

ALASKA LEGISLATURE COMMITTEE FILES 1903-1900 00/2

4288 SRES SB 410 - SB 414 1168



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329-333 Katlian Street

Sitka, Alaska 99835



MAR 11 1986

March 9, 1986

Senator Arliss Sturgulewski
Chairman, Resources Committee
Room 508, Capitol Building
Juneau, Alaska 99811

Re: Senate Bill 410 (By Zharoff)

Dear Senator Sturgulewski:

I am writing in support of the above-mentioned Senate Bill 410, for I believe it is important for the Alaska Commercial Fishing and Agriculture Bank to expand its base, and be allowed to take part in financing of shorebased plants other than those who meet the present eligibility requirements.

My company is 100% owned by Alaskan residents at present and I do not feel that this proposed expansion of the Bank's lending base would cause any hardship whatsoever. I feel that this legislation will enable the Bank to broaden its base and do a better job for all fishing industry in Alaska.

I wish to thank you for any consideration you may give on the above,

Sincerely,

T. E. Thompson
President

Copy: Senator Richard Eliason

(907) 747-6662

Telex 090-45-391 SSSEAFOOD SIKAK
FRESH AND FROZEN SALMON, COD, BLACK COD, HALIBUT, ROCK FISH, CRAB, HERRING

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RIC. HALFORD
FRED ZHAROFF

POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907



Senate Committee on Resources

March 12, 1986

COMMITTEE ON RESOURCES LETTER OF INTENT FOR SB 410

This legislation is intended to enhance the ability of the Alaska Commercial Fishing and Agriculture Bank to fulfill its legislatively mandated responsibilities by broadening its potential market. It is therefore the intent of the legislature that the term "shore-based fish processors" shall not be interpreted to exclude fish processing corporations whose operations include both shore-based and floating processing facilities. For the purposes of this legislation a fish processing company that operates both shore-based and floating facilities shall be considered to be a shore-based fish processor.

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



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Senate Committee on Resources

M E M O R A N D U M

March 27, 1986

TO: All Members
Senate Resources Committee

FROM: Senator Arliss Sturgulewski
Chairman, Senate Resources Committee

RE: Attached material

Please find attached a letter and related material from Ed Crane of CFAB sent in response to questions by Senators Eliason and Halford at the Senate Resources meeting of March 12, 1986.

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Ed Crane, CFAB *Ed Crane*

DATE: March 19, 1986

MAR 24 1986

In response to the invitation extended by Senators Eliason and Halford on March 12, there is enclosed a comprehensive discussion of certain features of CFAB's statute (AS 44.81) which we believe should be constructively addressed by the legislature. Although there are relatively few specific issues, some of them are complex and reflect the difficulty of applying a public interest concept to a real-world environment. We apologize for the length of the enclosed, and offer the following summary of the major or critical views expressed in it:

A. The original statute, with subsequent amendments, is a generally workable articulation of a valid concept; many of CFAB's recent difficulties are the result of failures in the implementation process.

B. CFAB is unique from many standpoints. This uniqueness, and its inherent risks, must be recognized. Although some of its lending activities parallel those of other institutions, there is little real competition within the void which CFAB was created to fill.

C. CFAB's statutory powers are quite broad. The severest limitation on its market is being addressed by SB410 (and HB579). CFAB's management may wish for an even broader market in the interest of the institution's stability, but that would not be politically realistic.

D. The most critical and immediate problems for CFAB are the result of illiquidity. They can only be cured by cash. However, it may be possible that the effect of a cash infusion could be attained, to the State's advantage, by utilizing CFAB's resources in other programs and activities.

E. The statute requires repurchase of the State's capital by the year 2000. That appears to be a practical impossibility. The State should not consider abandonment of its investment. However, impending and inevitable difficulties for all parties could be alleviated or, hopefully, avoided if this legislature were to extend the repurchase date.

F. CFAB has consistently engaged an independent accounting firm for an annual audit. However, due to its unique status, it has never been subject to routine qualitative examinations by an external body. Such examinations would not only impose a necessary discipline on the institution but would greatly enhance the ability of the legislature and the State's administration to provide oversight.

G. The stringent, but yet somewhat vague, limitations on the conditions under which CFAB may accept the pledge of a limited entry permit as loan security were presumably conceived to protect fishermen from themselves. The effect, however, is to dissuade CFAB from recognizing what in many instances is an applicant's most viable asset. No responsible lender will venture into relationships which literally guarantee litigation should a failure occur.



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P.O. Box 4-2070
Anchorage, Alaska 99509-2070
(907) 276-2007

March 19, 1986

Senator Arliss Sturgulewski
Alaska State Legislature
Box V (M.S. 3100)
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Thank you for your comments and for the constructive interest in CFAB which you expressed during the recent hearing on SB410.

It is unfortunate that such focused discussions as we had might leave an onlooker with the thoughts that Alaska is populated by only two kinds of fishermen/borrowers, either "good" or "poor"; that if a fisherman isn't one he must be the other; and that the "poors" naturally gravitate to CFAB while the "goods" have more attractive alternatives. Such is not the case. However, if a traditional financial institution with, say, \$50.0 million of loanable funds has made a risk-limiting policy decision to have no more than 10 percent of its loan portfolio invested in the Alaska commercial fishing industry, that institution can (and should) be very selective and competitive in determining which segments or which individual members of the industry it will finance. Its management's basic responsibility is to protect and enhance the interests of the stockholders and depositors rather than to serve the industry.

CFAB's only mission in life, on the other hand, is to serve that industry, along with agriculture. Accordingly, it must attempt to -- at best -- attract and accommodate a broad cross-section of the industry. Its policies and practices must be structured to exclude the lowest percentiles (in terms of creditworthiness) of the industry; conversely, they cannot be designed to allow or encourage a "skimming" off the top. All of us lapse into expressions of qualitative judgments when discussing or contrasting CFAB's activities and performance with those of other institutions. In reality, however, the "competition" is illusory because of the great divergence of objectives, purposes, and resources. As a final thought on that matter, I would argue that perhaps one of CFAB's most significant services is that rendered to the "top of the list" operators who do not borrow from it; were it not for CFAB's existence, there would be no motive for other lenders to offer attractive terms to that group.

A major thought expressed at the Resources Committee hearing was that there may well be other features of CFAB's statute which could be constructively modified, and I was invited to address the matter. That is the primary reason for this letter.

Senator Arliss Sturgulewski
March 19, 1986
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In my view, the CFAB statute was a creative and visionary response to a worthy need. It is true that the legislature did not necessarily invent the perfect mousetrap the first time around -- there are some points which can hopefully be addressed -- but my strong personal opinion is that CFAB's basic problems have arisen in the implementation process and are not really evidence of a faulty concept. Some of the most damaging events have involved specific instances of poor judgment, flamboyance and speculative growth policies, etc. The more general and pervasive problems, though, appear to stem from a broadbased failure to recognize the genuine uniqueness of CFAB's combination of origin, structure, limitations, objectives, markets, and pressures. That charge of "failure" is not offered as condemnation of anybody. CFAB is unique -- there was no precedent, no pattern, no body of experience to call upon. There is no real reason to believe that those of us involved with CFAB today are any more insightful than our predecessors; we have the benefit and advantage of experience over five eventful years.

The existing statute does give CFAB broad authorities and powers; broader than we have ever used. The only general restriction which tends to be self-defeating is that which is being addressed in SB410. As CFAB's CEO, whose most fundamental responsibility is to work toward the stability and healthy growth of the institution itself, I would subjectively prefer a total removal of the restrictions addressed by SB410, and would justify that by the argument, "What's good for CFAB is good for the State." However, I am realistic enough to recognize that the business of CFAB must be affected by the politics of its creation and heritage, and I am quite pleased with SB410 and its promise.

Before going further with discussion of specific statute features, I would like to address other points which were raised at the hearing and also to stress that the only thing which would help CFAB to deal with its immediate problems is cash (or an interest-earning cash equivalent). I offer that as a matter of fact - not as a plea for cash. The fundamental problem is illiquidity, manifested by the imbalance between interest-bearing debt and interest-earning assets. We did make great strides during 1985 toward curing that imbalance, principally through the liquidation of non-earning assets. Over that year, CFAB reduced its interest-bearing debt by \$32.3 million, but its interest-earning assets were reduced by only \$19.5 million: Effectively, we created \$12.8 million of liquidity and/or earning ability out of the 12-31-84 non-earning assets. In addition, for 1986 we have reduced our operating budget by about \$1.0 million, which has the same effect as creating about another \$7.0 million of earning assets. We can not, and do not, project improvement at the same rate during 1986 -- "easiest" problems get solved first, and we are working our way into the hard core which is much more difficult to deal with!.

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The easiest solution to the immediate problems (from CFAB's standpoint) would be for the State to invest another \$6.0 to \$8.0 million in CFAB, in return for a long-term commitment from our lender as well as that lender's subordination to the State with respect to the future proceeds from \$10.0 or \$12.0 million of non-earning assets in order to secure repayment to the State. That does not appear to be realistic, and I am not certain it would be best just because it would be easiest. On the other hand, there were concepts embodied in some of the committee discussion -- particularly in Senator Coghill's comments -- which I believe are worthy of exploration and which bear potential benefit to both the State and to CFAB. CFAB has an administrative and operational infrastructure which is presently underutilized. Also, we are continuing to build a professional credit staff which, out of necessity, is primarily oriented to difficult situations. It occurs to me, given the current and projected State budget constraints as well as the frequent (but not universal) expressions of sentiment for limiting or eliminating State-funded direct loan programs, that there may well be opportunities for CFAB to act on an agency or contract basis for the State in administering, modifying, or phasing out particular programs. While this is probably something to be addressed administratively rather than through the legislature, it seems appropriate to acknowledge it as relevant to our recent discussion.

There was also some discussion about the status of, and repayment prospects of, the State's \$31.8 million investment in CFAB. We have from time to time heard expressions from various sources that the State should consider abandoning or "writing off" that investment. My personal view is that that action would be inappropriate, for a variety of reasons:

1) CFAB needs to be held accountable for its actions, policies, and results; and ownership by the State imposes accountability. It is true that the State's stock is non-voting, while the borrower-members have the theoretical authority and ability to influence the institution through exercise of their voting rights. However, CFAB is still a new institution without a "mature" body of members; while those members have a common interest in general, the most significant interest is one which is specific to each individual; and it would be a very costly and time-consuming effort for a small group of members to work toward correction of a perceived problem -- the most effective control element for members is probably through the election of quality directors. Even though we at CFAB might chafe at the frustrations and imperfections of communicating with legislators and administrators, the practical fact is that the accountability imposed by State investment is probably the greatest possible protection for all parties involved.

2) As a citizen, I can think of no reason the state should abandon the investment. The present value may be nominal -- that was, of course, known when the investment was made -- but I'm sure the State has made hundreds

Senator Arliss Sturgulewski
March 19, 1986
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of other capital investments of various kinds "for a public purpose" and which have limited financial value.

3) As discussed earlier, a non-cash transaction would not assist CFAB in dealing with immediate problems; there would simply be a re-classification in the equity portion of our balance sheet. On the other hand, if there should be a dramatic worsening of CFAB's immediate problems and if CFAB were forced into a bankruptcy and/or liquidation, there is every reason to believe the State would ultimately recover a significant part of its investment. The State should not forego that opportunity.

4) While the \$31.8 million does appear to be an investment of capital, it bears at least one of the elements of debt (a due date). In general, an abandonment of capital has no significant tax implications, but a forgiveness of debt creates a taxable gain. Such an action should be carefully analyzed beforehand, in order that CFAB not be confronted with a horrendous Federal tax liability!

Notwithstanding all of the foregoing, it would seem appropriate that this legislature recognize and address the realities of that investment and the prospects for retirement on the present schedule. As I mentioned the other day, we at CFAB view the obligation very soberly and recognize the clock is running. However, we are doing today what any illiquid individual or entity does; we are committing all available cash to those obligations which have the ability to put us out of business today. As a matter of fact, since the Spokane Bank for Cooperatives holds a lien on all cash proceeds (as well as on most other assets) we could not fund a repayment plan. While there may be no compelling and immediate reason to change the requirement today, we do now have the benefit of over five years of experience and can recognize that a requirement which seemed realistic in 1978 and 1979 is no longer achievable. In CFAB's view it would be more reasonable for the legislature to change the retirement date to, perhaps, July 1, 2010. An alternative might be to set the retirement "at the call of the legislature but in no event prior to July 1, 2010." It would not be unreasonable -- at least in theory -- to attach a sinking fund requirement, but that might involve some difficult negotiations with CFAB's lender depending upon how the requirement were structured.

* * * * *

Following are the other specific points in CFAB's statute (AS 44.81) which we believe could be constructively addressed:

Sec. 44.81.010.(a) The reference to AS 10.15.005-10.15.600 (the basic cooperative statute) should be eliminated. CFAB is unique, and AS 44.81 provides a specific and comprehensive organic foundation. AS 10.15 is subject

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to change without regard for its impact on CFAB, and a basic necessity for a credit institution, especially one involved in long-term loans, is stability in every form. There was an abortive effort in 1984-85 to develop sweeping changes in AS 10.15; that effort had merit within its own context, but many of the proposed changes did not recognize the possible existence of a statewide cooperative whose relationship to members is purely financial.

Sec. 44.81.010.(b) & (c) A modified requirement for repurchase of State capital should be addressed here.

Sec. 44.81.020.(a) & (b) The requirement that at least one board member be an Alaska farmer is constructive. However, the proviso that he/she have "at least 10 years of Alaskan farm experience" (whatever that means!) creates a situation which is probably not in the best interests of members. Since each elected director must also be a current or recent CFAR borrower, it appears there are less than five individuals in the entire state eligible for this position. Other directors don't need to be 10-year fishermen, etc., and a second farmer director does not need to meet the 10-year requirement. Why limit the members' choice of directors in this way?

Also, there should be a provision for removal of an elected director as a result of a unanimous finding by the remaining directors of a "serious conflict of interest or a chronically and irremedially substandard borrowing relationship." We have received a legal opinion, based on the existing statute, to the effect that only the members of CFAB can remove or recall an elected director -- however, since the statute elsewhere prohibits disclosure to members (or anyone else) of information regarding a borrower (including directors), a Catch-22 situation exists.

Finally, this section should also make clear that the five elected directors are accountable as individuals to the members only. They should not be subject to the same requirements, standards, etc., as are the gubernatorial appointees. Each director candidate must literally "campaign" for election, and the members have ample opportunity to apply whatever standards they choose.

Secs. 44.81.200, 44.81.260.(b)(1), 44.81.270, & 44.81.280 Section 44.81.200, by implication, requires CFAB to have an annual financial audit by independent outside auditors. That may be sufficient, but it would not hurt for that requirement to be specific. To avoid costly redundancy while retaining opportunity for legislative oversight, it would be well to provide that the Legislative Audit Division is authorized to confer with, and to review the audit workpapers of, CFAB's outside auditors and could make its own audit only after a recommendation to, and direction by, the Budget and Audit Committee.

A far more important and necessary provision, from our viewpoint, would be for an annual qualitative examination and evaluation by the State's

Senator Arliss Sturgulewski
March 19, 1986
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bank examiners. CFAB's directors and management are greatly desirous of the discipline imposed by an independent and professional examination. More important, and because CFAB's loan portfolio comprises about 84 percent of its total assets, the State should be vitally interested in a periodic qualitative evaluation. We urge that such an examination be statutorily directed, and that the examiners be required to provide both the legislature and the governor (as well as CFAB's board) with a summary report which expresses loan portfolio quality on a statistical basis and which also addressed the appropriateness and effectiveness of the institution's policies, practices, and management within the context of its statutory purpose.

Secs. 44.81.210.(a)(20) & (22) These paragraphs deal with the bases and circumstances under which CFAB may accept the pledge of a limited entry permit as security for a loan. We recognize the matter of limited entry permits in general is subject to diverse political and emotional overtones; CFAB's subjective view, however, relates strictly to the business asset aspects of permits. It is also premised on the concept that a viable loan is one which is structured to meet the reasonable business needs of both lender and borrower and which preserves the relative risk positions of owner and creditor. An all-too-common perception among non-credit people is that lending is some kind of game of wits which creates either "bank wins/borrower loses" or "bank loses/borrower wins" situations!

Paragraph (20) sets forth requirements which are identical to those of the Commercial Fishing Loan Act administered by the State itself. We have no particular concern with the two-year residency requirement expressed in (20) but, since CFAB was created to serve a broader group than the State's own program, we do not understand why CFAB should be limited to the other requirements in (20) -- they are essentially eligibility requirements, and may or may not have any relevance to objective credit standards a lender might apply. Within the context of "service to Alaska fishermen," an entry permit will only be sold by a limited entry permit holder who is presumably motivated to sell. If CFAB can finance a qualified buyer, which party is getting the benefit of CFAB's existence?

Paragraph (22) is much more difficult for CFAB as a lender. We have been advised frequently by counsel that a restrictive provision such as this will always be construed strictly, rather than liberally, by the courts; consequently, we flatly avoid making loans that we would otherwise be willing to make. Again notwithstanding the complex and controversial history of the limited entry program itself, we do not understand why this asset which is a critical and integral element of any fisherman's operation should have such unique status. The restrictions do not necessarily work to a fisherman's advantage. Consider the hypothetical case of an individual who has managed to accumulate \$50,000 in cash but has no other significant resources; he has arranged to lease a vessel and gear if he can buy a \$50,000 permit and have

Senator Arliss Sturgulewski
March 19, 1986
Page 7 of 8

\$35,000 of working capital. If he buys the permit for cash and comes to CFAB for a \$35,000 working capital loan, he probably won't get it. On the other hand, if he has presence of mind enough to come to CFAB first, we might very likely finance \$35,000 of the permit purchase (and on a term basis, rather than on a seasonal working capital basis) and let him use his own funds for working capital. Same individual; all other credit factors the same; but, obviously, paragraph (22) affects his ability to fish.

We are told that a major rationale for the sacrosanctity of limited entry permits is that, "foreclosure of a permit takes away the borrower's ability to fish." We would agree with that. We would hasten to add, however, that no responsible lender -- including CFAB -- lends money in anticipation of acquiring the security pledged. There are many, often misunderstood, reasons for requiring collateral to a loan. In the final analysis, it is a stop-loss feature and/or one which permits a degree of leverage. The courts do not permit a lender to acquire collateral without an often costly and time-consuming showing of clear proof that the borrower cannot and/or will not conform to the loan contract to which he agreed. If a borrower is unwilling to risk his/her legal ability to fish in order to have the financial ability to fish, why should CFAB put other people's money (including the State's) at risk?

As a final example of the impact of paragraph (22), we would cite "gear" loans, for which there is frequent demand. Gear is almost valueless for collateral purposes. An applicant for a gear loan is held by CFAB to essentially the same standards as are applied to an unsecured borrower -- this means very few applicants can qualify. Effectively, CFAB is denying credit to a large body of applicants because an unidentifiable, but small, number of them will not perform. If, however, those applicants could put their permits at risk to secure a gear loan, many more gear loans could be made -- and we expect borrowers would take a much more serious approach to servicing those loans!

We believe paragraph (22) should be rewritten to provide:

(1) Loans made should be restricted to enabling the fisherman to better compete in the fishery for which he holds the pledged permit. In other words, a loan to purchase a drag boat should not be secured by a salmon permit; and,

(2) The authorized loan purpose should be expanded to include:

(a) purchase of fishing gear.

Senator Arliss Sturgulewski
March 19, 1986
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(b) working capital, including insurance premiums, fuel, bait, boat storage and launching expenses.

(c) purchase and improvement of set net sites and associated equipment.

(3) A provision should be added allowing CFAB to take a permit pledge on more than one loan, provided each loan purpose is authorized for such a pledge.

(4) Refinance of existing debt or debts provided the original loan purpose(s) authorized a permit pledge.

* * * * *

Again, we appreciate the constructive interest expressed by you and your colleagues on March 12. All of us at CFAB -- Directors, management, and staff -- are very much aware of the general and specific obligations CFAB holds toward the State, the public at large, and its mandated constituency. We regret the difficult circumstances of the recent past, and we are committed to restoring CFAB to a position of genuine service to Alaska and its citizens.

Sincerely,



Edward E. Crane
President

EEC:1077V

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
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JUNEAU, ALASKA 99811
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Senate Committee on Resources

M E M O R A N D U M

March 11, 1986

TO: All Members
Senate Resources Committee

FROM: Staff, ~~Senate Resources Committee~~

RE: SB 410 "An Act relating to financing of shore-based fish processors by the Commercial Fishing and Agricultural Bank"

SB 410 would amend the powers of the Alaska Commercial Fishing and Agriculture Bank (CFAB) to provide for financing shore-based fish processing plants that are not 51 percent owned by Alaska residents but are majority owned by U.S. residents. Presently CFAB is allowed to lend to fish processors who are majority owned by Alaska residents, but there are relatively few processors that meet this requirement. The expansion of powers would make CFAB financing available to a wider range of fish processing businesses.

The following excerpts are from a recent letter from CFAB:

CFAB's statute provides that it can only finance corporations of which the majority ownership and control rests with Alaska residents.

A recent survey disclosed that of 22 shore-based Alaska processors having annual sales in excess of \$10 million, 17 are ineligible to borrow from CFAB by reason of ownership identity. CFAB has, or has had, lending relationships with four of the five others.

2)

Statutory denial of eligibility by reason of ownership is inconsistent with the facts that these processing corporations own facilities in Alaska, pay local taxes in Alaska, provide employment to Alaskans, purchase and add value to Alaska seafoods, pay fish taxes to the State of Alaska, provide a competitive marketing environment for Alaska fishermen, and purchase supplies and services in Alaska. Interest paid on funds borrowed from CFAB (or any other Alaska entity) would be an additional and beneficial increment of Alaska seafoods proceeds within the Alaska economy.

While it is clear that the 1978 State Legislature intended to create an institution to serve Alaska interests exclusively, the requirement that the state investment be repurchased evidences the intent that CFAB be operated, and grow, on sound business principles. Removal of the statutory limitation with regard to shore-based processing corporations is consistent with the first intent and greatly enhances the opportunity for fulfillment of the second.

A copy of HB 256 is attached that was amended in the House Special Committee on State Loans. The CSHB 579 (Loans) would allow CFAB to finance timber processors and harvesters and agricultural processors and harvesters which are majority owned by U.S. residents.

Enclosures:

Information sheet on CFAB
Sources and Uses of Funds
Newspaper articles
CSHB 579 (Loans)

1. Alaska Commercial Fishing and Agriculture Bank (CFAB) was created in 1978 by the Alaska State Legislature. Its purpose is to provide a source of credit to the Alaska fishing and agriculture industries, with emphasis on the development and broadening of those industries.
2. CFAB is structured under its statute as a cooperative. A cooperative is a corporation whose stockholders and customers are the same individuals or entities. A cooperative is subject to the same business and financial considerations as any other corporation.
3. The State of Alaska provided an initial capital base to CFAB through the purchase of stock; the State presently owns \$31.8 million of such stock. CFAB's statute requires that the State stock be repurchased within 20 years from the original investment (1980).
4. CFAB has no organic, structural, operational, or financial relationship with the State except for the capital investment and that two of CFAB's seven directors are appointed by the Governor.
5. CFAB's lending ability is not limited to the amount of the State's investment. CFAB borrows additional funds at "market" rates and terms, pledging its loans and other assets as security. It re-lends those funds to its borrower/owners at rates sufficient to cover its own interest costs, its operating expenses, and to generate capital through earnings. CFAB's outstanding loans to Alaska fishermen and farmers reached a year-end peak of nearly \$104 million at December 31, 1983, and had other assets of about \$19 million; a total nearly \$91 million greater than the State's investment.
6. CFAB's borrowers become owners through a purchase of stock at the time of borrowing and through payment of interest at a level high enough to create retained earnings.
7. Under its statute, CFAB may lend money only to those individuals who are bona fide residents of Alaska. There appears to be no sound and reasonable argument against that limitation.
8. A vast majority of CFAB's loans are to individual fishermen (about 80 to 85 percent by number); most of them are to finance a vessel and/or are secured by a lien on a vessel. This appears to be CFAB's most "natural" market and the credit void which CFAB was most intended to fill.
9. Compared to almost any other type of commercial lending, financing fishing vessels is extremely cumbersome and costly. Alaska geography adds considerable costs. Those factors, in addition to the dangerous concentration of risk, make it extremely difficult for CFAB to maintain a focus on that market without charging interest rates which are unusually burdensome to its borrowers.
10. CFAB has attempted to balance its loan portfolio, and to moderate its total circumstances, through loans to corporations which process seafood and timber. Those loans tend to be relatively large, but do not require servicing costs to a comparable degree. They permit basic operating expenses to be spread over a larger volume of loan dollars, moderating the pressure on smaller individual borrowers.

11. CFAB's statute provides that it can only finance corporations of which the majority ownership and control rests with Alaska residents.
12. A recent survey disclosed that of 22 shorebased Alaska processors having annual sales in excess of \$10 million, 17 are ineligible to borrow from CFAB by reason of ownership identity. CFAB has, or has had, lending relationships with four of the five others.
13. Statutory denial of eligibility by reason of ownership is inconsistent with the facts that these processing corporations own facilities in Alaska, pay local taxes in Alaska, provide employment to Alaskans, purchase and add value to Alaska seafoods, pay fish taxes to the State of Alaska, provide a competitive marketing environment for Alaska fishermen, and purchase supplies and services in Alaska. Interest paid on funds borrowed from CFAB (or any other Alaska entity) would be an additional and beneficial increment of Alaska seafoods proceeds within the Alaska economy.
14. While it is clear that the 1978 State Legislature intended to create an institution to serve Alaska interests exclusively, the requirement that the state investment be repurchased evidences the intent that CFAB be operated, and grow, on sound business principles. Removal of the statutory limitation with regard to shorebased processing corporations is consistent with the first intent and greatly enhances the opportunity for fulfillment of the second.



Alaska Commercial Fishing and Agriculture Bank

"Growing to Serve You"

File CFAB

SOURCES AND USES OF FUNDS

July 1984

The Alaska Commercial Fishing and Agriculture Bank (CFAB) — a private lending cooperative, was created to fill the gap in sources of financing for Alaska's fishing and agriculture industries.

Since opening its doors 4 years ago, CFAB has shown significant respon-

siveness to the needs of the industries it serves. Development of a growing body of expertise resulting from broad specialization has enabled CFAB to finance business endeavors rather than service loan requests. Development of service and industry programs to meet all segments of the in-

dustries' needs has enabled CFAB to meet the demands of forecasted expansion. And by providing greater accessibility to its intended borrowers CFAB has been able to reach the following villages and communities throughout Alaska:

CFAB Statewide Use of Funds:

| | | | | | |
|----------------|---------------|------------------|---------------|--------------|-----------------------|
| Aleknagik | 978,074.16 | Homer | 7,606,910.24 | Port Heiden | 337,202.10 |
| Anchor Point | 491,620.26 | Hoonah | 297,000.00 | Port Lions | 77,000.00 |
| Anchorage | 8,370,345.22 | Hydaburg | 4,744,883.40 | Saint Mary's | 6,000.00 |
| Angoon | 7,611,269.99 | Iliamna | 55,150.00 | Sand Point | 1,360,108.54 |
| Auke Bay | 61,500.00 | Juneau | 1,444,599.17 | Seldovia | 585,564.44 |
| Bethel | 1,327,783.46 | Kake | 1,978,668.84 | Seward | 1,644,050.60 |
| Chefornak | 60,148.52 | Kasilof | 427,080.16 | Sitka | 5,687,231.39 |
| Chignik | 204,600.00 | Kenai | 5,369,881.90 | Skagway | 35,200.00 |
| Chignik Lake | 190,349.37 | Ketchikan | 5,490,182.44 | Soldotna | 1,263,176.44 |
| Chugiak | 79,640.00 | King Cove | 2,617,644.92 | South Naknek | 26,084.36 |
| Clam Gulch | 221,178.58 | King Salmon | 677,568.26 | Sutton | 11,000.00 |
| College | 23,814.51 | Kodiak | 16,437,838.97 | Tanana | 10,750.00 |
| Cooper Landing | 229,570.50 | Kotzebue | 104,037.50 | Tatitlek | 116,712.01 |
| Cordova | 12,779,866.26 | Manokotak | 57,738.04 | Togiak | 53,040.13 |
| Craig | 69,650.00 | Metlakatla | 554,617.72 | Tok | 13,900.00 |
| Delta Junction | 298,484.18 | Moose Pass | 29,100.63 | Tooksook Bay | 214,629.66 |
| Dillingham | 5,027,647.14 | Mountain Village | 216,184.80 | Unalaska | 1,150,853.86 |
| Douglas | 373,350.00 | Naknek | 1,646,754.14 | Valdez | 1,779,528.43 |
| Dutch Harbor | 132,360.00 | Nenana | 165,385.11 | Ward Cove | 494,596.13 |
| Eagle River | 395,408.31 | New Stuyahok | 21,539.00 | Wasilla | 490,898.43 |
| Egegik | 4,722,776.60 | Nikishka | 74,130.00 | Whittier | 39,950.00 |
| Elfin Cove | 93,804.00 | Ninilchik | 241,531.71 | Willow | 103,000.00 |
| Ester | 55,000.00 | Old Harbor | 239,119.20 | Wrangell | 330,941.69 |
| Fairbanks | 259,797.65 | Palmer | 125,958.49 | Yakutat | 40,111.50 |
| False Pass | 6,230.04 | Petersburg | 5,980,365.67 | | |
| Girdwood | 26,400.00 | Pilot Station | 1,450.00 | | |
| Haines | 84,307.14 | Port Alexander | 94,481.44 | Total | 116,746,307.35 |

CFAB Source of Funds:

Reflective also of CFAB's responsiveness is its ever increasing loan portfolio recorded as of July 31, 1984.

Loan Disbursements

Since Inception: **\$376,460,676**

Loans Outstanding **\$116,746,307**

Including all previous loans and commitments outstanding, CFAB has brought over \$300 million dollars in Wall Street money to the State of Alaska. This is accomplished by CFAB's ability as a cooperative and a participant in the Farm Credit System to have ready access to "Wall Street" funds at reasonable rates. This

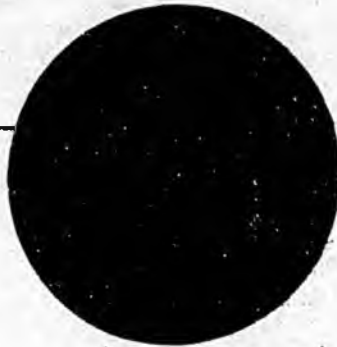
enables CFAB to magnify the effects of the State's initial \$32 million dollar investment by more than 11 times in four years of operation. CFAB has implemented a plan to repay the State its \$32 million.

CFAB Source of Funds:

The following are comparisons of the source of money loaned from December 31, 1980 through July 31, 1984.

Total Loans — 1980
\$25.1 Million
December 31, 1980

State of Alaska
\$25.1 Million — 100%



Total Loans — 1981
\$64.9 Million
December 31, 1981

Member Capital
\$8.4 Million — 13%

Private Borrowings
\$24.7 Million — 38%

State of Alaska
\$31.8 Million — 49%



Total Loans — 1982
\$82.0 Million
December 31, 1982

Member Capital
\$12.3 Million — 14%

Private Borrowings
\$37.9 Million — 46%

State of Alaska
\$31.8 Million — 39%

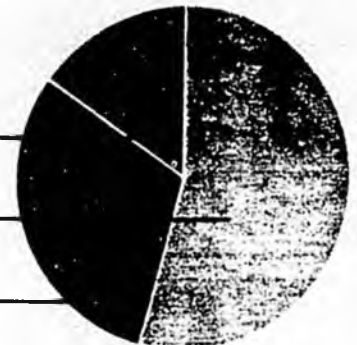


Total Loans — 1983
\$109.9 Million
December 31, 1983

Member Capital
\$15.2 Million — 14%

Private Borrowings
\$62.9 Million — 57%

State of Alaska
\$31.8 Million — 29%

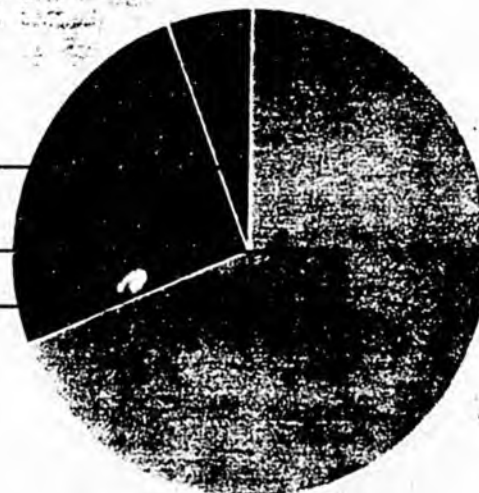


Total Loans — 1984
\$116.7 Million
July 31, 1984

Member Capital
\$6.8 Million — 5.9%

Private Borrowings
\$78.0 Million — 66.8%

State of Alaska
\$31.8 Million — 27.3%



7-23-86 AMek. Times

CFAB's future brightening

by Mary Scarpinato
Times Writer

Alaska's Commercial Fishing and Agriculture Bank once looked like it was in the bad loan business. But a financial turnaround may now be forthcoming, according to president Ed Crane.

New borrowers will help to push along those recovery prospects out of their own pockets with a requirement that they also purchase stock in the bank.

After reporting a \$9.9 million loss for 1984 (primarily due to bad loans in the fishing and timber industries), the 1985 reckoning for CFAB should show a "dramatic improvement, very close to a break-even position," said Crane.

Crane based this picture on

unaudited figures and preferred to hold back on any specific numbers until the audit is completed sometime in February.

"The only remedy is hard work," he said of past and continuing efforts to get CFAB on the upswing.

Much of this has concentrated on attempting to restructure loans verging on repayment problems, he said.

Only last fall, CFAB was warning that its own \$32 million obligation to the state hardly looked like it could be repaid on schedule.

CFAB was created in 1981 to serve fisherman and farmers unable to secure loans from conventional banks. It was essentially launched when the state bought \$32 million worth of CFAB stock on condition that this be repurchased by the year 2000.

"I've always had hope," Crane said, when asked if CFAB's brightening prospects might bode better for return of the state's investment.

New borrowers, in one sense, will be making investments similar to the state's.

As of Jan. 1, anyone taking out a CFAB loan (including previous borrowers taking out additional loans) must purchase stock with a value equal to 5 percent of the loan.

But, unlike the state, these borrowers have no repurchase arrangement.

"We are asking, we are requiring, that people take a risk if they are going to be borrowers," Crane said, adding that these individuals also have an interest in the financial health of the institution.

Meanwhile, CFAB has been doing its own belt-tightening. Last summer, four of its branch offices were closed. Staff was cut from 39 to 24. No salary levels were reduced for remaining personnel but employees are working to cut overhead in their various departments. Crane said.

"Essentially, it's been the efforts of our staff," he said, "particularly with creditors, dealing with non-performing loans. This was being done in the past, but we're attempting to react sooner now."

During 1984, CFAB had delinquent loans amounting to roughly \$32 million, or more than one-third of its entire loan portfolio. Its interest rates range between 13.5 percent and 14.25 percent, Crane said.

3-4-86 Anch. Daily News

CFAB rebounds from loss with small profit

By JIM ERICKSON

Daily News business reporter

The Commercial Fishing and Agriculture Bank has rebounded from the largest losses in its six-year history and posted a small profit in 1985.

Ed Crane, president of CFAB, said Monday the company made significant strides last year in controlling a slew of bad fishing loans that resulted in a \$10 million loss in 1984 and pushed the bank to the brink of failure.

"As far as non-performing loans are concerned, we really made a lot more progress than I thought we would," Crane said.

Audited financial results for 1985 show CFAB posted operating earnings of \$114,000. The bank lost \$9.97 million the previous year.

Through more aggressive collection action, restructuring of problem loans and foreclosures, CFAB has cut the amount of bad loans by half.

As of Dec. 31, 1984, the bank had \$32 million in loans classified "non-performing," or 90 days past due. That was 36 percent of its \$89 million loan portfolio.

A year later, nearly \$16 million of the bank's \$62 million loan portfolio were non-performing, or 25 percent.

The legislature created CFAB in 1978 to provide loans to farmers, fishermen and the timber industry that traditionally have had trouble getting loans from conventional lenders. About 85 percent of CFAB's loans finance vessels for individual fishermen.

To launch CFAB, the state in 1980 purchased \$32 million worth of the cooperative's stock, essentially providing an interest-free loan due in the year 2000.

Crane informed the state last year that the bank's troubles would make it impossible to repay the state on time.

On Monday, he said the improved financial outlook "enhanced the possibility (of repaying the state), but we've got to do a lot better than \$114,000 a year to realistically project repaying that \$32 million 14 years from now."

Crane said hard work by employees and a good year overall for the fishing industry contributed to the turnaround. The bank also closed four offices and reduced staff from 39

to 24 last year.

"If you look at this as a struggle for survival, I see it as us driving from Anchorage to New York City and we pulled into Edmonton a half day ahead of schedule. That's good, that's satisfying, but we've still got a long way to go."

However, CFAB assets shrunk from about \$110 million in 1984 to \$75 million last year. Crane said that was partly because of fewer borrowers due to uncertainty in the fishing industry.

In addition, CFAB has been forced by its loan problems to keep its interest rates about 2 to 3.5 percentage points higher than competing lenders, Crane said. CFAB's highest rate is about 14.75 percent, he said.

That has resulted in the flight of some of CFAB's most-profitable and less-risky customers to other lenders, he said.

"What I find most troublesome is that we're forced by statute and expectations into such a very narrow corner as far as lending activity is concerned," he said.

Offered: 3/5/86
Referred: Resources and
Finance

Original sponsor: Herrmann

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 579 (Loans)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to financing of fish processors and
8 agricultural and timber processors and harvestors by
9 the Commercial Fishing and Agriculture Bank."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. FINDINGS. The legislature finds that
12 (1) shore-based fish processing and agricultural and timber
13 processing and harvesting facilities, regardless of ownership, are an
14 essential part of the state economy and provide for the development of a
15 renewable resource tax base vital to many Alaska communities;
16 (2) shore-based fish processing and agricultural and timber
17 processing and harvesting facilities in the state, regardless of ownership,
18 significantly contribute to the economic development and stability of
19 Alaska's communities; and
20 (3) shore-based fish processing and agricultural and timber
21 processing and harvesting facilities in the state, regardless of ownership,
22 employ a significant resident work force and contribute substantially to
23 local community economies through the demand for goods and services.
24 * Sec. 2. AS 44.81.210 is amended by adding a new subsection to read:
25 (c) Notwithstanding (a)(1) of this section, the bank may make a
26 variable or fixed rate loan to a shore-based fish processor, a timber
27 processor or harvestor, or an agricultural processor or harvestor that
28 does not meet the resident ownership requirements of (a)(1) of this
29 section for capital investment or operating capital if the majority
interest in the processor or harvestor is beneficially owned by

1 residents of the United States.

Cramer
3/12/86

Original sponsor: Zharoff

need to amend letter for first

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 410 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to financing of fish processors and
7 agricultural and timber processors and harvesters by
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residents of the United States.

efd.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 410
 Title : Financing of Fish Processors by
 the Commercial Fishing and Agriculture
 Bank
 Sponsor : Sen. Zharoff
 Requestor : Senate Resources
 Date of Request : 3/12/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

| OPERATING | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING : (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS :

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : Attach a separate page if necessary

Prepared by : Milt Barker Phone : 465-2350
 Division : Treasury Date : 3/12/86
 Approved by Commissioner : [Signature] Date : 3/12/86
 Agency : Revenue

Distribution (by Agency preparing fiscal note)

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

Cramer
3/12/86 ✓

Original sponsor: Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 410 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to financing of fish processors and
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residents of the United States.



UNITED FISHERMEN OF ALASKA

Jack Cadigan
Executive Director
907-586-2820
1-800-478-FISH

UNITED FISHERMEN OF ALASKA
RESOLUTION 86-22
(DRAFT)

WHEREAS, the Commercial Fishing and Agriculture Bank (CFAB) was created by the Alaska Legislature for the purposes of providing sources of credit for Alaskan fishing businesses and encouraging the harvesting, processing and marketing of underutilized fish species as well as the technological development necessary to accomplish the foregoing, and

WHEREAS, CFAB is a lending cooperative whose cost of doing business is shared by all of its member-borrowers by the interest and loan fees that they pay; and

WHEREAS, the ability of CFAB to have access to the broadest market of potential borrowers within the fishing industry is necessary for it to have the greatest profit potential which translates into lower interest rates for its members; and

WHEREAS, CFAB is restricted by statute from lending to seafood processors that are not beneficially owned by a majority interest of Alaska residents; and

WHEREAS, the majority of long established, financially strong Alaska seafood processors do not fit this criteria; and

WHEREAS, this category of seafood processors represents a potential market for CFAB that offers the possibility of lower losses and greater profits; and

WHEREAS, the Alaska seafood industry is in great need of capital investments in modern processing and marketing facilities that will serve to enhance the quality and value of its seafood products; and

WHEREAS, all segments of the Alaska seafood industry will benefit from increased investment in the seafood processing industry that will provide more jobs for Alaskan workers and more market opportunities for Alaskan fishermen.

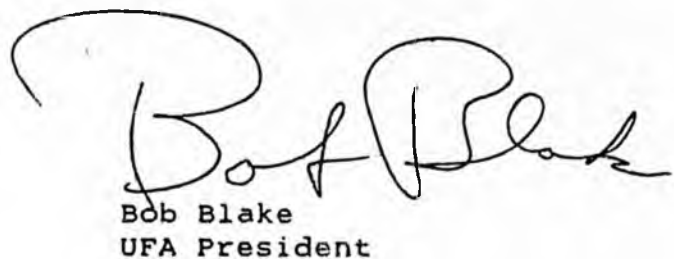
NOW THEREFORE BE IT RESOLVED, that the United Fishermen of Alaska requests the Alaska legislature to amend the statutes defining CFAB's lending authority so as to permit it to make loans to corporations beneficially owned by a majority interest

of United States residents engaged in the processing and marketing of seafood products for the purpose of constructing or operating shoreside facilities within the state.

PLEASE NOTE: The language "beneficially owned by a majority interest of United States residents" was used so as not to prevent a corporation with minority foreign stockholders in it from being eligible to apply to CFAB loans. This may or may not meet the intent of the amendment passed at the UFA board meeting. However, it should be considered as it would permit U.S. residents to utilize and control the use of capital provided by foreign investors in a seafood processing or marketing business. The addition of the word "shoreside" between "operating" and "facilities" should meet the other purpose of the amendment. It is also important to note that the resolution speaks only to corporations engaged in seafood processing and marketing.



Jack Cadigan
UFA Executive Director



Bob Blake
UFA President

FRANK

329-333 Katlian Street

Sitka, Alaska 99835



March 9, 1986

Senator Arliss Sturgulewski
Chairman, Resources Committee
Room 508, Capitol Building
Juneau, Alaska 99811

Re: Senate Bill 410 (By Charoff)

Dear Senator Sturgulewski:

I am writing in support of the above-mentioned Senate Bill 410, for I believe it is important for the Alaska Commercial Fishing and Agriculture Bank to expand its base, and be allowed to take part in financing of shorebased plants other than those who meet the present eligibility requirements.

My company is 100% owned by Alaskan residents at present and I do not feel that this proposed expansion of the Bank's lending base would cause any hardship whatsoever. I feel that this legislation will enable the Bank to broaden its base and do a better job for all fishing industry in Alaska.

I wish to thank you for any consideration you may give on the above,

Sincerely,

A handwritten signature in cursive script, appearing to read "T. E. Thompson".

T. E. Thompson
President

Copy: Senator Richard Eliason

(907) 747-6662

Telex 090-45-391 SSSEAFOOD SIKA
FRESH AND FROZEN SALMON, COD, BLACK COD, HALIBUT, ROCK FISH, CRAB, HERRING

MESSAGE

Date _____ Time _____

For: F

From: Royce

of _____

Phone No. _____

Telephoned () Caller to see you ()
Please call () Will call again ()
Returned your call () Urgent ()

Message SB 410

Legal note is
he has it done
but has no one
to sign it

Operator _____

LAA-16

Seeggest -

① A few minutes recess after
substance in order to
OK distribute material

② Ask witnesses to sign up
for
OK SB 410 → 1ST
SB 375 → 2ND

③ Sen Zharoff will speak on SB410

✓ OK (A) CS is to be proposed
to expand to agriculture
and timber - This CS
would be same as House
bill.

OK (B) letter of intent to state
that floating processors
owned by shore based
operators are considered
shore based.

(A) Greg Baker - Comm + Econ Dev support, SB410
Dept of Rev Fiscal Note is zero on SB410

Balance Sheet

| | 12-31-84 (Audited) | 12-31-85 (Unaudited) | CHANGE |
|---|-----------------------|-------------------------|---------------------|
| Assets | | | |
| Cash | 123,331 | 106,773 | (16,558) |
| Operating reserve, at cost, which approximates market value | 8,827,865 | 3,200,000 | (5,627,865) |
| Investment in Spokane Bank for Cooperatives | 4,738,734 | 5,252,423 | 513,689 |
| Loans, net of allowance for loan losses of \$5,317,621 and \$1,177,336 3,441,180 | 89,489,042 | 62,255,842 | (27,233,200) |
| Accrued interest receivable: | | | |
| Operating reserve | 112,306 | 44,144 | (68,162) |
| Loans | 3,092,629 | 2,071,202 | (1,021,427) |
| Organization costs, net of amortization of \$141,982 and \$127,785 | - | - | |
| Bank premises, furniture and equipment, net. | 648,231 | 471,504 | (176,727) |
| Acquired assets held for resale | 2,361,305 | 1,606,164 | (755,141) |
| Other assets | 502,048 | 384,964 | (117,084) |
| | <u>109,895,491</u> | <u>75,393,016</u> | <u>(34,502,475)</u> |
| Liabilities | | | |
| Accounts payable and accrued expenses | 165,163 | 153,133 | (12,030) |
| Accrued interest payable | 2,269,853 | 416,780 | (1,853,073) |
| Notes payable | 80,574,285 | 48,220,081 | (32,354,204) |
| Spokane Bank for Cooperatives participation payable | 206,833 | 159,801 | (47,032) |
| Patronage dividend payable | - | - | |
| | <u>83,316,154</u> | <u>48,949,795</u> | <u>(34,366,359)</u> |
| Commitments and Contingent Liabilities (Note K) | | | |
| Capital And Patronage Earnings | | | |
| Share capital — | | | |
| Class C special preferred stock, \$10,000 par value, authorized 4,000 shares, outstanding 3,180 shares | 31,800,000 | 31,800,000 | |
| Class B preferred stock, \$100 par value, authorized 400,000 shares, outstanding: 95,177 shares and 102,842 ^{67,763} shares | 9,517,700 | 6,776,800 | (2,740,900) |
| Loans receivable on Class B preferred stock | (9,517,700) | (6,776,800) | 2,740,900 |
| Class A membership stock, \$10 par value, authorized 10,000 shares, outstanding: 888 and 826 ⁹³¹ shares | 8,880 | 9,310 | 430 |
| C Stock Retirement Pool: | | | |
| Class B preferred stock assessments | 89,507 | 184,426 | 94,919 |
| Less: assessments receivable | (79,247) | (89,506) | (10,259) |
| Capital in excess of par value | 79,110 | 82,980 | 3,870 |
| Contributed capital | 144,626 | 144,626 | |
| | <u>32,042,876</u> | <u>32,131,836</u> | <u>88,960</u> |
| Allocated undistributed patronage earnings | 4,514,237 | 1,140,327 | (3,373,910) |
| Unallocated undistributed patronage loss | (9,977,776) | (6,828,942) | 3,148,834 |
| | <u>26,579,337</u> | <u>26,443,221</u> | <u>(136,116)</u> |
| | <u>109,895,491</u> | <u>75,393,016</u> | <u>(34,502,475)</u> |

See notes to financial statements

Statements of Operations

| | <u>1984</u> (AUDITED) | <u>1985</u> (UNAUDITED) | <u>CHANGE</u> |
|--|--------------------------|----------------------------|---------------------|
| Interest Income: | | | |
| Interest on loans | 11,992,708 | 10,141,090 | (1,851,618) |
| Interest on operating reserve | 918,081 | 362,766 | (555,315) |
| | <u>12,910,789</u> | <u>10,503,856</u> | <u>(2,406,933)</u> |
| Interest expense | 8,386,607 | 6,267,000 | (2,119,607) |
| | <u>4,524,182</u> | <u>4,236,856</u> | <u>(287,326)</u> |
| Provision for loan losses | 11,241,619 | 1,234,929 | (10,006,690) |
| | <u>(6,717,437)</u> | <u>3,001,927</u> | <u>9,719,364</u> |
| Other Expenses: | | | |
| Salaries and benefits | 1,785,281 | 1,567,649 | (217,632) |
| Occupancy expense | 260,544 | 258,276 | (2,268) |
| Office operations | 201,133 | 197,933 | (3,200) |
| Advertising and promotion | 197,182 | 58,193 | (138,989) |
| Travel, lodging and meals | 192,661 | 158,404 | (34,257) |
| Depreciation and amortization | 180,127 | 160,279 | (19,848) |
| Professional fees | 148,654 | 150,191 | 1,537 |
| Telephone and postage | 114,774 | 87,238 | (27,536) |
| Loss on assets held for resale | 72,356 | 91,127 | 18,771 |
| Directors' fees | 71,113 | 46,953 | (24,160) |
| Miscellaneous | 36,514 | 111,488 | 74,974 |
| | <u>3,260,339</u> | <u>2,887,731</u> | <u>(372,608)</u> |
| Allocated undistributed patronage earnings (unallocated undistributed patronage loss) | (9,977,776) | 114,196 | 10,091,972 |

See notes to financial statements

~

1. Alaska Commercial Fishing and Agriculture Bank (CFAB) was created in 1973 by the Alaska State Legislature. Its purpose is to provide a source of credit to the Alaska fishing and agriculture industries, with emphasis on the development and broadening of those industries.
2. CFAB is structured under its statute as a cooperative. A cooperative is a corporation whose stockholders and customers are the same individuals or entities. A cooperative is subject to the same business and financial considerations as any other corporation.
3. The State of Alaska provided an initial capital base to CFAB through the purchase of stock; the State presently owns \$31.8 million of such stock. CFAB's statute requires that the State stock be repurchased within 20 years from the original investment (1980).
4. CFAB has no organic, structural, operational, or financial relationship with the State except for the capital investment and that two of CFAB's seven directors are appointed by the Governor.
5. CFAB's lending ability is not limited to the amount of the State's investment. CFAB borrows additional funds at "market" rates and terms, pledging its loans and other assets as security. It re-lends those funds to its borrower/owners at rates sufficient to cover its own interest costs, its operating expenses, and to generate capital through earnings. CFAB's outstanding loans to Alaska fishermen and farmers reached a year-end peak of nearly \$104 million at December 31, 1983, and had other assets of about \$19 million; a total nearly \$91 million greater than the State's investment.
6. CFAB's borrowers become owners through a purchase of stock at the time of borrowing and through payment of interest at a level high enough to create retained earnings.
7. Under its statute, CFAB may lend money only to those individuals who are bona fide residents of Alaska. There appears to be no sound and reasonable argument against that limitation.
8. A vast majority of CFAB's loans are to individual fishermen (about 80 to 85 percent by number); most of them are to finance a vessel and/or are secured by a lien on a vessel. This appears to be CFAB's most "natural" market and the credit void which CFAB was most intended to fill.
9. Compared to almost any other type of commercial lending, financing fishing vessels is extremely cumbersome and costly. Alaska geography adds considerable costs. Those factors, in addition to the dangerous concentration of risk, make it extremely difficult for CFAB to maintain a focus on that market without charging interest rates which are unusually burdensome to its borrowers.
10. CFAB has attempted to balance its loan portfolio, and to moderate its total circumstances, through loans to corporations which process seafood and timber. Those loans tend to be relatively large, but do not require servicing costs to a comparable degree. They permit basic operating expenses to be spread over a larger volume of loan dollars, moderating the pressure on smaller individual borrowers.

11. CFAB's statute provides that it can only finance corporations of which the majority ownership and control rests with Alaska residents.
12. A recent survey disclosed that of 22 shorebased Alaska processors having annual sales in excess of \$10 million, 17 are ineligible to borrow from CFAB by reason of ownership identity. CFAB has, or has had, lending relationships with four of the five others.
13. Statutory denial of eligibility by reason of ownership is inconsistent with the facts that these processing corporations own facilities in Alaska, pay local taxes in Alaska, provide employment to Alaskans, purchase and add value to Alaska seafoods, pay fish taxes to the State of Alaska, provide a competitive marketing environment for Alaska fishermen, and purchase supplies and services in Alaska. Interest paid on funds borrowed from CFAB (or any other Alaska entity) would be an additional and beneficial increment of Alaska seafoods proceeds within the Alaska economy.
14. While it is clear that the 1978 State Legislature intended to create an institution to serve Alaska interests exclusively, the requirement that the state investment be repurchased evidences the intent that CFAB be operated, and grow, on sound business principles. Removal of the statutory limitation with regard to shorebased processing corporations is consistent with the first intent and greatly enhances the opportunity for fulfillment of the second.



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February 18, 1986

Frank M. Homan
Office of Senator Sturgulewski
Alaska State Legislature
Box V (M.S. 3100)
Juneau, Alaska 99811

Dear Frank,

Enclosed for your information are copies of a couple of pieces I prepared for Senator Zharoff in connection with SB 410.

Sorry for the brevity, but the alligators are snapping today - I'll talk to you later.

Best regards,

Edward E. Crane
President

EEC:1027V
Enclosure

Introduced: 2/14/86
Referred: Resources
and Finance

FRANK

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 410

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to financing of shore-based fish

7

processors by the Commercial Fishing and Agriculture

8

Bank."

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

10 * Section 1. AS 44.81.210 is amended by adding a new subsection to
11 read:

12

(c) Notwithstanding (a)(1) of this section, the bank may make a

13

variable or fixed rate loan to a shore-based fish processor that does

14

not meet the resident ownership requirements of (a)(1) of this section

15

for capital investment or operating capital if the majority interest

16

in the processor is beneficially owned by residents of the United

17

States.

*Greg Baker
Bob Blake
Jack Ladigan
Rich Lambert*

February 10, 1986

BACKGROUND - SPRING, 1985

In late March and throughout the month of April in 1985, CFAB officers and directors made numerous visits to Juneau to discuss the institution's circumstances with legislators and with administration officials. Those visits, and their substance, were precipitated by a number of factors:

1) Although CFAB's year-end audit by an independent accounting firm (Touche Ross & Company) was not yet complete, it was known with certainty that there had been a loss approaching \$10.0 million for 1984; that there was an impairment of stockholders' equity; that CFAB had become illiquid, with no cash or other unencumbered liquid assets available; and that a major portion of the loan portfolio - almost 34 percent (in dollars) of a \$94.8 million total - was in a serious default, or non-earning, status.

2) The critical imbalance between CFAB's projected 1985 income (based on the large volume of non-earning loans) and its projected 1985 cash interest expense, and basic operating expenses, foretold the likelihood of another significant loss.

3) CFAB and its staff and Board of Directors had been somewhat traumatized by the relative suddenness and severity of the circumstances (or the realization of them); its chief executive officer had resigned in late February; and it was being managed on an interim basis by an individual who, although familiar with the organization and its pressures, essentially was an unknown factor.

4) CFAB's lender, the Spokane Bank for Cooperatives, had taken increasingly aggressive and obtrusive positions with CFAB. SBC's representatives had expressed strong reservations about CFAB's ability to overcome its immediate difficulties and had indicated that SBC would accept no further deterioration in its position. CFAB's loan commitments from SBC had been reduced to 30-day increments, leaving CFAB constantly on the brink of a forced bankruptcy filing.

The basic thrust of CFAB's efforts in Juneau was to seek consideration of an early investment of an additional \$10.0 to \$12.0 million of State capital. This was essentially a "time-buying" strategy. The funds, if invested, would have been used to reduce CFAB's borrowings from SBC. This would have lowered CFAB's interest payment requirement to a level which could be met by the interest income from its own performing loans and would, it was intended, be accompanied by SBC agreement that the existing borrowing relationship would not be disturbed for at least two or three years. Relief from those pressures would in turn permit CFAB to address the liquidation

or conversion of non-performing loans on rational bases and would also allow the opportunity for internal restructuring and corrections.

CFAB was not successful in obtaining further State investment. This was undoubtedly due in part to the lateness (relative to the legislative session) of the effort and to the somewhat uncoordinated and unprofessional approach, coupled with the "tight money" atmosphere in Juneau. Another factor, at least within the administration, seemed to be that CFAB was an "orphan" with no agency or individual charged with responsibility. In addition, there appeared to be a widespread lack of understanding as to the origin, nature, structure, and constituency of CFAB. Yet another burden was the recollection of some of CFAB's early flamboyance and excesses and attendant unfavorable press exposure. Finally, there seemed to be a perception that the effort was a thinly-disguised attempt to "bail out" the Spokane Bank for Cooperatives; that was an understandable reaction, but it is not supported by the realities of the legal relationships between the State, SBC, and CFAB.

SUBSEQUENT EVENTS

Since the Spring of 1985 CFAB's directors, management, and staff have attempted to address each and all of the negative factors and pressures with all available resources. Although not all objectives have been met, there has been modest success. Some of the efforts have admittedly been augmented by fortuitous events and circumstances external to CFAB. The net effect is that CFAB's condition has today become stabilized to a degree that exceeds the March 1985 expectations of its interim (now permanent) management.

The corrective efforts and measures have fallen into several broad categories, as follows:

Liquidation/Conversion/Prevention of Non-Performing Loans and Other Assets - There has been a major and consistent effort to rationally and realistically deal with non-performing loans and other non-earning assets on an item-by-item, account-by-account, basis. This has required an extensive commitment to developing the analytical and communications skills of loan officers, to the control and direction of legal counsel, and to the education of borrowers. There has been a similar commitment to the creative and efficient marketing or other disposition of acquired assets. Finally, and again through the re-direction of loan officers' attention and energies, there was in 1985 a successful program of early attention to delinquencies on performing loans for the purpose of preventing them from evolving into serious problems.

Reduction of Operating Expenses, and Increases in Effectiveness - Beginning in June 1985, there was a determined effort to identify and eliminate excessive operating expenses and other barriers to maximum efficiency. In the four years ending December 31, 1984, CFAB's operating expenses have averaged \$3,227,000 annually. 1984 operating expenses had totaled \$3,260,000; there was \$3,288,000 budgeted for 1985. As of May 31, 1985, actual operating expenses for the year to date had been slightly greater than those budgeted. Management's objective was to reduce those expenses to the necessary minimum for the remainder of 1985 and to position CFAB to enter 1986 with projected expenses of \$1.0 million less than the historical \$3.2 million level.

Financial Restructuring - While the cash flow deficit, the capital impairment, the excessive debt load, and the projected net income shortfall all represented immediate threats to CFAB's existence and required urgent attention, they also carried severe negative implications for the long term. CFAB has a statutory obligation to repurchase the State's \$31.8 million investment by the year 2000. CFAB has absolutely no sources of cash except (1) borrowings, (2) earnings, and (3) investment by owners. Its borrowing capacity had been virtually exhausted in early 1985; there were no bases on which to credibly project net cash earnings in the foreseeable future; and there had never been significant cash investment by owners (other than the State), nor was there any mechanism in place to provide for such investment. It seem imperative in early 1985 that, assuming CFAB's short-term survival, a foundation be laid that would over the long term enhance CFAB's ability to borrow, to earn, and to attract owner investment.

Business Development - The written record suggests clearly that a primary consideration in the conception and establishment of CFAB was to provide greater access to credit for "small" individual fishermen. While the performance over the ensuing five years tends to be obscured by the large dollar volumes associated with fish and timber processing accounts and by the dramatic impact of misadventures and imprudence, a close scrutiny of the number and sizes of loans results in a clear conclusion that it is the body of individual fishermen who have been best served by CFAB. It is they - existing individual borrowers and their non-borrowing peers - who have benefited most from CFAB's existence and who would suffer most severely were CFAB to be liquidated. Unfortunately, it is a costly market to serve, it is a market which represents unusual concentration of nearly uncontrollable risk, and it is a market of individuals whose ability to respond to financial pressures is limited. It is on that body of borrowers that the effect of CFAB's 1984/1985 circumstances fell most harshly (in the form of interest rates maintained at a burdensome level.) One of the

results of that was the flight of better, i.e., more creditworthy, borrowers to other lenders; this served only to exacerbate the pressure on remaining borrowers and to further threaten CFAB's stability. That trend continued through 1985, and it became critical to attempt to develop loan programs which would make CFAB more attractive to existing and potential borrowers, particularly those who represented stability and good performance.

1985 RESULTS AND YEAR-END CIRCUMSTANCES

At December 31, 1985, CFAB's fundamental financial circumstances were greatly improved over those of a year earlier or of the Spring of 1985. That improvement can be quantifiably expressed in a number and variety of ways:

- 1) At December 31, 1984, non-earning loans totaled \$31,979,000; at December 31, 1985, the total was \$15,653,000. While about \$3.5 million of the net reduction was due to charge-offs, the greater portion resulted from liquidations and from re-structurings.
- 2) At December 31, 1984, CFAB had 189 delinquent loans (including non-earning loans). A year later, the number was 115.
- 3) During 1985, the book value of acquired assets (which are also non-earning assets) was reduced from \$2,361,000 to \$1,606,000.
- 4) CFAB began 1985 with \$80,574,000 of interest-bearing debt and only \$69,110,000 of earning loans. At year-end those balances stood at \$48,268,000 and \$55,312,000 respectively.
- 5) In contrast to the 1984 loss of \$9,978,000, CFAB in 1985 had net income of \$114,000. Most of the \$10,092,000 difference can be attributed to the lack of major new credit losses in 1985. However, another major element was the effective reduction of operating expense. Although the reduction effort was not initiated until June, and although certain of the cost-containment actions involved relatively large one-time costs themselves, CFAB concluded 1985 with operating expenses exactly \$400,000 below those budgeted. CFAB has prepared and is committed to a 1986 operating expense budget approximately \$1.0 million below the historical \$3.2 million average.
- 6) The Spokane Bank for Cooperatives routinely examines and evaluates CFAB's loan portfolio, which is the basic collateral underlying CFAB's borrowings from SBC. At

April 30, 1985, SBC calculated that, by its (SBC's) standards, the collateral was worth \$13,400,000 less than the borrowings it secured. At year-end, CFAB had reduced that collateral deficit - measured by the same standards - to \$3,100,000, an improvement of over \$10.0 million.

7) The borrowing relationship with SBC has improved in other, less quantifiable, ways. After nearly a year of very limited commitments, CFAB was able in September 1985 to negotiate a six-month SBC loan commitment. Indications are that the next commitment, effective April 1, 1986, will also be for six months or possibly twelve months.

* * * * *

As indicated earlier, a critical long-term need for CFAB was to develop a mechanism and structure to attract owner investment. Such investment, over a period of time, would in turn positively influence CFAB's earning prospects and borrowing ability. During the last half of 1985, with the assistance of specialized legal counsel, CFAB developed a new member/borrower equity investment program. That program, which became effective January 1, 1986, requires that each new borrower (including "old" borrowers acquiring new loans) purchase a modest amount - 5 percent of the borrowing - of stock in CFAB. That stock represents a true equity investment, i.e., risk capital. While this new program will have an almost insignificant effect on CFAB's current condition, it does lay the foundation for genuine and long-term capital growth.

Two other significant but unglamorous programs were developed in 1985 and made effective at the beginning of 1986. Each of them is designed to make CFAB financing more attractive and/or more effective, especially to individual fishermen. One program in particular will permit CFAB to be more aggressive and more competitive in seeking and retaining more creditworthy borrowers.

* * * * *

It is not unreasonable to assert that CFAB has effectively moved itself back from the brink of imminent disaster and has diffused the air of crisis which influenced the day-to-day activities during much of 1985. However, its most difficult challenges lie ahead of it. The most obvious and most quantifiable is the statutory requirement that the \$31.8 million State investment be repurchased in, or by, the year 2000. Perhaps a good illustration of the magnitude of that requirement is to point out that if CFAB were to make 14 annual cash payments to a fund earning eight percent annually, those payments would need to be slightly more than \$1,313,000 in order to reach the \$31.8 million objective. CFAB does not have a

current ability to generate \$1,313,000 of cash annually, nor can such an ability be credibly projected for the near future. If such a program were necessarily deferred until there were only ten years remaining, the annual payment amount would be slightly over \$2,195,000. Obviously, time is of the essence in the effort to build CFAB's ability to generate cash.

The second major challenge, somewhat more difficult to express than the first, lies in the fact that CFAB is clearly caught in a classic spiral, an "adverse selection" process, which has been the downfall of many lending institutions. The process is not necessarily irreversible but, as the "spiral" descriptor implies, does gain momentum with each passing day. Since, beginning back in late 1983 or early 1984, such a large volume of CFAB's loans have been in a non-earning status, CFAB has had to attempt to maximize its gross income on the remaining portion of its loan portfolio in order to meet its own interest and expense obligations. This has meant maintaining interest rates at a level perceived to be "high" by most borrowers and which, in fact, have generally been higher than those offered by other lenders to more attractive borrowers. Over the past 18 months, many of those attractive borrowers have elected to re-finance their CFAB loans with other lenders. It is not possible to ascribe motivation to every such re-financing, but CFAB's management estimates conservatively that \$12.0 to \$13.0 million of loan volume has been lost in this way through December 31, 1985, and the trend is continuing. This is alarming. CFAB's loan portfolio is gradually being peeled away to a core of "small" individual borrowers, individuals who have few, if any, alternative sources of financing and who are least able to bear the burdens of increased interest rates, insurance premiums, and other expenses. They are the borrowers who are most costly to serve, and each notch of interest rate (or other) pressure creates a certain number of new problem loan accounts, which cause additional servicing or collection costs for CFAB, which in turn cause a need for greater interest income. Despite the recent success at reducing CFAB operating expenses, it must be recognized that a certain large portion of those expenses are "fixed" and cannot be further reduced no matter how much CFAB's loan volume may shrink. In addition, it must be recognized as axiomatic that if and as CFAB's loan portfolio contains a greater percentage of marginal or problem loans, expenses will actually increase.

The foregoing discussion places emphasis on a context of marginal or problem credit situations. In reality, CFAB - if it is limited by circumstances, statute, or otherwise to financing only those who appear to have the greatest need for its services (the "small" individual fishermen) - may prove to be an economically unfeasible enterprise under the best of conditions. A somewhat oversimplified analysis of a few basic facts illustrate the point:

A. The average CFAB loan to an individual fisherman today has a balance of about \$45,000.

B. The average interest "spread" on such loans - that is, the difference between the interest rate CFAB charges and the rate it must pay on its own borrowings - is about 3 1/2 percent.

C. CFAB's annual net interest income on an average loan, then, is \$1,575 (3 1/2% X \$45,000).

D. In order to cover a basic operating expense budget of \$2.2 million (again, \$1.0 million below historical levels) CFAB needs the net interest income from 1,397 "average" loans (\$2,200,000 divided by \$1,575).

The above allows nothing to cover non-operating expenses, accumulation of a reserve for loan losses, capital expenditures, funding of the \$31.8 million obligation, etc. It assumes no credit losses, no significant delinquencies, no unusual difficulties of any kind. It is not realistic. CFAB has never had more than 700 "average" fisherman loans and could not make and service 1,397 such loans without a significant and costly increase in staff. The financing of a fisherman, particularly within the context of Alaska's geography, is an expensive, cumbersome, and risky venture. The romance of fishing may tend to obscure the financial implications, but it is a capital-intensive business which is also characterized by nearly uncontrollable major costs (insurance and fuel, for example); it is a business in which its members have no control of the basic resource. Its members at best have only the right to compete with each other for a share of resources controlled by other human, political, natural, and international forces. It is a business in which an unusual - and unpredictable - number of individual failures are inevitable.

The financing of fishermen - which, in most cases, involves vessel security - is cumbersome and therefore costly. The procedures for taking a lien on a vessel are unlike those for any other kind of personal or business asset (at least in the United States). They are the province of a virtually unregulated and unique agency. They are subject to a body of law rooted in centuries past and recognized by the legal profession as a specialty, which again translates into unusual costs. When the inevitable failures occur, the vessel lien foreclosure process represents an additional and inevitable creditor's nightmare. In the best of circumstances, a case in which the vessel owner/borrower is cooperative, the lender will spend about \$6,000 in Marshal's fees, court and attorney's costs, insurance, moorage, etc., before it has ownership and possession of the vessel. According to a major Anchorage law firm, a more typical vessel foreclosure cost would be \$12,000 to

\$16,000 (the annual net interest income on 8 to 10 average loans). When the foreclosure process is complete, the liquidation process becomes one more opportunity for almost certain loss. Again, the scenario is different than for almost any other form of foreclosed collateral. The market for fishing vessels is limited, close-knit, and highly subjective. Because of the unique procedural requirements related to vessel ownership, it is literally impossible to camouflage the nature and circumstances of such a sale. The bottom line is that, except in unusual cases, the proceeds realized from collateral liquidation will be significantly less than the loan balance involved, creating yet another loss which can only be charged against the interests of performing borrowers.

All of the above factors were almost certainly among the primary reasons that the need for "a CFAB" was perceived in the late 1970's; traditional, profit-oriented, and regulated commercial lenders abstained from widescale financing of individual fishermen because it was, and is, a market characterized by limited potential for profit but bearing inordinate risk of loss.

The creation of CFAB was a visionary response to a clear need. Implementation of the unique concept has been characterized by some dramatic errors and misjudgments, the effects of which have been exacerbated by major unforeseeable and uncontrollable external forces. The result, after nearly six years of actual credit operations, is that the institution has significant financial weaknesses which must be, and are being, addressed. The reality of those weaknesses and the appeal of criticizing their existence and causes, however, should not be allowed to overshadow the fact that CFAB has met the financing needs of hundreds of individual fishermen. It has served the interests of countless others simply by its existence in the market; CFAB's presence as an alternative lender has provided the financially stronger and more creditworthy fishermen with additional leverage in their negotiations with other credit sources. In short, that fundamental purpose is being served. While CFAB is in a position, albeit weakened, to continue that service today, a commitment to that purpose without addressing the long-term risks and effects is imprudent to an extreme.

CFAB has the theoretical ability to modify the financial and operational effects discussed in the foregoing through loans to the agriculture and timber industries and to the processing segment of the fishing industry. Ignoring for the moment the realities and other constraints which limit that ability to a theoretical one, and assuming creditworthiness among the processors in general, the potential benefits to CFAB and its individual borrower-members are great. For example, term loans of \$2.5 million each to five processors will yield net interest

income of \$437,500 (\$12.5 million X 3.5%) annually; and the servicing demands on CFAB are not significantly greater than those of an equal number of loans to individual fishermen. Numbers of that magnitude translate into increased net earnings and equity growth, which in turn translate into enhanced financial stability and lending capacity.

Of those additional markets cited, the greatest potential opportunity, in dollars, lies among the seafood processors. Under present circumstances, however, the existence of that opportunity is illusory; it must be referred to an "theoretical." This is due to the nature and origin of the capital investment in the Alaska seafood processing industry, coupled with the strictures of AS 44.81.210.(a)(1). That statute provides in part that CFAB may make loans only to those coporations (most major seafood processors are corporate entities) of which the majority ownership and control is vested in Alaska residents.

The statute effectively makes a large part of the industry ineligible to borrow from CFAB. It is not unrealistic to generalize that larger processors tend to be more financially stable and more creditworthy than smaller processors. In some instances, economies of scale are significant - more general positive characteristics, though, are multiple plants and diversified operations; highly developed levels of management, marketing, planning, and budgeting expertise; and broad product mixes.

During 1985, CFAB carried out a survey and analysis of the ownership of Alaska seafood processors. Complete ownership information is difficult to obtain in many cases; however, a variety of sources was consulted, and the findings are believed to be credible. A total of 78 shorebased processors entities (in addition to 43 "floater" processors) was identified, as follows:

| <u>Annual Sales</u> | <u>Number</u> |
|----------------------------------|---------------|
| \$10.0 million or more | 22 |
| \$ 1.0 million to \$10.0 million | 33 |
| Less than \$1.0 Million | <u>23</u> |
| Total | <u>78</u> |

The distribution of ownership, in terms of statutory eligibility for CFAB financing, is interesting. Of the 18 processors, 45 of them - slightly over 57 percent - are eligible. Twenty of those 45, however, are in the group with annual sales of less than \$1.0 million. They represent limited financing opportunities and requirements. Many of them are privately financed and/or integrated harvesting/processing operations, or are highly specialized and limited operations financed by their market base.

Of the remaining 25 eligible processors, 20 are in the \$1.0 million to \$10.0 million sales group. It is difficult to generalize about those 20. CFAB has, or has had, credit relationships with 13 of them. Some of them have been extremely good loans; others are, or have been, among CFAB's most grievous credit problems. At best, the group does not appear to offer a broad base of financing opportunities.

The group of 22 larger (sales of \$10.0 million or more) processors clearly holds the greatest promise for major CFAB financing opportunities; however, only five of those processors are statutorily eligible. CFAB has, or has had, credit relationships with four of them; they have included some of CFAB's most reliable and highest quality loans. They are viewed as attractive and profitable borrowers by other lenders.

It is not known, and not asserted, that all of those 22 processors are creditworthy. Neither can it be asserted that if CFAB were given access to that group that competition would be readily or immediately overcome. However, the statutory barrier to that market represents a significant handicap to CFAB (within the context of its original and documented legislative intents and purposes); it magnifies the risks of financing concentrated in a very small market; it places strong upward pressure on the costs which must be borne by individual fishermen-borrowers; and it serves no useful purpose with regard to Alaskan interests. Ownership of a corporation - at least as expressed and implied by the statute - is not a valid credit factor.

That group of processors own extensive facilities in Alaska. They purchase, add value to, and market Alaska fish. They pay local taxes. They deal with Alaska fishermen. They purchase supplies in Alaska. They employ Alaska workers. They pay fish taxes to the State of Alaska. When they borrow money for capital investments or to finance operations, the money does not disappear - it is repaid, dollar for dollar, to the lender whether that lender is a Seattle commercial bank, a New York insurance company, or CFAB; and interest is paid to that lender also. That interest obviously can only be taken from the gross proceeds from the marketing of Alaska seafoods. If the interest is paid to CFAB it is a beneficial increment to CFAB and, therefore, its owners which consist of the State of Alaska and Alaska fishermen, farmers, and timber harvesters.



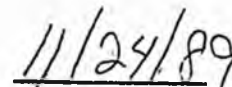
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Cook
4/23/86

Original sponsor: Ferguson

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR 2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 414 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to general grant land entitlements;
7 and providing for an effective date."

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

9 * Section 1. AS 29.65 is amended by adding a new section to read:

10 Sec. 29.65.015. DETERMINATION OF ENTITLEMENTS FOR MUNICIPAL-
11 ITIES. The general grant land entitlement of a municipality is 10
12 percent of the maximum total acreage of vacant, unappropriated, unre-
13 served land within its boundaries at any time between the date of its
14 incorporation and two years after the expiration of the state's right
15 to make selections under sec. 6(a) or (b) of the Alaska Statehood Act.
16 By December 31 of each year the director shall determine or update the
17 unfulfilled entitlement for each municipality under this section and
18 certify that entitlement to that municipality.

19 * Sec. 2. AS 29.65 is amended by adding a new section to read:

20 Sec. 29.65.025. LIMITATIONS ON ENTITLEMENTS. (a) A municipal-
21 ity is eligible for only one general grant land entitlement. A munic-
22 ipality that qualifies for an entitlement under AS 29.65.010 and
23 29.65.015 shall receive the larger of the two entitlements.

24 (b) A municipality may not receive a general grant land en-
25 titlement under AS 29.65.010 or 29.65.015 that exceeds 400,000 acres.

26 (c) The following shall be credited toward fulfillment of the
27 general grant land entitlement of a municipality:

28 (1) conveyances of legal title to land by the state to the
29 municipality before January 1, 1987, under a former law;

1 (2) payments for land before January 1, 1987, under former
2 AS 29.18.208;

3 (3) conveyances of legal title to land before January 1,
4 1987, and thereafter under AS 29.65.010;

5 (4) payments for land before January 1, 1987, and there-
6 after under AS 29.65.080;

7 (5) disposals of land to the municipality before January 1,
8 1987, and thereafter under AS 38.05.810 for which the state receives
no consideration.

9
10
11 (d) Land classified under AS 38.05.300 for wildlife habitat only
12 may not be selected or conveyed in fulfillment of a general grant land
entitlement.

13 (e) In each conveyance of land in fulfillment of a general grant
14 land entitlement, the state shall reserve the right to explore, enter,
15 develop, and occupy the surface as reasonably necessary for access to
16 the mineral estate in accordance with AS 38.05.125.

17 * Sec. 3. AS 29.65.040 is repealed and reenacted to read:

18 Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After January 1,
19 1987, a general grant land entitlement under AS 29.65.010 is a vested
20 property right that must be fulfilled in accordance with AS 29.65.025,
21 29.65.060, and 29.65.080.

22 (b) A general grant land entitlement under AS 29.65.015 is a
23 property right that vests on the date of incorporation of the municipi-
24 pality. The entitlement must be fulfilled in accordance with AS 29.-
25 65.025.

26 * Sec. 4. AS 29.65.060(a) is amended to read:

27 (a) If an entitlement determined under AS 29.65.010 or 29.65.015
28 [29.65.020] results in a per capita entitlement for the municipality
29 of less than one and one-half acre, the municipality may select vacant

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1/1/87

1 school land or mental health land in the municipality in partial
 2 fulfillment of its land entitlement under this chapter. School land
 3 or mental health land may be selected notwithstanding the fact that
 4 this land is not unappropriated and unreserved within the meaning of
 5 this chapter and under former AS 29.18.190 and 29.18.200, but each
 6 selection of school land or mental health land by a municipality must
 7 be vacant, unappropriated, or unreserved land as defined in this
 8 chapter, except that it need not be general grant land.

9 * Sec. 5. AS 29.65.060(b) is amended to read:

10 (b) The acreage of school land, university land or mental health
 11 land, if any, in a municipality may not be included in the determina-
 12 tion of entitlement under AS 29.65.010 or 29.65.015 [29.65.020].

13 * Sec. 6. AS 29.65.060 is amended by adding new subsections to read:

14 (g) Notwithstanding (a) of this section, a municipality may not
 15 select school land or mental health land after June 1, 1986.

16 (h) A municipality is entitled to just compensation in the form
 17 of land or other payment for a selection made by it under this section
 18 or former AS 29.18.206 that is pending or on timely appeal on April 1,
 19 1986, and that cannot be conveyed to the municipality as a result of
 20 final judicial action or law, except that no compensation is required
 21 for a selection of land by a municipality within a special use area
 22 under AS 16 or AS 41 or for a selection of land not qualified to be
 23 selected under this section or former AS 29.18.206. Compensation
 24 under this subsection shall be credited against the municipality's
 25 remaining land entitlement under this chapter.

26 (i) Nothing in this section affects the legal rights of any
 27 person with regard to selections of school land, university land, or
 28 mental health land made by a municipality on or before June 1, 1986.

29 * Sec. 7. AS 29.65.080(b) is amended to read:

Oct 4 '85

David Walker

*school
 mental health
 university
 land*

1 applying the payments toward the acquisition of land necessary for
2 public purposes that may be otherwise unavailable to the municipality.

3 * Sec. 10. AS 29.65.130(3) is amended to read:

4 (3) "general grant land"

5 (A) means land patented or tentatively approved to the
6 state from the United States under sec. 6(a) or (b) of the Alaska
7 Statehood Act;

8 (B) does not include mental health land, school land,
9 or university land;

10 * Sec. 11. AS 29.65.130(10) is amended to read:

11 (10) "vacant, unappropriated, unreserved land" means
12 general grant land as defined in (3) of this section, excluding miner-
13 als as required by sec. 6(i) of the Alaska Statehood Act, that

14 (A) has not been set aside by statute for one or more
15 particular uses or purposes;

16 (B) has not been approved for patent to a municipal-
17 ity under this chapter or former AS 29.18.190 and 29.18.200; or

18 (C) is unclassified or, if classified under AS 38.-
19 05.300, is classified for agricultural, grazing, material, public
20 recreation, resource management, settlement, transportation
21 corridor, forestry, or wildlife habitat [COMMERCIAL, INDUSTRIAL,
22 PRIVATE RECREATIONAL, RESIDENTIAL, UTILITY, OR OPEN-TO-ENTRY
23 PURPOSES,] or is classified in accordance with an agreement
24 between a municipality and the state providing for state manage-
25 ment of land of the municipality.

26 * Sec. 12. AS 38.05.321(b) is amended to read:

27 (b) State land classified as agricultural land that has been
28 selected by a municipality under former AS 29.18.190 - 29.18.200 or
29 former AS 29.18.205(e) may be approved by the director for patent

1 under AS 29.65 [AS 29.65.050(c)]; however, only rights in the land for
 2 agricultural purposes may be transferred and all other interests in
 3 the land will remain with the state. Agricultural land approved for
 4 patent to a municipality shall be credited, acre for acre, toward
 5 fulfillment of that municipality's entitlement under AS 29.65 [AS 29.-
 6 65.010 - 29.65.030] or former AS 29.18.201 - 29.18.203. If the direc-
 7 tor later determines it to be in the best interests of the state to
 8 transfer some or all of the additional rights in that approved or
 9 patented agricultural land, those rights shall pass without considera-
 10 tion to the municipality in which the land is located. The notice and
 11 review provisions of AS 38.05.945 are applicable to conveyance of
 12 rights under this section.

13 * Sec. 13. AS 38.05.321(c) is amended to read:

14 (c) The provisions of this section do not apply to

15 (1) state land classified as agricultural land that has
 16 been selected by a municipality under the provisions of former AS 29.-
 17 18.190 - 29.18.200 if the selection is an approved selection before
 18 April 1, 1978 and is otherwise valid under former AS 29.65.050(b) or
 19 former AS 29.18.205(b); or

20 (2) a quitclaim of the interest of the state to the federal
 21 government under AS 38.05.035(b)(9).

22 * Sec. 14. Before January 1, 1987, the Department of Natural Resources
 23 shall consult with each municipality affected by this Act regarding classi-
 24 fications of state land within its boundaries and may assist the munic-
 25 ipality in identifying land suitable for selection in fulfillment of its
 26 general grant land entitlement.

27 * Sec. 15. The commissioner of natural resources ^{shall} ~~may~~ negotiate with and
 28 enter into an agreement to convey state land to a borough or unified munic-
 29 ipality whose entitlement under AS 29.65.010 in the commissioner's
 CS 2d SSSB 414(Res)

*no one to
get anything
done
Anchorage*

determination cannot be fulfilled by January 1, 1987, if the borough or unified municipality elects in writing before January 1, 1987, to pursue a settlement of that existing entitlement. The commissioner has authority under this section to convey state land without regard as to whether the land is vacant, unappropriated, unreserved land as defined under AS 29.65.130(10) if the commissioner determines, after public notice, that the land lies outside the smallest practicable tract of land actually used in connection with the administration of a state function on July 1, 1987, except the commissioner may not convey land owned by another state agency without its consent. Land conveyed to a borough or a unified municipality under an agreement entered into under this section may constitute complete fulfillment of the municipality's general grant land entitlement as specified in the agreement and agreed to by both parties. Conveyances under an agreement entered into under this section may contain no restrictions or conditions that are not required to be imposed by law, except those restrictions or conditions mutually agreed upon by the parties.

* Sec. 16. AS 29.65.010(b), 29.65.020, 29.65.030, 29.65.050, 29.65.090 and 29.65.110 are repealed.

* Sec. 17. Sections 6, 14, and 15 of this Act take effect immediately in accordance with AS 01.10.070(d).

* Sec. 18. Sections 1 - 5, 7 - 13, and 16 of this Act take effect January 1, 1987.

*no shorter paragraph
mental health*

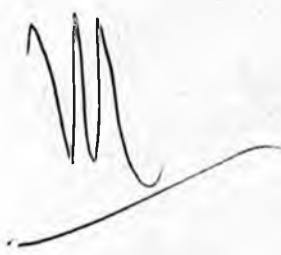
Repealed + not replaced allow for exchange of lands just list

*Need explanation
Dorothy Jones
Wants to know*

What does this mean

Cook
4/23/86

Original sponsor: Ferguson



1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR 2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 414 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to general grant land entitlements;
7 and providing for an effective date."

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

9 * Section 1. AS 29.65 is amended by adding a new section to read:

10 Sec. 29.65.015. DETERMINATION OF ENTITLEMENTS FOR MUNICIPAL-
11 ITIES. The general grant land entitlement of a municipality is 10
12 percent of the maximum total acreage of vacant, unappropriated, unre-
13 served land within its boundaries at any time between the date of its
14 incorporation and two years after the expiration of the state's right
15 to make selections under sec. 6(a) or (b) of the Alaska Statehood Act.
16 By December 31 of each year the director shall determine or update the
17 unfulfilled entitlement for each municipality under this section and
18 certify that entitlement to that municipality.

19 * Sec. 2. AS 29.65 is amended by adding a new section to read:

20 Sec. 29.65.025. LIMITATIONS ON ENTITLEMENTS. (a) A municipal-
21 ity is eligible for only one general grant land entitlement. A munic-
22 ipality that qualifies for an entitlement under AS 29.65.010 and
23 29.65.015 shall receive the larger of the two entitlements.

24 (b) A municipality may not receive a general grant land en-
25 titlement under AS 29.65.010 or 29.65.015 that exceeds 400,000 acres.

26 (c) The following shall be credited toward fulfillment of the
27 general grant land entitlement of a municipality:

28 (1) conveyances of legal title to land by the state to the
29 municipality before January 1, 1987, under a former law;

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29,65,130(5)
drafting central? Not fix

(2) payments for land before January 1, 1987, under former AS 29.18.208;

(3) conveyances of legal title to land before January 1, 1987, and thereafter under AS 29.65.010; *add appropriate (020 or 030 or 015)?* *TRAM 5/13/87 no keep*

(4) payments for land before January 1, 1987, and thereafter under AS 29.65.080;

(5) disposals of land to the municipality before January 1, 1987, and thereafter under AS 38.05.810 for ~~which the state receives no consideration less than~~ *market value.*

(d) Land classified under AS 38.05.300 for wildlife habitat only may not be selected or conveyed in fulfillment of a general grant land entitlement.

(e) In each conveyance of land in fulfillment of a general grant land entitlement, the state shall reserve the right to explore, enter, develop, and occupy the surface as reasonably necessary for access to the mineral estate in accordance with AS 38.05.125.

* Sec. 3. AS 29.65.040 is repealed and reenacted to read: *(4) Conveyances under this Chapter are subject to AS 38.05.035 (e)*

Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) ~~After January 1, 1987,~~ a general grant land entitlement under AS 29.65.010 is a vested property right that must be fulfilled in accordance with AS 29.65.025, 29.65.060, and 29.65.080.

(b) A general grant land entitlement under AS 29.65.015 is a property right that vests on the date of incorporation of the municipality. The entitlement must be fulfilled in accordance with AS 29.65.025.

* Sec. 4. AS 29.65.060(a) is amended to read:

(a) If an entitlement determined under AS 29.65.010 or 29.65.015 [29.65.020] results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant

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1 school land or mental health land in the municipality in partial
 2 fulfillment of its land entitlement under this chapter. School land
 3 or mental health land may be selected notwithstanding the fact that
 4 this land is not unappropriated and unreserved within the meaning of
 5 this chapter and under former AS 29.18.190 and 29.18.200, but each
 6 selection of school land or mental health land by a municipality must
 7 be vacant, unappropriated, or unreserved land as defined in this
 8 chapter, except that it need not be general grant land.

9 * Sec. 5. AS 29.65.060(b) is amended to read:

10 (b) The acreage of school land, university land or mental health
 11 land, if any, in a municipality may not be included in the determina-
 12 tion of entitlement under AS 29.65.010 or 29.65.015 [29.65.020].

13 * Sec. 6. AS 29.65.060 is amended by adding new subsections to read:

14 (g) Notwithstanding (a) of this section, a municipality may not
 15 select school land or mental health land after ~~June 1, 1986~~ ^{Oct 4, 85}.

16 *OK which may pursue the agreement under section 15 (new 14)*
 17 (h) A municipality is entitled to just compensation in the form

18 of land or other payment for a selection made by it under this section
 19 or former AS 29.18.206 ^{in (Chapter 80 session 2/2/85) was} that is pending or on timely appeal on April 1,
 20 1986, and that cannot be conveyed to the municipality as a result of
 21 final judicial action or law, except that no compensation is required
 22 for a selection of land by a municipality within a special use area
 23 under AS 16 or AS 41 or for a selection of land not qualified to be
 24 selected under this section or former AS 29.18.206. Compensation
 25 under this subsection shall be credited against the municipality's
 26 remaining land entitlement under this chapter.

27 (i) Nothing in this section affects the legal rights of any
 28 person with regard to selections of school land, university land, or
 29 mental health land made by a municipality on or before ~~June 1, 1986~~ ^{Oct 4, 1985}.

* ~~Sec. 7. AS 29.65.080(b) is amended to read:~~

Handwritten notes in left margin:
 16-17: *OK*
 18-20: *Chapter 80 session 2/2/85*
 21-22: *check*
 23-24: *OK*
 25-26: *OK*
 27-28: *OK*

1 (b) A municipality shall receive payment for its land deficiency
 2 from the municipal land account. A municipality is eligible to re-
 3 ceive payment for land deficiency if, after July 1, 1980, the amount
 4 of land selected by a municipality that is physically suitable for
 5 residential, commercial, or industrial purposes amounts to less than
 6 one-third acre per capita. Any entitlement under AS 29.65.010 that is
 7 less than one-third acre per capita will, for the purposes of this
 8 subsection, be considered a land deficiency. An unselected remaining
 9 entitlement will, for the purpose of deficiency payment under this
 10 subsection, be considered as land physically suitable for residential,
 11 commercial, or industrial purposes. A municipality eligible under
 12 this subsection is entitled to receive a payment for land deficiency
 13 equal to \$1,000 per acre for a number of acres equal to the difference
 14 between one-third of the population of the municipality less the
 15 number of acres physically suitable for residential, commercial or
 16 industrial purposes that has been selected by the municipality. For
 17 *OK* the purpose of this subsection, the population of the municipality
 18 shall be the population determined by the commissioner under former
 19 AS 43.18.010 for the program year beginning July 1, 1978, for a munic-
 20 ipality whose entitlement was determined under former AS 29.18.201 [IN
 21 ACCORDANCE WITH AS 29.65.060(f)]. No payment may be made to a munic-
 22 ipality under this subsection in excess of \$9,000,000.

23 * Sec. 8. AS 29.65.080(g) is amended to read:

24 (g) Payments authorized by this section may only [NOT] be made
 25 to a municipality [ELIGIBLE] for an entitlement under AS 29.65.010
 26 [AS 29.65.020 OR 29.65.030].

27 * Sec. 9. AS 29.65.080 is amended by adding a new subsection to read:

28 (h) *repealed and reinserted (h)*
 29 Payment under this section shall be made into a municipal
 land bank or trust account created by ordinance with the purpose of

1 applying the payments toward the acquisition of land necessary for
2 public purposes that may be otherwise unavailable to the municipality.

3 * Sec. 10. AS 29.65.130(3) is amended to read:

4 (3) "general grant land"

5 (A) means land patented or tentatively approved to the
6 state from the United States under sec. 6(a) or (b) of the Alaska
7 Statehood Act;

8 (B) does not include mental health land, school land,
9 or university land;

10 * Sec. 11. AS 29.65.130(10) is amended to read:

11 (10) "vacant, unappropriated, unreserved land" means
12 general grant land as defined in (3) of this section, excluding miner-
13 als as required by sec. 6(i) of the Alaska Statehood Act, that

14 (A) has not been set aside by statute for one or more
15 particular uses or purposes;

16 (B) has not been approved for patent to a municipal-
17 ity under this chapter or former AS 29.18.190 and 29.18.200; or

18 (C) is unclassified or, if classified under AS 38.-
19 05.300, is classified for agricultural, grazing, material, public
20 recreation, resource management, settlement, transportation

21 corridor, forestry, or wildlife habitat [COMMERCIAL, INDUSTRIAL,
22 PRIVATE RECREATIONAL, RESIDENTIAL, UTILITY, OR OPEN-TO-ENTRY
23 PURPOSES,] or is classified in accordance with an agreement
24 between a municipality and the state providing for state manage-
25 ment of land of the municipality.

26 * Sec. 12. AS 38.05.321(b) is amended to read:

27 (b) State land classified as agricultural land that has been
28 selected by a municipality under former AS 29.18.190 - 29.18.200 or
29 former AS 29.18.205(e) may be approved by the director for patent

1 under AS 29.65 [AS 29.65.050(c)]; however, only rights in the land for
2 agricultural purposes may be transferred and all other interests in
3 the land will remain with the state. Agricultural land approved for
4 patent to a municipality shall be credited, acre for acre, toward
5 fulfillment of that municipality's entitlement under AS 29.65 [AS 29.-
6 65.010 - 29.65.030] or former AS 29.18.201 - 29.18.203. If the direc-
7 tor later determines it to be in the best interests of the state to
8 transfer some or all of the additional rights in that approved or
9 patented agricultural land, those rights shall pass without considera-
10 tion to the municipality in which the land is located. The notice and
11 review provisions of AS 38.05.945 are applicable to conveyance of
12 rights under this section.

13 * Sec. 13. AS 38.05.321(c) is amended to read:

14 (c) The provisions of this section do not apply to

15 (1) state land classified as agricultural land that has
16 been selected by a municipality under the provisions of former AS 29.-
17 18.190 - 29.18.200 if the selection is an approved selection before
18 April 1, 1978 and is otherwise valid under former AS 29.65.050(b) or
19 former AS 29.18.205(b); or

20 (2) a quitclaim of the interest of the state to the federal
21 government under AS 38.05.035(b)(9).

22 * Sec. 14. Before January 1, 1987, the Department of Natural Resources
23 shall consult with each municipality affected by this Act regarding classi-
24 fications of state land within its boundaries and may assist the munic-
25 ipality in identifying land suitable for selection in fulfillment of its
26 general grant land entitlement.

27 * Sec. 15. The commissioner of natural resources ~~may~~ ^{shall} negotiate with and ^{OK} ~~may~~
28 enter into an agreement to convey state land to a borough or unified munic-
29 ipality whose entitlement under AS 29.65.010 in the commissioner's
CS 2d SSSB 414(Res)

1 determination cannot be fulfilled by January 1, 1987, if the borough or
 2 unified municipality elects in writing before January 1, 1987, to pursue a
 3 settlement of that existing entitlement. The commissioner has authority
 4 under this section to convey state land without regard as to whether the
 5 land is vacant, unappropriated, unreserved land as defined under AS 29.65.-
 6 130(10) if the commissioner determines, after public notice, that the land
 7 lies outside the smallest practicable tract of land actually used in con-
 8 nection with the administration of a state function on July 1, 1987, ^{1986 ok} except
 9 the commissioner may not convey land owned by another state agency without
 10 its consent. Land conveyed to a borough or a unified municipality under an
 11 agreement entered into under this section may constitute complete fulfill-
 12 ment of the municipality's general grant land entitlement as specified in
 13 the agreement and agreed to by both parties. Conveyances under an agree-
 14 ment entered into under this section may contain no ~~restrictions~~ ^{Reservations di} or con-
 15 ditions that are not required to be imposed by law, except those restric-
 16 tions or conditions mutually agreed upon by the parties. ~~Not to be used~~ ^{di}

17 * Sec. 16. AS 29.65.010(b), 29.65.020, 29.65.030, 29.65.050, ~~29.65.090~~ ^{di}
 18 and 29.65.110 are repealed.

19 * Sec. 17. Sections 6, 14, and 15 of this Act take effect immediately
 20 in accordance with AS 01.10.070(c).

21 * Sec. 18. Sections 1 - 5, 7 - 13, and 16 of this Act take effect
 22 January 1, 1987.

Not used language

Cook
4/25/86 ✓

Original sponsor: Ferguson

ARLISS

OK

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR 2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 414 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to general grant land entitlements;
7 and providing for an effective date."

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

9 * Section 1. AS 29.65 is amended by adding a new section to read:

10 Sec. 29.65.015. DETERMINATION OF ENTITLEMENTS FOR MUNICIPAL-
11 ITIES. The general grant land entitlement of a municipality is 10
12 percent of the maximum total acreage of vacant, unappropriated, unre-
13 served land within its boundaries at any time between the date of its
14 incorporation and two years after the expiration of the state's right
15 to make selections under sec. 6(a) or (b) of the Alaska Statehood Act.
16 By December 31 of each year the director shall determine or update the
17 unfulfilled entitlement for each municipality under this section and
18 certify that entitlement to that municipality.

19 * Sec. 2. AS 29.65 is amended by adding a new section to read:

20 Sec. 29.65.025. LIMITATIONS ON ENTITLEMENTS. (a) A municipal-
21 ity is eligible for only one general grant land entitlement. A munic-
22 ipality that qualifies for an entitlement under AS 29.65.010 and
23 29.65.015 shall receive the larger of the two entitlements.

24 (b) A municipality may not receive a general grant land en-
25 titlement under AS 29.65.010 or 29.65.015 that exceeds 400,000 acres.

26 (c) The following shall be credited toward fulfillment of the
27 general grant land entitlement of a municipality:

28 (1) conveyances of legal title to land by the state to the
29 municipality before January 1, 1987, under a former law;

1 (2) payments for land before January 1, 1987, under former
2 AS 29.18.208;

3 (3) conveyances of legal title to land before January 1,
4 1987, and thereafter under AS 29.65.010;

5 (4) payments for land before January 1, 1987, and there-
6 after under AS 29.65.080;

7 (5) disposals of land to the municipality before January 1,
8 1987, and thereafter under AS 38.05.810 for which the state received
9 ~~less than market value.~~ *receives no consideration*

10 (d) Land classified under AS 38.05.300 for wildlife habitat only
11 may not be selected or conveyed in fulfillment of a general grant land
12 entitlement.

13 (e) In each conveyance of land in fulfillment of a general grant
14 land entitlement, the state shall reserve the right to explore, enter,
15 develop, and occupy the surface as reasonably necessary for access to
16 the mineral estate in accordance with AS 35.05.125.

17 *added* (f) Conveyances of land under this chapter are subject to
18 AS 38.05.035(e).

19 * Sec. 3. AS 29.65.040 is repealed and reenacted to read:

20 Sec. 29.65.040. STATUS OF ENTITLEMENTS. ^{After January 1, 1987} (a) A general grant
21 land entitlement under AS 29.65.010 is a vested property right that
22 must be fulfilled in accordance with AS 29.65.025, 29.65.060, and
23 29.65.080.

24 (b) A general grant land entitlement under AS 29.65.015 is a
25 property right that vests on the date of incorporation of the municipi-
26 pality. The entitlement must be fulfilled in accordance with AS 29.-
27 65.025.

28 * Sec. 4. AS 29.65.060(a) is amended to read:

29 (a) If an entitlement determined under AS 29.65.010 or 29.65.015

1 [29.65.020] results in a per capita entitlement for the municipality
 2 of less than one and one-half acre, the municipality may select vacant
 3 school land or mental health land in the municipality in partial
 4 fulfillment of its land entitlement under this chapter. School land
 5 or mental health land may be selected notwithstanding the fact that
 6 this land is not unappropriated and unreserved within the meaning of
 7 this chapter and under former AS 29.18.190 and 29.18.200, but each
 8 selection of school land or mental health land by a municipality must
 9 be vacant, unappropriated, or unreserved land as defined in this
 10 chapter, except that it need not be general grant land.

11 * Sec. 5. AS 29.65.060(b) is amended to read:

12 (b) The acreage of school land, university land or mental health
 13 land, if any, in a municipality may not be included in the determina-
 14 tion of entitlement under AS 29.65.010 or 29.65.015 [29.65.020].

15 * Sec. 6. AS 29.65.060 is amended by adding new subsections to read:

16 (g) Notwithstanding (a) of this section, a municipality may not
 17 select school land or mental health land after ^{June 1, 1986} ~~October 4, 1985~~.

18 (h) Nothing in this section affects the legal rights of any
 19 person with regard to selections of school land, university land, or
 20 mental health land made by a municipality on or before ^{June 1, 1986} ~~October 4,~~
 21 ~~1985~~.

22 * Sec. 7. AS 29.65.060 is amended by adding a new subsection to read:

23 (i) A municipality ~~that may enter into an agreement under~~
 24 ~~sec. 15~~ of this Act is entitled to just compensation in the form of
 25 land or other payment for a selection made by it under this section or
 26 former AS 29.18.206 (ch. 180, SLA 1978) that was pending or on timely
 27 appeal on April 1, 1986, and that cannot be conveyed to the
 28 municipality as a result of final judicial action or law, except that
 29 compensation is not required for a selection of land by a municipality

1 within a special use area under AS 16 or AS 41 or for a selection of
2 land not qualified to be selected under this section or former AS
3 29.18.206. Compensation under this subsection shall be credited
4 against the municipality's remaining land entitlement under this
5 chapter.

6 * Sec. 8. AS 29.65.080(g) is amended to read:

7 (g) Payments authorized by this section may only [NOT] be made
8 to a municipality [ELIGIBLE] for an entitlement under AS 29.65.010
9 [AS 29.65.020 OR 29.65.030].

10 * Sec. 9. AS 29.65.080 is amended by adding a new subsection to read:

11 (i) Payment under this section shall be made into a municipal
12 land bank or trust account created by ordinance with the purpose of
13 applying the payments toward the acquisition of land necessary for
14 public purposes that may be otherwise unavailable to the municipality.

15 * Sec. 10. AS 29.65.130(3) is amended to read:

16 (3) "general grant land"

17 (A) means land patented or tentatively approved to the
18 state from the United States under sec. 6(a) or (b) of the Alaska
19 Statehood Act;

20 (B) does not include mental health land, school land,
21 or university land;

22 * Sec. 11. AS 29.65.130(10) is amended to read:

23 (10) "vacant, unappropriated, unreserved land" means
24 general grant land as defined in (3) of this section, excluding miner-
25 als as required by sec. 6(i) of the Alaska Statehood Act, that

26 (A) has not been set aside by statute for one or more
27 particular uses or purposes;

28 (B) has not been approved for patent to a municipal-
29 ity under this chapter or former AS 29.18.190 and 29.18.200; or

1 (C) is unclassified or, if classified under AS 38.-
 2 05.300, is classified for agricultural, ^{removed material} grazing, ^{removed transportation corridors} public recre-
 3 ation, resource management, settlement, forestry, or wildlife
 4 habitat [COMMERCIAL, INDUSTRIAL, PRIVATE RECREATIONAL, RESIDEN-
 5 TIAL, UTILITY, OR OPEN-TO-ENTRY PURPOSES,] or is classified in
 6 accordance with an agreement between a municipality and the state
 7 providing for state management of land of the municipality.

8 * Sec. 12. AS 38.05.321(b) is amended to read:

9 (b) State land classified as agricultural land that has been
 10 selected by a municipality under former AS 29.18.190 - 29.18.200 or
 11 former AS 29.18.205(e) may be approved by the director for patent
 12 under AS 29.65 [AS 29.65.050(c)]; however, only rights in the land for
 13 agricultural purposes may be transferred and all other interests in
 14 the land will remain with the state. Agricultural land approved for
 15 patent to a municipality shall be credited, acre for acre, toward
 16 fulfillment of that municipality's entitlement under AS 29.65 [AS 29.-
 17 65.010 - 29.65.030] or former AS 29.18.201 - 29.18.203. If the direc-
 18 tor later determines it to be in the best interests of the state to
 19 transfer some or all of the additional rights in that approved or
 20 patented agricultural land, those rights shall pass without considera-
 21 tion to the municipality in which the land is located. The notice and
 22 review provisions of AS 38.05.945 are applicable to conveyance of
 23 rights under this section.

24 * Sec. 13. AS 38.05.321(c) is amended to read:

25 (c) The provisions of this section do not apply to

26 (1) state land classified as agricultural land that has
 27 been selected by a municipality under the provisions of former AS 29.-
 28 18.190 - 29.18.200 if the selection is an approved selection before
 29 April 1, 1978 and is otherwise valid under former AS 29.65.050(b) or

1 former AS 29.18.205(b); or

2 (2) a quitclaim of the interest of the state to the federal
3 government under AS 38.05.035(b)(9).

4 * Sec. 14. Before January 1, 1987, the Department of Natural Resources
5 shall consult with each municipality affected by this Act regarding classi-
6 fications of state land within its boundaries and may assist the munic-
7 ipality in identifying land suitable for selection in fulfillment of its
8 general grant land entitlement.

9 * Sec. 15. The commissioner of natural resources shall negotiate with
10 and may enter into an agreement to convey state land to a borough or
11 unified municipality whose entitlement under AS 29.65.010 in the commis-
12 sioner's determination cannot be fulfilled by January 1, 1987, if the
13 borough or unified municipality elects in writing before January 1, 1987,
14 to pursue a settlement of that existing entitlement. The commissioner has
15 authority under this section to convey state land without regard as to
16 whether the land is vacant, unappropriated, unreserved land as defined
17 under AS 29.65.130(10) if the commissioner determines, after public notice,
18 that the land lies outside the smallest practicable tract of land actually
19 used in connection with the administration of a state function on July 1,
20 1986, except the commissioner may not convey land owned by another state
21 agency without its consent. *Land may not be conveyed under this
22 up to w/o consultation* Land conveyed to a borough or a unified munic-
23 ipality under an agreement entered into under this section may constitute
24 complete fulfillment of the municipality's general grant land entitlement
25 as specified in the agreement and agreed to by both parties. Conveyances
26 under an agreement entered into under this section may not contain reser-
27 vations or conditions that are not required to be imposed by law, except
28 restrictions or conditions agreed upon by the parties. (29.65.090 deleted)

29 * Sec. 16. AS 29.65.010(b), 29.65.020, 29.65.030, 29.65.050, 29.65.-
080(h) and 29.65.110 are repealed.

1 * Sec. 17. Section 6 of this Act is retroactive to October 4, 1985.

2 * Sec. 18. Sections 6, 14, 15, and 17 of this Act take effect immedi-
3 ately in accordance with AS 01.10.070(c).

4 * Sec. 19. Sections 1 - 5, 7 - 13, and 16 of this Act take effect
5 January 1, 1987.

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Cook
4/10/86

Original sponsor: Ferguson

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR 2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 414 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to general grant land entitlements;
7 and providing for an effective date."

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

9 * Section 1. AS 29.65 is amended by adding a new section to read:

10 Sec. 29.65.015. DETERMINATION OF ENTITLEMENTS FOR MUNICIPAL-
11 ITIES. The general grant land entitlement of a municipality is 10
12 percent of the municipality's total acreage of vacant, unappropriated, unre-
13 served land within its boundaries at any time between the date of its
14 incorporation and two years after the expiration of the state's right
15 to make selections under sec. 6(a) or (b) of the Alaska Statehood Act.
16 By December 31 of each year the director shall determine or update the
17 unfulfilled entitlement for each municipality under this section and
18 certify that entitlement to that municipality.

19 * Sec. 2. AS 29.65 is amended by adding a new section to read:

20 Sec. 29.65.025. LIMITATIONS ON ENTITLEMENTS. (a) A municipal-
21 ity is eligible for only one general grant land entitlement. A munic-
22 ipality that qualifies for an entitlement under AS 29.65.010 and
23 29.65.015 shall receive the larger of the two entitlements.

24 (b) A municipality may not receive a general grant land en-
25 titlement under AS 29.65.010 or 29.65.015 that exceeds 400,000 acres.

26 (c) The following shall be credited toward fulfillment of the
27 general grant land entitlement of a municipality:

28 (1) conveyances of legal title to land by the state to the
29 municipality before January 1, 1987, under a former law;

1 (2) payments for land before January 1, 1987, under former
2 AS 29.18.208;

3 (3) conveyances of legal title to land before January 1,
4 1987, and thereafter under AS 29.65.010;

5 (4) payments for land before January 1, 1987, and there-
6 after under AS 29.65.080;

7 (5) disposals of land to the municipality before January 1,
8 1987, and thereafter under AS 38.05.810 for which the state receives
9 no consideration.

10 (d) Land classified under AS 38.05.300 for wildlife habitat only
11 may not be selected or conveyed in fulfillment of a general grant land
12 entitlement.

13 (e) In each conveyance of land in fulfillment of a general grant
14 land entitlement, the state shall reserve the right to explore, enter,
15 develop, and occupy the surface as reasonably necessary for access to
16 the mineral estate in accordance with AS 38.05.125.

17 * Sec. 3. AS 29.65.040 is repealed and reenacted to read:

18 Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After January 1,
19 1987, a general grant land entitlement under AS 29.65.010 is a vested
20 property right that must be fulfilled in accordance with AS 29.65.025
21 and 29.65.080.

22 (b) A general grant land entitlement under AS 29.65.015 is a
23 property right that vests on the date of incorporation of the munici-
24 pality. The entitlement must be fulfilled in accordance with AS 29.-
25 65.025.

26 * Sec. 4. AS 29.65.060 is repealed and reenacted to read:

27 Sec. 29.65.060. SCHOOL, UNIVERSITY, AND MENTAL HEALTH LAND. (a)
28 School land, university land, and mental health land within the bound-
29 aries of a municipality may not be included for purposes of

1 determining the general grant land entitlement of that municipality.

2 (b) A municipality may not receive school land, university land,
3 or mental health land in fulfillment of its general grant land en-
4 titlement.

5 * Sec. 5. AS 29.65.080(b) is amended to read:

6 (b) A municipality shall receive payment for its land deficiency
7 from the municipal land account. A municipality is eligible to re-
8 ceive payment for land deficiency if, after July 1, 1980, the amount
9 of land selected by a municipality that is physically suitable for
10 residential, commercial, or industrial purposes amounts to less than
11 one-third acre per capita. Any entitlement under AS 29.65.010 that is
12 less than one-third acre per capita will, for the purposes of this
13 subsection, be considered a land deficiency. An unselected remaining
14 entitlement will, for the purpose of deficiency payment under this
15 subsection, be considered as land physically suitable for residential,
16 commercial, or industrial purposes. A municipality eligible under
17 this subsection is entitled to receive a payment for land deficiency
18 equal to \$1,000 per acre for a number of acres equal to the difference
19 between one-third of the population of the municipality less the
20 number of acres physically suitable for residential, commercial or
21 industrial purposes that has been selected by the municipality. For
22 the purpose of this subsection, the population of the municipality
23 shall be the population determined by the commissioner under former
24 AS 43.18.010 for the program year beginning July 1, 1978, for a munic-
25 ipality whose entitlement was determined under former AS 29.18.201 [IN
26 ACCORDANCE WITH AS 29.65.060(f)]. No payment may be made to a munic-
27 ipality under this subsection in excess of \$9,000,000.

28 * Sec. 6. AS 29.65.080(g) is amended to read:

29 (g) Payments authorized by this section may only [NOT] be made

1 to a municipality [ELIGIBLE] for an entitlement under AS 29.65.010
2 [AS 29.65.020 OR 29.65.030].

3 * Sec. 7. AS 29.65.130(3) is amended to read:

4 (3) "general grant land"

5 (A) means land patented or tentatively approved to the
6 state from the United States under sec. 6(a) or (b) of the Alaska
7 Statehood Act;

8 (B) does not include mental health land, school land,
9 or university land;

10 * Sec. 8. AS 29.65.130(10) is amended to read:

11 (10) "vacant, unappropriated, unreserved land" means
12 general grant land as defined in (3) of this section, excluding miner-
13 als as required by sec. 6(i) of the Alaska Statehood Act, that

14 (A) has not been set aside by statute for one or more
15 particular uses or purposes;

16 (B) has not been approved for patent to a municipal-
17 ity under this chapter or former AS 29.18.190 and 29.18.200; or

18 (C) is unclassified or, if classified under AS 38.-
19 05.300, is classified for agricultural, grazing, material, public
20 recreation, resource management, settlement, transportation
21 corridor, forestry, or wildlife habitat [COMMERCIAL, INDUSTRIAL,
22 PRIVATE RECREATIONAL, RESIDENTIAL, UTILITY, OR OPEN-TO-ENTRY
23 PURPOSES,] or is classified in accordance with an agreement
24 between a municipality and the state providing for state manage-
25 ment of land of the municipality.

26 * Sec. 9. AS 38.05.321(b) is amended to read:

27 (b) State land classified as agricultural land that has been
28 selected by a municipality under former AS 29.18.190 - 29.18.200 or
29 former AS 29.18.205(e) may be approved by the director for patent

1 under AS 29.65 [AS 29.65.050(c)]; however, only rights in the land for
2 agricultural purposes may be transferred and all other interests in
3 the land will remain with the state. Agricultural land approved for
4 patent to a municipality shall be credited, acre for acre, toward
5 fulfillment of that municipality's entitlement under AS 29.65 [AS 29.-
6 65.010 - 29.65.030] or former AS 29.18.201 - 29.18.203. If the direc-
7 tor later determines it to be in the best interests of the state to
8 transfer some or all of the additional rights in that approved or
9 patented agricultural land, those rights shall pass without considera-
10 tion to the municipality in which the land is located. The notice and
11 review provisions of AS 38.05.945 are applicable to conveyance of
12 rights under this section.

13 * Sec. 10. AS 38.05.321(c) is amended to read:

14 (c) The provisions of this section do not apply to

15 (1) state land classified as agricultural land that has
16 been selected by a municipality under the provisions of former AS 29.-
17 18.190 - 29.18.200 if the selection is an approved selection before
18 April 1, 1978 and is otherwise valid under former AS 29.65.050(b) or
19 former AS 29.18.205(b); or

20 (2) a quitclaim of the interest of the state to the federal
21 government under AS 38.05.035(b)(9).

22 * Sec. 11. Before January 1, 1987, the Department of Natural Resources
23 shall consult with each municipality affected by this Act regarding classi-
24 fications of state land within its boundaries and may assist the munic-
25 ipality in identifying land suitable for selection in fulfillment of its
26 general grant land entitlement.

27 * Sec. 12. AS 29.65.010(b), 29.65.020, 29.65.030, 29.65.050, 29.65.090
28 and 29.65.110 are repealed.

29 * Sec. 13. Sections 4 and 11 of this Act take effect immediately in