bank may give a notice required to be provided in AS 44.81.241,
28 44.81.245, or 44.81.247 by personal delivery instead of by certified mail.

29 * Sec. 22. AS 44.81.250 is repealed and reenacted to read:

30 Sec. 44.81.250. TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.

31 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 - 44.81.249,

1 the bank shall determine if the permit is subject to a buy-back program under
2 AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program, shall offer the
3 permit to the commission at a price equal to the outstanding indebtedness on the loan.

4 (b) If the permit is not subject to a buy-back program, or if the commission
5 fails to buy back the permit within 30 days after the commission receives the offer, the
6 bank shall sell the permit to a person who qualifies as a transferee of an entry permit
7 under AS 16.43 and the regulations adopted by the commission. The bank shall give
8 preference to an offer to purchase a permit made by a state resident if the price offered
9 is equal to or greater than the price offered by a nonresident. If the proceeds of the
10 sale of a permit exceed the amount necessary to pay the indebtedness in full, the bank
11 shall remit the excess to the borrower.

12 (c) At any time before foreclosure of a pledge of a permit, or within 30 days
13 following foreclosure of a pledge of a permit, the equitable owner or former equitable
14 owner may nominate a person to assume the loan. A person nominated must qualify
15 as a transferee of the permit under AS 16.43 and must qualify to assume the loan
16 under the requirements of the bank. If the person qualifies, the permit shall be
17 transferred to the nominee upon the nominee's assumption of the loan.

18 (d) This section does not affect the right of the bank to institute legal actions
19 against the borrowers, guarantors, or other sureties for performance to collect the
20 indebtedness owing on the loan and to take other legal action on the collateral securing
21 the loan.

22 * Sec. 23. AS 44.81.270 is repealed and reenacted to read:

23 Sec. 44.81.270. AUDITS AND EXAMINATIONS OF BANK. (a) The
24 legislative auditor may cause the bank to be audited in the manner and under the
25 conditions established by AS 24.20.271 for audits performed by the legislative audit
26 division. The legislative audit division has free access to all books and papers of the
27 bank that relate to the business of the bank and books and papers kept by a director,
28 officer, or employee relating to or upon which a record of the business of the bank is
29 kept. The legislative audit division may summon witnesses and administer oaths or
30 affirmations in the examination of directors, officers, or employees of the bank or
31 another person in relation to the affairs, transactions, and conditions of the bank, and

1 may require and compel the production of records, books, papers, contracts, or other
2 documents by court order if not voluntarily produced. At the direction of the legislative
3 budget and audit committee under AS 24.20.271, the legislative auditor may conduct
4 an audit of the bank.

5 (b) The legislative auditor and the auditor's employees may not disclose
6 information acquired by them in the course of an audit of the bank concerning the
7 particulars of the business or affairs of a borrower of the bank or another person,
8 unless the information is required to be disclosed by law or under a court order.

9 (c) The bank shall be audited annually by independent outside auditors. The
10 legislative auditor may confer with the outside auditors and review the work papers of
11 the audit. The board shall engage the outside auditors, who shall be responsible to the
12 board. The bank shall submit copies of each report of the outside auditors to the
13 legislative auditor within 30 days of the report by the bank.

14 (d) The state bank examiners shall perform an annual qualitative examination
15 and evaluation of the bank. The commissioner of commerce and economic
16 development shall assess the bank a fee established under AS 06.01.010(b) for the
17 actual expenses incurred by the Department of Commerce and Economic Development
18 in connection with the examination. The examiners shall report to the board on the
19 examination. The examiners shall prepare a summary report evaluating the bank's loan
20 portfolio quality on a statistical basis and addressing the appropriateness and
21 effectiveness of the bank's policies, practices, and management within the context of
22 the bank's statutory purposes. The examiners shall distribute copies of the summary
23 report to the bank, the legislature, and the governor, and the other records related to
24 the examination of the bank are subject to AS 06.01.025.

25 * Sec. 24. AS 44.81 is amended by adding a new section to read:

26 Sec. 44.81.300. UNCLAIMED DISTRIBUTIONS, REDEMPTIONS, OR
27 PAYMENTS. The bank may revoke a distribution of net proceeds by the bank or a
28 redemption of or payment based upon an allocation of proceeds or upon capital stock
29 issued by the bank if the distribution, redemption, or payment remains unclaimed six
30 years after the date authorized for payment, redemption, or retirement. The amount
31 revoked may revert to an unallocated capital account of the bank if, at least six months

1 before the declared date of revocation, the bank has mailed to the last known address
2 of the person shown by the bank's records to be entitled to the amount a notice that
3 the payment is available to the person; if the address is unknown, the bank shall
4 publish the notice as provided by law for the publication of a summons. A
5 distribution, redemption, or payment subject to this section is not subject to
6 AS 34.45.110 - 34.45.780.

7 * Sec. 25. AS 44.81.350(3) is amended to read:

8 (3) "member of the bank" includes

9 (A) a holder of a share of membership stock of the bank; or

10 (B) a patron of the bank with retained patronage earnings, or
11 other form of capital ownership in the bank, of \$2,500 or more to the
12 patron's credit;

13 * Sec. 26. AS 44.81.350 is amended by adding new paragraphs to read:

14 (5) "commercial agriculture" includes commercially-related activity in
15 connection with producing, harvesting, processing, or marketing an agricultural,
16 maricultural, or horticultural commodity, including the breeding, raising, shearing,
17 feeding, caring for, training, and management of livestock, bees, poultry, shellfish, and
18 fur-bearing animals and wildlife, and the planting, cultivating, caring for, harvesting,
19 or processing of forest products on a sustained yield basis;

20 (6) "permit" means a limited entry permit issued under AS 16.43;

21 (7) "resident farmer" means a person who is a resident of the state and
22 who is engaged in commercial agriculture in the state;

23 (8) "resident fisher" means a person who is a resident of the state and
24 who is engaged in commercial fishing in the state.

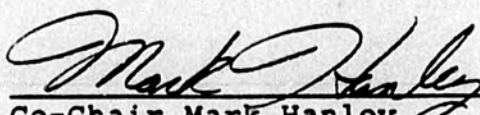
25 * Sec. 27. AS 44.81.010(c), 44.81.040, 44.81.050, 44.81.060, 44.81.070, 44.81.090,
26 44.81.100, 44.81.110, 44.81.160, 44.81.190, 44.81.220, 44.81.230, 44.81.235, 44.81.240, and
27 44.81.280 are repealed.

28 * Sec. 28. TRANSITION PROVISIONS. This Act does not affect a contract, cause of
29 action, liability, penalty, or proceeding existing, incurred, or accrued on the effective date of
30 this Act. This Act does not affect an action of the Alaska Commercial Fishing and
31 Agriculture Bank taken on or before the effective date of this Act.

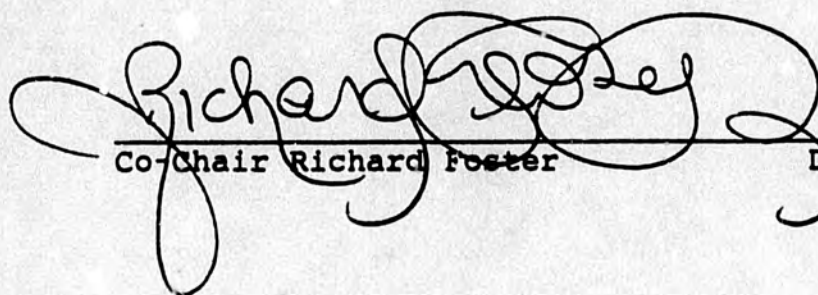
CS HB 284 (FIN)

LETTER OF INTENT

The legislature requests that the board of directors of the Alaska Commercial Fishing and Agriculture Bank investigate the feasibility of providing services authorized under AS 44.81.210 to Alaskans other than those authorized for services under AS 44.81.210, and report the results of that investigation to the legislature by the 15th day of the first session of the twentieth Alaska Legislature.


Co-Chair Mark Hanley

3/15/96
Date


Co-Chair Richard Foster

15MAR296
Date



2550 Denali Street, Suite 1201
Anchorage, Alaska 99503-2737
(907) 276-2007 Fax (907) 279-7913

March 14, 1996

Edward E. Crane
President

RECEIVED
MAR 16 1996
Ans'd.....

President Drue Pearce
Alaska State Senate
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear President Pearce,

We anticipate that within a few days HB 284 will be transmitted to the Senate for consideration.

HB 284, sponsored by the House Special Fisheries Committee, directly affects only CFAB and its (present and future) borrower-owners. It is difficult to argue persuasively that there are even indirect implications for any other private or public entities. HB 284 has been subjected to hearings in three House committees (as well as consideration by a Finance Committee subcommittee). It also received in-depth analysis by the Legislative Auditor, whose report is of course available.

For those reasons, and because HB 284 is of importance to CFAB, we respectfully request that you consider limiting HB 284 to only those referrals which are in your judgement necessary to achieve effective Senate consideration. Historically, legislation affecting CFAB has been referred as a minimum to the Senate Resources Committee. We note that, according to data published by the Commercial Fisheries Entry Commission, the present members of the Senate Resources Committee count among their combined constituencies 4,399 registered voters who own 8,219 commercial fishing permits. Those totals are greater than those of the combined membership of any other Senate standing committee; as a matter of fact, each is more than 47% of the respective total for the Senate as a whole.

Thank you for your consideration.

Very truly yours,

Edward E. Crane
President

cc: Representative Alan Austerman
Chair, House Special Fisheries Committee
Senator Loren Leman
Chair, Senate Resources Committee

Alaska Commercial Fishing and Agriculture Bank

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB284

Revision Date: 3/8/96 Dept. Affected: Fish and Game
Title: An Act relating to the Commercial Fishing and BRU: Commercial Fisheries (Limited) Entry Commission
Agriculture Bank Component: Limited Entry Program Administration
Sponsor: House Special Committee on Fisheries
Requester: House Finance Committee COMPONENT SERIAL NO. 0471

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

House Bill 284 is a housekeeping bill which streamlines, clarifies and improves many of the operations of CFAB and is not expected to have a fiscal impact on this agency.

Prepared By: Roger Kolden Phone: 789-6160
Agency: Commercial Fisheries (Limited) Entry Commission Date: 3/8/96

Approved by Commissioner: Frank Homan Date: 3/8/96
Agency: Commercial Fisheries (Limited) Entry Commission

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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Revision Date: March 8, 1996 Dept. Affected: Revenue
Title: An Act relating to the Alaska Commercial Fishing and Agriculture Bank (CFAB) BRU: Revenue Operations
Sponsor: House Special Committee on Fisheries Component: Treasury Division
Requestor: Finance COMPONENT SERIAL NO. 121

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES (CFAB)		-1,000.0				
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CFAB is currently repurchasing non-voting, preferred shares of stock originally sold to the State in 1980 for \$32 million. The repurchase, which is required to be complete by the year 2000, is currently scheduled to be completed by FY 1998. The effect of this bill, which establishes a \$1 million minimum level of capital at the bank, will be to reduce the total final payment to the State by \$1 million.

Prepared by: Betty Martin, Comptroller *Betty Martin* Phone: 465-2350
Division: Treasury Date: 3/8/96
Approved by Commissioner: Wilson L. Condon, Commissioner *Wilson L. Condon* Date: 3/8/96
Agency: Department of Revenue

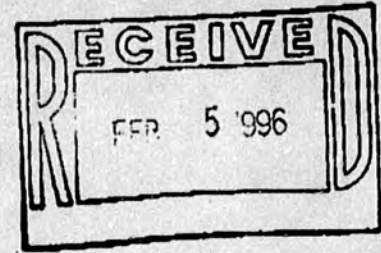
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TONY KNOWLES
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 485-3532



January 31, 1996

Mr. Edward E. Crane, President
Alaska Commercial Fishing
and Agriculture Bank
2550 Denali Street, Suite 1201
Anchorage, AK 99503-2737

Dear Mr. Crane:

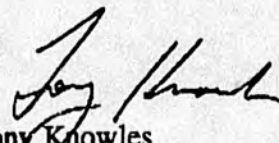
Thank you for your letter of January 11 requesting support for HB 284, the House Special Fisheries bill relating to the Commercial Fishing and Agriculture Bank (CFAB).

I was pleased to learn of CFAB's early return of a majority of the state's initial capitalization and of your plans to retire the remainder before the statutory deadline. Your cooperative members, the fishermen and farmers of Alaska, are to be complimented for their significant financial contribution to CFAB's success.

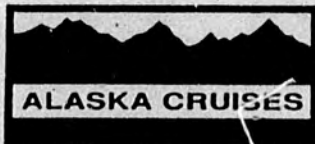
This Administration is very interested in the well-being of CFAB and in protecting its ability to help Alaskan fishermen and farmers. As a unique financial institution, CFAB provides needed support for a specialized segment of Alaska's economy. Therefore, I have asked my legislative director, Pat Pourchot, to follow HB 284 and lend his support, as appropriate, to ensure its passage.

Best wishes to CFAB and its member-borrowers.

Sincerely,


Tony Knowles
Governor

cc: Pat Pourchot, Legislative Director



P. O. BOX 784 • KETCHIKAN, ALASKA 99901 • (907) 225-6044 Fax (907) 225-8636

4-5-95

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REPRESENTATIVE ALAN AUSTERMAN
CHAIRMAN
HOUSE SPECIAL COMMITTEE ON
FISHERIES
ALASKA STATE LEGISLATURE
JUNEAU, ALASKA 99801-1102

DEAR SIR:

I URGE YOU TO SUPPORT PASSAGE
OF HB 284.

CPAB HAS BEEN A TREMENDOUS
ASSET TO THE COMMERCIAL
FISHING INDUSTRY IN ALASKA.

THE STATE AND THE INDUSTRY NEED
THIS INSTITUTION.

Sincerely,

CRYSTAL FJORD ARCTIC FJORD EMERALD FJORD MISTY FJORD GLACIER FJORD

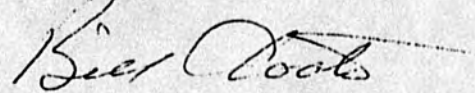
Bill Choate
Box 493
Homer, Alaska 99603
April 6, 1995

Chairman Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Chairman Austerman,

I strongly urge you to support HB 284. As a member of CFAB and three time user of the institution, it is hard for me to imagine my success in the fishing business without them. It is clear to me that CFAB has grown and evolved over the years, and besides, Ed Crane need the kind of job security that most of you legislators enjoy.

Sincerely,



P.S. CFAB---disregard last line. hal hal

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A.S.L.