

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 00/2
5352 SLAB EO 68 - SB 15 924

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STEVE COWPER
GOVERNOR



ES 068
SB 329

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, secs. 18 and 23, of the Alaska Constitution, I am transmitting an Executive Order and a companion bill transferring the business license program from the Department of Revenue to the Department of Commerce and Economic Development. At the present time, businesses frequently must obtain licenses from both departments. The Executive Order will consolidate these licensing functions in one agency, making for greater administrative efficiency and, of even greater importance, better service to the public.

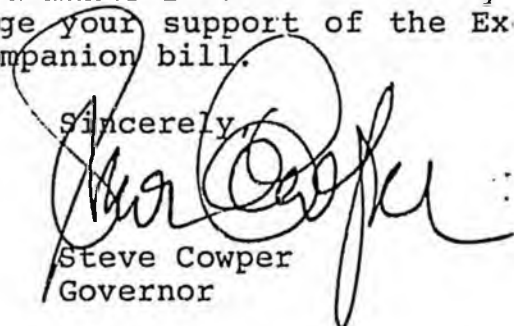
The Order simply transfers the business license program (AS 43.70) from the Department of Revenue to the Department of Commerce and Economic Development, by defining "commissioner" and "department" for purposes of that chapter as the commissioner of commerce and economic development and the Department of Commerce and Economic Development (secs. 5 and 6 of the Order), respectively, adding this authority to the duties of the Department of Commerce and Economic Development (sec. 7 of the Order), and making necessary technical changes to other statutes.

Although the functions of the business license program are reassigned by the Executive Order, I am requesting your support of the accompanying bill in order to make the program fit more easily within the current operations of the Department of Commerce and Economic Development, division of occupational licensing. Under the Order, current procedures and enforcement provisions must remain in effect. The bill will permit the division of occupational licensing to instead use the current procedures and enforcement provisions used for occupational licenses by placing the business license program under AS 08.01. Sections 1 -- 6 of the bill. The department will then issue biennial instead of annual business licenses (AS 08.01.100(a); see secs. 7, 8, and 10 of the bill), coordinated with any other licenses issued to the particular business, and use its own enforcement proce-

dures under AS 08.01.102 -- 08.01.105. Section 5 of the bill. The effective date of the bill is contingent upon the effective date of the Executive Order. Section 3 of the bill also makes an incidental correction, deleting a redundant sentence that appears in AS 08.01.065(c) due to inconsistent amendments made by sec. 1, ch. 87, SLA 1987 and sec. 5, ch. 94, SLA 1987 -- a correction also being proposed in the 1988 general revisor's bill.

The Department of Revenue presently administers a number of licensing and permitting programs in addition to the business license program. Unlike the business license program, however, each of these other programs is administered in conjunction with a particular tax. Used in this manner, licensing activities are an effective tool in tax compliance efforts. Since the 1978 repeal of the business gross receipts tax, this has not been the case for the business license program, and there is no longer any reason to retain the program in the Department of Revenue. To better serve the public and to promote administrative efficiency in operating this program, I urge your support of the Executive Order and passage of the companion bill.

Sincerely,



Steve Cowper
Governor

ECV
SB 329

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Executive Order
Sponsor: Rules Committee
Requestor: Governor's Office

Agency Affected: Com. & Econ. Dev./Revenue
BRU: Business Licensing
Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS		-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING		-0-*	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

*The Governor's FY 89 budget currently includes \$269,088 in general funds in the Department of Revenue. The appropriation will be transferred along with 5.5 positions to the Department of Commerce & Economic Development, Division of Occupational Licensing by budget amendment.

Prepared by: _____ Phone: 465-2505
Division: Administrative Services Date: 1/8/88

Approved by Commissioner: Lucy Richardson Date: 1/8/88
Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

ALASKA STATE SENATE



SENATOR TIM KELLY
ANCHORAGE/EAGLE RIVER
CHAIRMAN

SENATOR DICK ELIASON
SITKA
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBERS
SENATOR BETTYE FAHRENKAMP
FAIRBANKS

SENATOR RICK UEHLING
ANCHORAGE

SENATOR MIKE SZYMANSKI
ANCHORAGE

January 15, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

The Labor & Commerce Committee has reviewed Executive Order 68 - transferring the Alaska business license program (AS 43.70) from the Dept. of Revenue to the Dept. of Commerce and Economic Development - and finds no cause to oppose it.

Best Regards,

Tim Kelly
TIM KELLY



Alaska State Legislature

Senate

Office of the Secretary

OFFICIAL BUSINESS

P.O. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

January 11, 1988

MEMORANDUM

TO: Senator Kelly, Chairman
Labor and Commerce

FROM: *NQ* Nancy Quinto
Secretary of the Senate

RE: Executive Order No. 68

The President has referred Executive Order No. 68 (transferring the Alaska business license program (AS 43.70) from the Department of Revenue to the Department of Commerce and Economic Development).

Section 23, Article III of the Constitution states:

The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

Attachment

STEVE COWPER
GOVERNOR



E0068
SB 329

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

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President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

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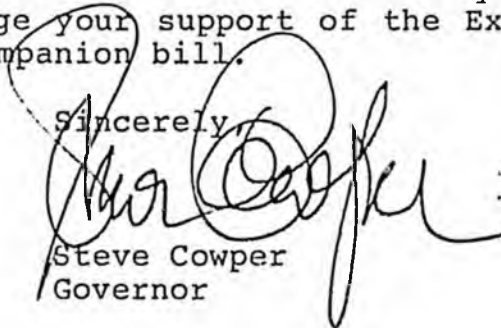
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Steve Cowper
Governor

CO 01
SB 327

FISCAL NOTE

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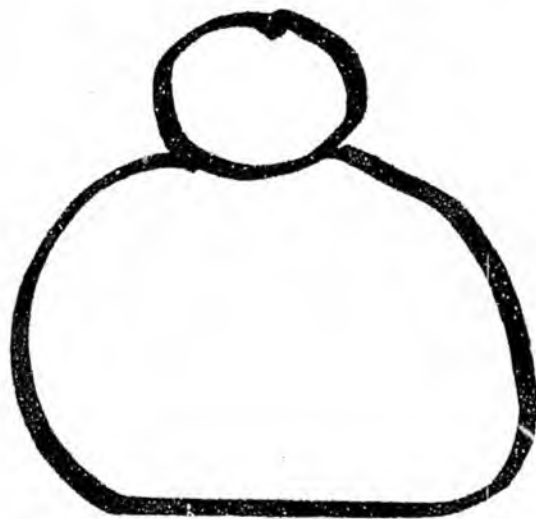
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Prepared by: _____ Phone: 465-2505
Division: Administrative Services Date: 1/8/88

Approved by Commissioner: Larry R. Anderson for Jonathan Smith Date: 1/8/88
Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
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 - Office of Management and Budget
 - Impacted Agency(ies)

SB





Alaska Commercial Fishing and Agriculture Bank

1985 Annual Report
1984 Annual Report
1983 Annual Report
1982 Annual Report

Executive Message

Elsewhere in this 1985 Annual Report is a presentation of Touche Ross & Co.'s report on its examination of CFAB's financial statements for the years ended December 31, 1984, and December 31, 1985. That report is worthy of some careful scrutiny by members.

Numbers tend to be boring for all of us. However, since CFAB is a financial institution there is much about it which is best expressed by numbers. We therefore invite your attention to some of those numbers and the matters they represent.

Since CFAB is a financial institution there is much about it which is best expressed by numbers.

During 1985, CFAB's total assets were reduced by about \$34,557,000. While this represented a reduction of all classes of assets generally, most of it was concentrated

in a few areas. Early in the year, \$5,628,000 of proceeds from maturing certificates of deposit were used to reduce CFAB's borrowings and, therefore, its net interest expense. Another \$1,021,000 of the net reduction was in CFAB's accrued interest receivable on loans; this was essentially the effect of reduced loan volume.

The largest single component of the reduction, \$26,993,000, was in CFAB's net loans outstanding. The composition of that number is significant, since CFAB's loan portfolio consists of two general groups of loans — "earning" and "non-earning." (The latter is referred to by accountants as "non-accrual"). An earning loan is one on which all payment terms have been met and are anticipated to continue to be met. A non-earning loan, on the other hand, is one on which a contractual payment is delinquent by 90 days or more and/or which CFAB's management has reason to believe represents a continuing and serious problem.

The changes within and between those two general groups represent significant progress for CFAB during 1985. They are referred to in NOTE B to the financial statements and are shown below:

	<u>December 31, 1985</u>	<u>December 31, 1984</u>	<u>Change</u>
Earning Loans	\$50,283,591	\$62,827,217	\$(12,543,626)
Non-Earning Loans	<u>15,653,345</u>	<u>31,979,446</u>	<u>(16,326,101)</u>
Gross Loans	\$65,936,936	\$94,806,663	\$(28,869,727)
Loan Loss Allowance	<u>(3,441,130)</u>	<u>(5,317,621)</u>	<u>1,876,491</u>
Net Loans	<u><u>\$62,495,806</u></u>	<u><u>\$89,489,042</u></u>	<u><u>\$(26,993,236)</u></u>

Alaska Commercial Fishing & Agriculture Bank

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Board of Directors and Staff.....	Inside Back Cover

What is in the future for CFAB and its borrower-owners?

How do credit and liquidity problems get resolved? What is in the future for CFAB and its borrower-owners? The first question is easier to address than the second. There is really only one general strategy available to a lender confronted by a large number of non-performing loan accounts: A careful, objective, one-by-one analysis resulting in an establishment of priorities and the development of a specific strategy for each account. That in itself is a time-consuming process. The corrective action, assuming one is developed in a particular case, usually takes time also — if a borrower has cash readily available, the loan presumably would not be in default in the first place! Even in those instances in which foreclosure is the only logical alternative, the realities of the legal process involve extraordinary delays. We are pleased, within that context, to report the results of 1985 with respect to non-earning loans. Those results reflect unusual and dedicated effort by every single member of CFAB's staff.

Your directors, management, and staff are totally committed...

CFAB's future is a subject much more difficult to express with definition. Your directors, management, and staff are totally committed to structuring and operating CFAB to meet the constructive needs and demand of its mandated markets. However, CFAB really cannot influence the extent or nature of those markets. The Alaska commercial fishing, agriculture, and timber industries are each affected — often dramatically — by a broad range of external, uncontrollable, and often unforeseeable factors. Each of them is an industry which requires major commitments of capital, either owned or borrowed, but in which financial and operational stability over an extended period is an exception rather than a norm. An individual operator, and his ability to service an obligation incurred years earlier, can be severely and detrimentally impacted by uncontrollable factors. As an example, the rational business decisions by a couple of processors in a given area to not operate in a particular season can totally eliminate what has been a reliable market opportunity for dozens of fishermen. That is a difficult environment in which to oper-

ate, both for participants and for their lenders.

CFAB was created to serve a genuine and legitimate need: the need for commercial fishermen and others to have access to a reliable source of credit. The need continues to exist today. However, while it is a general need, neither CFAB nor any other lender can respond to it in a general way. The response, and the delivery of credit services, must be predicated upon the objective evaluation of the credit worthiness of individual applicants. CFAB will make loans to specific borrowers; it will not make loans to "the industry"!

A member's overall interests are probably best served by avoiding unnecessary new debt for the 1986 season.

As this message is written in the early spring of 1986, the immediate future seems to hold special challenges for CFAB in its quest for sound growth, especially in commercial fishing. The outlook for certain species and certain products is questionable, and there are indications that a number of processing plants will not operate. The cost and availability of insurance has become a major problem for many operators. In addition, and as discussed earlier, CFAB's financial circumstances require that its interest rates be maintained at a level higher than those offered to some applicants by some other lenders. Realistically, and in spite of the fact that CFAB's management is committed to positive progress in the institution's circumstances and effectiveness, a member's overall interests are probably best served by avoiding unnecessary new debt for the 1986 season.

It is not unusual for CFAB members to visit with directors or with management and to compare CFAB's current terms and programs with those perceived to be widely offered by other institutions. Indeed, within CFAB itself we often lapse into discussions about "the competition." The facts are, however, that CFAB is unique: that there is no true competition. There is no other private lender committed and mandated to exclusively serve the commercial fishing, agriculture, and timber industries in Alaska. There are other lenders which have, in the interests of diversification and corporate responsibility, committed a portion of their lending capacities to those industries or to segments of them. The basic responsibilities of those lender's managements, however, are to protect and enhance the interests of their owners and, in some instances, their depositors. Accordingly, loan programs and terms are structured to attract and accommodate the most stable industry participants.

Of the \$16,326,000 reduction in non-earning loans, about \$3,486,000 was charged to CFAB's allowance for loan losses. Most of those losses had been recognized by establishment of an allowance prior to December 31, 1984, so there was no significant impact on CFAB's balance sheet or on its 1985 operating statement. The remaining \$12,840,000 of the reduction in non-earning loans represents, in general, either (a) collection of actual cash or (b) modification or restructuring of individual loans to an extent at which future performance can reasonably be expected. This is of great importance to CFAB and its borrower-owners, since the effect is to enhance CFAB's net interest earnings by about \$1.5 million on an annualized basis.

CFAB reduced its interest-bearing obligations to the Spokane Bank for Cooperatives by \$32,306,000.

Some further insight into the effect of 1985 developments may be gained also by noting the reduction in CFAB's liabilities. In particular, and as discussed in NOTE D to the financial statements, CFAB reduced its interest-bearing obligations to the Spokane Bank for Cooperatives by \$32,306,000. Again because CFAB is a financial institution, there is probably no more reliable indicator of its immediate and short-term health than the relationship between its interest-earning assets and its interest-bearing obligations. The contrast between the respective year-ends should be encouraging to CFAB's borrower-owners:

	<u>December 31, 1985</u>	<u>December 31, 1984</u>
Certificates of Deposit	\$ 3,200,000	\$ 8,827,865
Earning Loans	<u>50,283,591</u>	<u>62,827,217</u>
Total Earning Assets	\$53,483,591	\$71,655,082
Interest-Bearing Obligations	<u>(48,268,294)</u>	<u>(80,574,285)</u>
Net (Deficit) Earning Assets	<u>\$ 5,215,297</u>	<u>\$ (8,919,203)</u>

Another big factor was a \$391,000 reduction in basic operating expenses.

The shift illustrated above took place over the 12-month period. The effects of the shift will be transmitted to CFAB's statement of operations (its "profit and loss statement") over an even longer period of time. Nevertheless, there was a dramatic improvement in CFAB's net operating results — from a \$9,978,000 loss in 1984 to modest net revenues of \$114,000 in 1985, a positive difference of about \$10,092,000. Most of that difference can be found in the reduced provision for loan losses; there were very few major new loan losses projected during 1985. Another big factor was a \$391,000 reduction in basic operating expenses. For the four years 1981 through 1984 CFAB's annual operating expenses had averaged about \$3.2 million. It was a challenge to achieve a significant reduction; many cost-reduction actions had a one-time cost by themselves, and most were in effect for only a few months of 1985. We are striving for a further reduction of \$500,000 to \$600,000 of operating expenses during 1986.

The net result of 1985 operations, as mentioned above, was a margin of \$114,187. The Board of Directors, in accordance with CFAB's by-laws, applied that amount to reduce the unallocated and undistributed patronage loss remaining from 1984 operations.

A year ago, when CFAB's 1984 Annual Report was prepared, the 1985 financial outlook was uncertain at best. It is more pleasant, certainly, to be able to report a reversal of trends and that a degree of stability has been achieved. Nevertheless, a core of difficult problems remains and must be dealt with. Borrower-owners' interests continue to be impaired, and the fact that (at least at year-end) CFAB is not earning or collecting interest on nearly 24 percent of its loans means that performing borrowers have been unable yet to receive the benefit of interest rates which are generally trending downward.

CFAB's directors, management, and staff share with borrower-owners the frustrations of bearing the burdens imposed by a relative handful of non-performing loan accounts. While CFAB's non-earning loans total nearly 24 percent of its loan portfolio in dollars, they involve only nine percent of its total loans by number!

1985 Loan Activity & Economic Impact

CFAB's founding statute requires that its annual report include "...a description of the bank's loan activity during the period..." as well as "...an analysis of economic and other effects of loan decisions on the state's commercial fishing and agriculture industries..."

As shown in CFAB's financial statements and as discussed in the Executive Message, there was a significant decline in the total loan dollars outstanding during 1985. Loan balances totaled about \$65.9 million on December 31, 1985; a year earlier that total had been about \$94.8 million.

That comparison suggests clearly, and accurately, that much of CFAB's 1985 activity was focused on the liquidation of non-performing loans and on the resolution of other loan problems. In addition, the general decline in interest rates offered by some other financial institutions during 1985 attracted a number of CFAB's borrowers whose financial circumstances would permit re-financing by those institutions.

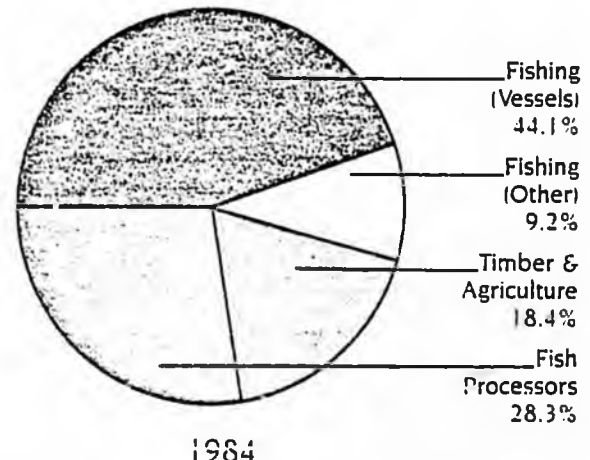
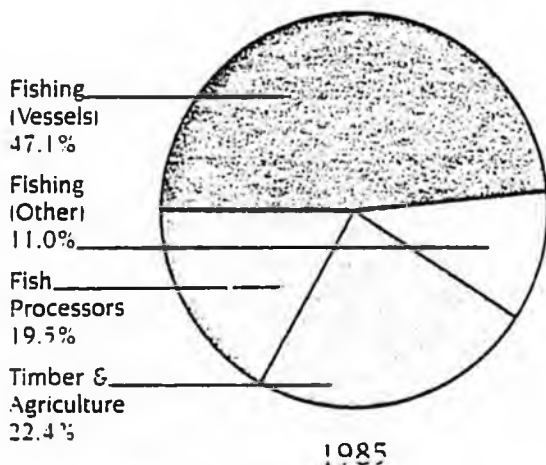
Although there were significant net reductions in both the numbers and amounts of loans outstanding, CFAB did continue to be responsive to the constructive financing needs of both new applicants and existing borrowers. CFAB made 83 new loans during 1985; 40 of them, totaling \$3.1 million, were to new members while the remainder, totaling \$1.2 million, were to existing members.

CFAB continues to be of special importance to individual participants of the commercial fishing industry. It is that general segment of the industry which appears to have the most limited access to alternative sources of financing. A large part - over 60 percent - of the net reduc-

tion in CFAB's year-end loan volumes was in the fish processing portion of the industry. The resulting shift in the composition of CFAB's loan portfolio is shown below.

Despite the language of the statute mentioned earlier, it would be speculative and perhaps pretentious to assert that CFAB's loan decisions have a major effect on its mandated industries in total. Those industries are based on massive amounts of capital, both borrowed and invested; their participants are globally based; and their conditions and trends are influenced by multitudinous factors. It is doubtful that CFAB's activities, or the activities of any other single financial institution, exert much influence on developments in those industries.

On the other hand, it is clear that CFAB's presence and decisions have a significant and continuing effect on members of those industries, whether they are individuals or corporations. Each new loan action by CFAB establishes a means whereby an Alaskan individual or corporation may participate more effectively in the fishing, agriculture, or timber industry. In addition to the direct impact on the borrower, there is a cumulative effect on the Alaska communities in which the particular industry is concentrated. This is especially true of the commercial fishing industry. For example, CFAB has 168 members in the Cordova/Prince William Sound area, 183 in the Homer/Kenai Peninsula area, and 98 in the Dillingham/Bristol Bay area. There are numerous other concentrations throughout the state. While CFAB bases its loan decisions strictly on an objective evaluation of the creditworthiness of the individual borrower/applicant, it seems reasonable to conclude that the collective impact of those decisions has enhanced the stability of local participation in the industries.



We take pride in being a part of the Alaska financial community as a whole.

CFAB's purposes and objectives are considerably different. CFAB has no alternative markets for its services. It must strive to attract a broad cross-section of each of the industries it serves. While it must avoid the more speculative loan proposals presented to it, CFAB cannot on the other hand structure its programs and policies to fit only those applicants who do have other financing alternatives. We have a high regard for other lenders and the services they provide; we cooperate and participate with other lenders whenever appropriate; and we take pride in being a part of the Alaska financial community as a whole. However, we are convinced that success for CFAB — no matter what standards may be used to measure that success — can be achieved only through constant and realistic evaluation of its own capabilities and of the viability of its borrower/members. Emulation of other institutions, or pursuit of objectives whose only merits are popular and temporary appeal, are courses that have proven themselves unsuitable at best.

During 1985 CFAB's foundations were strengthened, its structural weaknesses were addressed, and a framework for more effective and meaningful service to borrower-owners was established. Many of those actions had an immediate and high level of visibility, while others will attain significance over a period of time. Some of the more important events or actions were:

- The closure of regional service offices in Cordova, Homer, Ketchikan, and Kodiak.
- The development of a differential interest rate program, under which unusually creditworthy borrowers may be offered lower interest rates.
- Introduction of a new Class B Preferred Stock program, effective January 1, 1986, which provides for an investment of genuine risk capital by CFAB's borrower-owners.
- A determined and ongoing effort to permanently reduce and better control CFAB's basic overhead expenses.
- Elimination of allocated patronage credits from earlier year's operations, reducing the amount of the

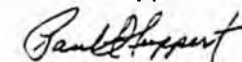
1984 loss carried on CFAB's books. While this appeared on the surface to be destructive to the interests of the holders of those credits, the action actually created opportunities for those members to realize cash benefits from an asset of undeterminable value with the extent of the benefit depending upon the members' respective Federal income tax situations.

- Establishment of a modified level payment program for many kinds of loans, enabling borrowers to make more reliable provisions for cash requirements.
- A special, one-time, arrangement for a professional qualitative review and analysis of CFAB's total loan portfolio by the State of Alaska's bank examiners.

We urge you to mark the appropriate date on your calendar now.

A major disappointment during 1985 was the failure to achieve a quorum at CFAB's annual meeting. Our conclusion has been that the failure was due not to apathy on the part of members, but rather to the difficulty and expense for members throughout Alaska to attend an annual meeting at a single location. Accordingly, the Board of Directors has decided to hold CFAB's 1986 annual meeting in three sessions, with appropriate recesses, and at three different locations: October 9 at Ketchikan, October 11 at Anchorage, and October 13 at Cordova. We urge you to mark the appropriate date on your calendar now. Furthermore, due to a coincidence of events in 1985 and early 1986, it is necessary that all five of CFAB's elected director positions be subject to election in 1986. The nomination process for director candidates will begin in mid-1986, and it is vitally important that each CFAB member take an interest, and play an active role, in the election of qualified directors.

Paul A. Huppert



Chairman, Board of Directors

Edward E. Crane



President

Balance Sheets

	December 31,	
	1985	1984
Assets		
Cash	\$ 106,773	\$ 123,331
Certificates of deposit	3,200,000	8,827,865
Loans, net of allowance for loan losses of \$3,441,130 and \$5,317,621	62,495,806	89,489,042
Accrued interest receivable:		
Certificates of deposit	44,144	112,306
Loans	2,071,202	3,092,629
Investment in Spokane Bank for Cooperatives	5,252,423	4,738,734
Bank premises, furniture and equipment, net	471,503	648,231
Acquired assets held for resale	1,006,164	2,361,305
Other assets	90,563	502,048
	<u>\$75,338,578</u>	<u>\$109,895,491</u>
Liabilities		
Accounts payable and accrued expenses	\$ 308,016	\$ 372,016
Accrued interest payable	416,780	2,369,853
Notes payable	48,268,294	80,574,285
	<u>48,993,090</u>	<u>83,316,154</u>
Commitments and Contingent Liabilities (Note H)		
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 65,845 and 95,177 shares	6,584,500	9,517,700
Loans receivable on Class B preferred stock	(6,584,500)	(9,517,700)
Class A membership stock, \$10 par value, authorized 10,000 shares, outstanding 931 and 888 shares	9,310	8,880
	<u>31,809,310</u>	<u>31,808,880</u>
C Stock retirement pool	92,152	10,260
Capital in excess of par value	82,980	79,110
Contributed capital	144,626	144,626
	<u>32,129,068</u>	<u>32,042,876</u>
Allocated undistributed patronage earnings	1,045,365	4,514,237
Unallocated undistributed patronage loss	(6,828,945)	(9,977,776)
	<u>26,345,488</u>	<u>26,579,337</u>
	<u>\$75,338,578</u>	<u>\$109,895,491</u>

See notes to financial statements

Touche Ross & Co.

January 31, 1986

Board of Directors
Alaska Commercial Fishing and
Agriculture Bank
Anchorage, Alaska

We have examined the balance sheets of Alaska Commercial Fishing and Agriculture Bank as of December 31, 1985 and 1984, and the related statements of operations, changes in capital and allocated/unallocated undistributed patronage earnings (loss), and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Alaska Commercial Fishing and Agriculture Bank as of December 31, 1985 and 1984, and the results of its operations and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Touche Ross & Co.

Certified Public Accountants

Statements of Changes in Capital and Allocated, Unallocated, Undistributed**Patronage Earnings (Loss)**

	Share Capital	C Stock Retirement Pool	Capital in Excess Of Par Value
Balance, January 1, 1984.....	\$31,808,250	\$ —	\$73,710
Issuance (redemption) of stock during the year:			
Class B preferred stock, 8,655 shares, net.....	1865,500		
Class A stock, 60 shares.....	600		5,400
C stock retirement pool:			
Class B preferred stock assessments.....		59,507	
Less: Assessments receivable.....		(79,247)	
Reduction in loans receivable on Class B preferred stock	805,500		
Loan principal charged against allocated undistributed patronage.....			
Unallocated undistributed patronage loss.....			
Balance, December 31, 1984	<u>\$31,808,850</u>	<u>10,260</u>	<u>79,110</u>
Issuance (redemption) of stock during the year:			
Class B preferred stock, 293,230 shares, net.....	12,933,200		
Class A stock, 43 shares.....	430		3,570
Reduction in loans receivable on Class B preferred stock	2,933,200		
C stock retirement pool:			
Class B preferred stock assessments.....		171,396	
Less: Assessments receivable.....		(189,500)	
Loan principal charged against allocated undistributed patronage earnings.....			
Unallocated undistributed patronage earnings.....			
Allocation to unallocated undistributed patronage loss.....			
Balance, December 31, 1985	<u><u>\$31,809,310</u></u>	<u><u>\$92,152</u></u>	<u><u>\$82,630</u></u>
See notes to financial statements			

Statements of Operations

	<u>Year Ended December 31,</u>	
	1985	1984
Interest Income:		
Interest on loans.....	\$10,141,090	\$ 11,992,708
Interest on certificates of deposit.....	<u>362,767</u>	<u>918,081</u>
	<u>10,503,857</u>	<u>12,910,789</u>
Interest expense.....	6,267,003	8,386,607
Loss on assets held for resale.....	91,127	72,356
Provision for loan losses.....	1,234,930	11,241,619
	<u>7,593,060</u>	<u>19,700,582</u>
	<u>2,910,797</u>	<u>(6,789,793)</u>
Other Expenses:		
Salaries and benefits.....	1,705,780	1,785,281
Occupancy expense.....	252,300	260,544
Office operations.....	126,717	201,133
Advertising and promotion.....	79,922	197,182
Travel, lodging and meals.....	136,675	192,661
Depreciation and amortization.....	160,279	180,127
Professional fees.....	150,191	148,654
Telephone and postage.....	87,238	114,774
Directors' fees.....	46,954	71,113
Miscellaneous.....	50,554	36,514
	<u>2,796,610</u>	<u>3,187,983</u>
Unallocated undistributed patronage earnings (unallocated undistributed patronage loss) before income tax expense and extraordinary credit.....	114,187	(9,977,776)
Income tax expense.....	32,200	_____
Unallocated undistributed patronage earnings (unallocated undistributed patronage loss) before extraordinary credit.....	81,987	(9,977,776)
Extraordinary credit -- utilization of net operating loss carryforward.....	32,200	_____
Unallocated undistributed patronage earnings (unallocated undistributed patronage loss) (Note G).....	\$ 114,187	\$ (9,977,776)

See notes to financial statements

Statements of Changes in Financial Position

	<u>Year Ended December 31,</u>	
	1985	1984
Source of Funds:		
From Operations —		
Allocated undistributed patronage earnings		
(unallocated undistributed patronage loss).....	\$ 114,187	\$ (9,977,776)
Items not requiring the use of funds:		
Depreciation and amortization.....	160,279	180,127
Provision for loan loss.....	1,234,930	11,241,619
Gain on sale of assets.....	(839)	
Funds provided from operations.....	<u>1,508,557</u>	<u>1,443,970</u>
Net proceeds from sale of assets.....	20,924	
Net proceeds from stock issuance.....	4,300	6,000
Decrease in cash.....	16,558	568,945
Decrease in certificates of deposit.....	5,627,865	
Decrease in acquired assets held for resale.....	755,141	
Decrease in loans.....	28,869,727	8,800,349
Decrease in other assets.....	411,485	
Decrease in accrued interest receivable.....	1,089,589	2,634,426
Increase in accrued interest payable.....		244,769
Increase in notes payable.....		1,167,917
Increase in Class B preferred stock assessments, net.....	81,892	10,260
	<u>\$38,386,038</u>	<u>\$14,876,636</u>
Use of Funds:		
Loans charged off, net of recoveries.....	\$ 3,111,420	\$ 10,063,534
Loan principal charged against allocated undistributed patronage earnings.....	434,228	250,681
Increase in certificates of deposit.....		827,865
Increase in investment in Spokane		
Bank for Cooperatives.....	513,689	1,030,091
Increase in bank premises, furniture and equipment.....	3,637	106,400
Increase in acquired assets held for resale.....		2,148,813
Increase in other assets.....		275,644
Decrease in accounts payable and accrued expenses.....	64,000	131,348
Decrease in accrued interest payable.....	1,953,073	
Decrease in notes payable.....	32,305,991	
Decrease in patronage dividend payable.....		42,260
	<u>\$38,386,038</u>	<u>\$14,876,636</u>

See notes to financial statements

<u>Contributed Capital</u>	<u>Allocated Undistributed Patronage Earnings</u>	<u>Unallocated Undistributed Patronage Earnings</u>	<u>Unallocated Undistributed Patronage Loss</u>	<u>Total</u>
\$144,626	\$4,764,918	\$ —	\$ —	\$36,791,534
				(865,500)
				6,000
				89,507
				(79,247)
				865,500
	(250,681)			(250,681)
			(9,977,776)	(9,977,776)
<u>144,626</u>	<u>4,514,237</u>	<u>—</u>	<u>(9,977,776)</u>	<u>26,579,337</u>
				(2,933,200)
				4,300
				2,933,200
				171,398
				(89,506)
	(434,228)			(434,228)
		114,187		114,187
	(3,034,644)	(114,187)	3,148,831	
<u>\$144,626</u>	<u>\$1,045,365</u>	<u>\$ —</u>	<u>\$ (6,828,945)</u>	<u>\$26,345,488</u>

Notes to Financial Statements *continued*

Activity in the allowance for loan losses is as follows:

	December 31.	
	1985	1984
Balance at beginning of year.....	\$ 5,317,621	\$ 4,139,536
Charged to expense.....	1,234,929	11,241,619
Recoveries on loans previously charged off.....	<u>374,889</u>	<u>470,093</u>
	6,927,439	15,851,248
Loans charged off.....	<u>(3,486,309)</u>	<u>(10,533,627)</u>
Balance at end of year.....	<u>\$ 3,441,130</u>	<u>\$ 5,317,621</u>

CFAB serves the financial needs of the commercial fishing and agricultural industries in the State of Alaska. These industries are subject to seasonal and cyclical fluctuations which could affect the borrowers' ability to repay loans on a timely basis.

Related Party Loans: In the ordinary course of business, CFAB

makes loans to members who serve on CFAB's Board of Directors. Loans to members who serve on the Board of Directors must be approved by the SBC. Total loans to these members were \$1,613,378 and \$3,182,794 in 1985 and 1984, respectively.

Note C — Bank Premises, Furniture And Equipment:

The following represents a classification of bank premises, furniture and equipment by major category:

	December 31.	
	1985	1984
Furniture, fixtures and equipment.....	\$ 889,432	\$ 976,203
Leasehold improvements.....	<u>147,202</u>	<u>147,202</u>
	1,036,634	1,123,405
Less accumulated depreciation and amortization.....	<u>(565,131)</u>	<u>(475,174)</u>
	<u>\$ 471,503</u>	<u>\$ 648,231</u>

Note D — Notes Payable:

Notes payable consisted of the following:

	December 31.	
	1985	1984
Spokane Bank for Cooperatives (SBC) seasonal loan, credit line of \$29,000,000 expiring on April 1, 1986, bearing interest at 10.25% at December 31, 1985 (interest paid quarterly based upon floating rates).....	\$ 1,020,081	\$ 15,535,000
SBC matched funds short-term notes with interest rates ranging from 8.7% to 9.1% maturing at various dates in 1986.....	19,200,000	35,000,000
SBC long-term notes including matched funds with interest rates ranging from 10.544% to 11.75% maturing at various dates to January, 1993.....	28,000,000	30,000,000
Other notes payable and capitalized equipment leases with various interest rates and maturity dates.....	<u>48,213</u>	<u>39,285</u>
	<u>\$48,268,294</u>	<u>\$80,574,285</u>

The loans are secured by substantially all CFAB assets

Notes to Financial Statements**Note A — Summary of Significant Accounting Policies:**

Operations: The Alaska Commercial Fishing and Agriculture Bank (CFAB) was incorporated on May 4, 1979 to promote growth of Alaska agriculture and fishing by providing debt financing to resident-owned businesses engaged in harvesting, processing or marketing, and to promote its own growth as a strong user-oriented institution through cooperative ownership and self-governance.

CFAB is a cooperative corporation and intends to refund any allocated undistributed patronage earnings at such time as the Board of Directors finds that the financial condition of CFAB will so permit.

Interest on loans: The accrual of income on loans is discontinued when interest or principal is contractually past due more than 90 days.

Patronage dividends: Patronage dividends received from Spokane Bank for Cooperatives (SBC), of which CFAB is a member, reduce interest expense to SBC in the year declared.

Allowance for loan losses: The allowance for loan losses is based upon specific identification of known uncollectible loans and a general reserve for those loans not specifically identified.

Acquired assets held for resale: Acquired assets held for resale include those assets acquired through foreclosure. These assets are carried at the lower of fair market value or the recorded investment in the related loan. Holding costs are expensed when incurred unless such costs increase the fair market value of the asset.

Bank premises, furniture and equipment: Bank premises, furniture and equipment are stated at cost less accumulated depreciation and amortization. Depreciation and amortization are charged to operations by use of the straight-line method over estimated useful lives of three to ten years. Expenditures for maintenance and repairs are charged to operating expense as incurred. Expenditures for renewals or improvements which extend the life of an asset are capitalized at cost and depreciated as stated above. Upon sale, retirement or other dispositions of property, the cost and accumulated depreciation are removed from the respective accounts and the resulting gain or loss is recorded in income.

Income taxes: Amounts provided for income tax expense are based on earnings reported for financial statement purposes, rather than on the taxable income shown on the corporate income tax return. These amounts may differ because certain items are recorded as income or expense in different years for financial statement and tax return purposes.

CFAB uses the flow-through method of accounting for investment tax credits, which results in a reduction of income taxes in the year credits are utilized. That portion of investment tax credit not utilized in any year is not available for carryforward to a cooperative organization.

Reclassifications: Certain reclassifications have been made to the 1984 financial statements to conform with 1985 presentation.

Note B — Loans:

CFAB's loan portfolio by major category is as follows:

	<u>December 31,</u>	
	1985	1984
Vessels	\$34,135,387	\$46,450,679
Fish processors	14,172,810	29,506,571
Agriculture and timber	16,221,453	19,110,057
Gear, entry permits, and other	<u>7,991,786</u>	<u>9,257,056</u>
	72,521,436	104,324,363
Less loans receivable on Class B preferred stock	<u>(6,584,500)</u>	<u>(9,517,700)</u>
	65,936,936	94,806,663
Less allowance for loan losses	<u>(3,441,130)</u>	<u>(5,317,621)</u>
	<u>\$62,495,806</u>	<u>\$89,489,042</u>

The loan portfolio includes loans which have been classified as nonaccrual. Nonaccrual loans by major category are as follows:

	<u>December 31,</u>	
	1985	1984
Fish processors	\$ 5,246,914	\$15,069,775
Vessels	4,480,381	5,956,277
Agriculture and timber	3,740,558	8,934,494
Gear, entry permits and other	<u>2,185,492</u>	<u>2,018,900</u>
	<u>\$15,653,345</u>	<u>\$31,979,446</u>

Unallocated Undistributed Patronage Loss: At December 31, 1984 Alaska Commercial Fishing and Agriculture Bank's financial statements reflected an unallocated undistributed patronage loss in the amount of \$9,977,776. During 1985, in accordance with Alaska Commercial Fishing and Agriculture Bank by-laws, the Board of Directors acted to reduce that amount as follows: 1) by allocating \$3,034,644 to allocated undistributed patronage earnings of prior years; and 2) by charging \$114,187 to 1985 unallocated undistributed patronage earnings. At December 31, 1985 the remaining unallocated undistributed patronage loss amount was \$6,828,945.

Class C Stock Repurchase Plan: In accordance with AS 44.81.010(b), on or before July 20, 2000, CFAB is required to repurchase its Class C stock issued to the State of Alaska. On November 10, 1982 an agreement was signed with the State of Alaska outlining the principles of a plan which calls for the repurchase of outstanding Class C stock with CFAB capital funds to be provided by CFAB's member-borrowers over a period of future operations. On December 12, 1983, CFAB implemented its Class C Stock Redemption Program.

Note H — Contingencies and Commitments:

Contingencies: CFAB is a defendant in several legal actions arising from normal business activities including actions related to delinquent loans and foreclosures. CFAB reserves for potential losses on delinquent loans as described in Note A. As to litigation outside of delinquencies and foreclosures, management believes that those actions are without merit or that the ultimate liability, if any, resulting from them will not materially affect CFAB's financial position or its results of operations.

Commitments: CFAB has entered into certain noncancelable long-term operating lease agreements for buildings. Rental expense under these leases totaled \$231,549 and \$234,076 for the years ended December 31, 1985 and 1984, respectively. Minimum annual lease payments are as follows:

<u>Year Ending December 31,</u>	<u>Amount</u>
1986	\$68,000
1987	27,000
1988	8,000

Notes to Financial Statements *continued*

Principal payments required on notes payable are as follows:

<u>Year Ending December 31.</u>	<u>Amount</u>
1986	\$23,268,294
1987	15,000,000
1988	—
1989 and beyond	10,000,000

SBC's matched funding loan program allows CFAB to borrow both short-term and long-term funds under its established line-of-credit at fixed rates of interest, generally providing a lower cost of funds.

CFAB must invest in SBC's Class C stock in an amount equal to at least 5% of the cumulative average loan balance maintained with SBC. The amount of CFAB's investment in SBC's Class C stock and equity in allocated surplus was \$5,252,423 and \$4,738,734 at December 31, 1985 and 1984, respectively.

Note E — Income Taxes:

During the year ended December 31, 1985, \$3,035,000 of unallocated undistributed patronage loss was allocated to patrons. As a result of this allocation, and the use of the loss to offset current year patronage earnings, the remaining unallocated undistributed patronage loss for financial statement purposes is \$6,830,000.

There was no income tax benefit from the unallocated undistributed patronage loss for the year ended December 31, 1984.

Note F — Pension and Profit Sharing Plans:

CFAB has pension and profit sharing plans covering substantially all employees. The total cost charged to operations for 1985 and 1984 was \$58,372 and \$82,736, respectively.

A comparison of accumulated plan benefits and plan net assets as of January 1, 1985 and 1984 of the Company's defined benefit plan is as follows:

	1985	1984
Actuarial present value of accumulated plan benefits:		
Vested	\$ —	\$ 702
Nonvested	—	—
	<u>\$ —</u>	<u>\$ 702</u>
Net assets available for benefits	<u>\$ 28,244</u>	<u>\$ 27,138</u>
Assumed rate of return used in determining actuarial present value of accumulated plan benefits	<u>8%</u>	<u>8%</u>

Information with respect to the actuarial computed value of vested benefits and pension fund assets as of December 31, 1985 is not available.

Note G — Capital and Patronage Earnings:

Share Capital: Shares purchased by the State of Alaska must be repurchased by CFAB on or before July 20, 2000.

Preferential shareholders' rights on dissolution are attached in the order of Class C, Class B and Class A.

The following rights apply to the three categories of stock:

Class C - No voting or dividend rights. May only be issued to the State of Alaska.

Class B - No voting rights. Class B stock may only be held by members of CFAB, and dividends paid shall not exceed \$10 per share annually. Prior to December 31, 1985 all loans required a purchase of Class B stock in an amount equal to 10% of the loan balance; however, this purchase was not funded but was evidenced by notes. On loans made subsequent to December 31, 1985, each borrower will be required to make a cash purchase of Class B stock in an amount equal to 5% of the total loan. This investment will remain in place until retired by the Board of Directors.

Class A - No dividend rights. Each member of CFAB must own one share of Class A stock. Each share of stock carries one vote. To vote, a member must be engaged in commercial fishing or agriculture and must be a current borrower or have borrowed from CFAB during the preceding two years or have a minimum retained patronage earnings with CFAB of \$2,500.

Board of Directors and Staff

Board of Directors

Paul A. Huppert
Chairman

Robert Waldrop
Vice Chairman

Thomas E. Thompson
Secretary/Treasurer

Roseleen "Snooks" Moore
Director
(Resigned April 1986)

Dale R. Philman
Director

Harvey H. Samuelsen
Director

Hyoung "Henry" Kim
Director
(Appointed February 1986)

Gilbert Gunderson
Director
(Appointed April 1986)

Staff

Iver H. Amundsen
Assistant Vice President

Karol A. Askerman
Assistant Vice President

Karl D. Barnard
Vice President

Cynthia D. Blush
Senior Bookkeeper

Darleen S. Church
Vice President

Robert H. Clark
Assistant Vice President

Edward E. Crane
President

John W. Enge
Fisheries Analyst

Terrence H. Hayden
Assistant Vice President

Judy A. Metcalf
Receptionist

Sharon A. Morgan
Secretary

Deanne L. Osha
Documentation & Information Specialist

Daydra R. Presley
Communications Manager

David G. Rogers
Senior Vice President

Chianne G. Sanchez
Executive Secretary

Douglas W. Sindt
Data Processing Supervisor

Lora C. Smith
Senior Bookkeeper

Deborah A. Tosch-Price
Documentation Paralegal

Godelieve C. Van Lint
Courier

DeLories M. vonGemmingen
Executive Secretary



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

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

DURING SESSION:

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

DISTRICT N

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

SECTIONAL ANALYSIS

Senate Bill No. 8 -- "An Act relating to the Commercial Fishing and Agriculture Bank".

SECTION 1

44.81.010(a): Exempts CFAB from the provisions of the Alaska Cooperative Corporation Act (AS 10.15), since the act was not written to apply to cooperative banking institutions such as CFAB. CFAB is governed by its own separate statute (Title 44, Chapter 81), and should not be subject to possible amendments to AS 10.15. CFAB is already exempt from the Alaska Banking Code (AS 06.05).

SECTION 2

44.81.020(a): Deletes language that at least one of the Alaska farmer members of the board have "at least 10 years of Alaskan farm experience". Requirement is difficult to meet and, based on CFAB's experience, unnecessary. Deletes outdated language pertaining to board appointments.

SECTION 3

44.81.090: Amends statute to allow for removal of members of the board of directors who release confidential information in violation of AS 44.81.260 (Confidentiality of CFAB records), who commit "serious ethical misconduct", or who maintain "a chronically and irredeemably substandard borrowing relationship with the bank". Removal occurs upon a unanimous vote of the remaining members of the board. Deletes outdated language pertaining to board appointments.

SECTION 4

44.81.210(a)(20): Deletes language duplicated from state loan program statutes requiring loan applicants to have experience in the fishery for which they are applying for a loan. As a private institution, CFAB should be free to evaluate loan applications based on its own objective credit standards.

SECTION 5

44.81.210(a)(22):

Deletes unnecessary language. The conditions regarding the acceptance of a pledge of a limited entry permit as security for a loan are spelled out in Section 6.

SECTION 6

44.81.235:

New section. Expands the purposes for which a limited entry permit may be accepted as collateral. Currently, a permit may be pledged as security on a loan to purchase the permit, and for (1) and (2) -- "purchase, repair, restoration, or improvement of a commercial fishing vessel or commercial fishing gear" and "construction of a commercial fishing vessel". Language added -- (3) and (4) -- so permits may also be used to secure loans for "working capital, including insurance premiums, fuel, bait, and boat storage and launching expenses;" and "purchase and improvement of set net sites and associated equipment". Allows a permit to be used as security for more than one loan, and to refinance existing debt on the items listed above. Allows a fisherman to use a permit for one fishery to secure funds to use in another fishery. Expands slightly the exception CFAB was granted to AS 16.43.150, which prevents anyone (except the state or CFAB) from legally seizing a permit-holder's permit. This section would allow fishermen more flexibility in their business plans. Under limited circumstances, they would have a new asset to use to leverage funds for their operations. The circumstances are limited because CFAB -- with its special statutory relationship to the fishing industry -- would still be the only private institution with the ability to accept permits as collateral.

SECTION 7

44.81.270:

Adds new subsections.

(b)

Requires an annual independent audit. Legislative auditor may confer with and review the workpapers of the independent auditor. Legislative auditor may only conduct an audit at the direction of the Legislative Budget and Audit Committee (AS 24.20.271).

(c)

Requires state bank examiners to perform "an annual qualitative examination and evaluation of the bank", for the standard fee. Outlines what the examination and evaluation shall include.



2550 Denali Street, Suite 1201
P.O. Box 4-2070
Anchorage, Alaska 99509-2070
(907) 276-2007

March 19, 1986

Senator Fred F. Zharoff
Alaska State Legislature
Box 7 (M.S. 3100)
Juneau, Alaska 99811

Dear Senator Zharoff:

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 Fred F. Zharoff
March 19, 1986
Page 2 of 8

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 Fred F. Zharoff
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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 CFAB 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 th's 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.

X
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 Fred F. Zharoff
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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

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\$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.

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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

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Ed Crane, CFAB *Ed Crane*

DATE: March 19, 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.

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.



2550 Denali Street, Suite 1201
P.O. Box 4-2070
Anchorage, Alaska 99509-2070
(907) 276-2007

January 26, 1987

Mr. Mark Johnson
Counsel, Senate Labor & Commerce Committee
Box V (M.S. 3100)
Juneau, Alaska 99811

Dear Mr. Johnson,

Thank you for your letter of January 21, received today. I assume the Committee is interested in the financial impact on the State.

The financial impact of SB 8 and SB 9 can be addressed fairly definitely from a cost standpoint; a discussion of the potential financial benefits requires speculation.

With regard to SB 8, only Section 7(c) bears cost implications for the State. This paragraph subjects CFAB to an annual examination by the state bank examiners, and provides for CFAB to pay for that examination at the statutorily established rate (currently \$7,500) for other State-chartered financial institutions. To the extent that the cost of such an examination might exceed \$7,500, the State would be under-reimbursed by CFAB. The scope and nature of CFAB's activities are narrow, and much more limited than those of other institutions, so I would expect any net cost implications to be minimal (compared to those for other examinations). We believe strongly that it is in the State's interest to have the benefit of this regular professional and qualitative evaluation of the assets which represent CFAB's application of the funds invested by the State.

SB 9 bears no cost implications for the State. It should be noted that SB 9 is identical to two bills (HB 579 and SB 410) which were considered by the 1986 legislature with \$0 fiscal notes.

I hesitate to claim, and could not support, projection of specific amounts of financial benefits; they can only be addressed as "opportunities." Sections 1, 2, and 3 of SB 8 are "housekeeping" matters only, with significance internal to CFAB. Sections 4, 5, and 6 (all interrelated) of SB 8, and SB 9 in its entirety, broaden the circumstances and the market in which CFAB may make loans. CFAB's lending activities produce net income which, through various mechanisms, ultimately increases the value of the State's investment and incrementally enhances the liquidity which must be achieved for that investment to be retired. Furthermore, diversification or

Mark K. Johnson
January 26, 1987
Page 2

broadening of any kind tends to stabilize and strengthen CFAB, which in turn diminishes the threat of loss of that investment. Also, of course, to the extent that any CFAB loan made under SB 9 permits or encourages the maintenance of shorebased processing facilities which might otherwise be closed, there would be a variety of indirect financial benefits to the State. Finally, having said all that, I must acknowledge that CFAB operates in a competitive environment and that even though SB 8 and SB 9 may create new business opportunities, we cannot assert that we will achieve any particular level of success in making new loans.

It is our understanding that SB 8 and SB 9 will be heard in the Senate Labor and Commerce Committee on January 28; I plan to attend that session and will be pleased to respond to additional questions.

Very truly yours,



Edward E. Crane
President

EEC:1444V

SB

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January 28, 1987

Proposed amendment to SB 64, Section 7(c):

"(c) A participating banking organization is a banking institution operating under AS 06 or AS 44.81, an agency or branch of a foreign banking corporation licensed by the state, a national bank, federal savings and loan association, or federal credit union located in the state, that has been approved by the members of the authority to participate in guaranteed funding for an eligible export transaction."

This amendment effectively adds Alaska Commercial Fishing and Agriculture Bank (CFAB) to the many kinds of financial institutions which might be approved by the authority for participation.

The Legislative Findings and Purposes in connection with AS 44.81, which established CFAB, do not specifically address export activities but have an underlying theme of maximizing the development, utilization, and economic returns of CFAB's mandated industries. Export activities are of increasing significance to those industries, and the State of Alaska has invested \$31.8 in base capital of CFAB; it seems inconsistent with the State's interest and intents to exclude CFAB from a potential approval for participation in the program contemplated by SB 64.

1446V



SENATOR FRED F. ZEAROFF
ALASKA STATE LEGISLATURE

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

DURING SESSION:

POUCH V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 485-3474 • 485-3844 (Labor and Commerce Committee)

DISTRICT N

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

SECTIONAL ANALYSIS

Senate Bill No. 9 -- "An Act relating to financing of fish processors and agricultural and timber processors and harvestors by the Commercial Fishing and Agriculture Bank."

SECTION 1

LEGISLATIVE FINDINGS.

- (1) Fish processing, agricultural and timber facilities, regardless of ownership, are important to Alaska.
- (2) Regardless of ownership, they contribute to Alaska's economy.
- (3) Regardless of ownership, they provide jobs for Alaska residents.

SECTION 2

44.81.210(c): New subsection. Allows CFAB to make loans to businesses engaged in shorebased fish processing, timber processing or harvesting, or agricultural processing and harvesting that are not majority owned by Alaskan residents. CFAB would have access to a broader market in which to make loans. The companies, however, must be majority owned by U.S. residents, not foreign interests.

Prepared by Karl Ohls,
Office of Senator Zharoff

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

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Prepared by Karl Ohls,
Office of Senator Zharoff

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**
OFFICE OF COMMERCIAL FISHERIES DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
Phone: (907) 465-2018

February 12, 1987

M

Honorable Tim Kelly
Chairman
Senate Labor and Commerce
Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Re: SB 9 - Enlarging CFAB's lending base

CFAB was created to assist the development of the renewable resource industries, and its mission was initially limited to lending to Alaskan owned businesses. Since the initial legislation was passed, changes have been made to clarify CFAB's relationship to the state and to put it on its own two feet. It is now a cooperative bank with initial capitalization provided by the state which must be paid back in full. This office supports the expansion of CFAB's lending base for three major reasons.

First, CFAB serves an important function to the industry. Access to capital and financing are often impediments to fisheries development in Alaska, particularly to young, growing Alaskan processing companies. It is difficult to develop the necessary expertise. Those who do get involved limit their involvement to the most creditworthy applicants involved in the lowest risk fisheries. The recent crash in king crab has exacerbated that tendency. This makes it very difficult to finance developing fisheries, especially for Alaskans, who frequently don't have a lot of other assets to pledge.

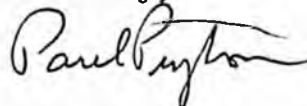
Few banks are active in the fishing industry, due to the risk involved and the complexity of the business. Yet, at one time or another, virtually every Alaskan owned processing company has had a loan with CFAB. CFAB has accumulated considerable experience in fisheries and is working to develop more. It is well positioned, if it can offer reasonable rates, to play a significant role in developing fisheries. It can, of course, adjust loan terms to account for risk. To do this, however, it needs a base of "surer" borrowers.

February 12, 1987

Secondly, CFAB needs to lower its rates to attract the more credit-worthy borrowers who have alternatives. Right now, its rates are quite high by comparison. To provide reasonable cost loans to the industry, it must expand its lending base to larger loans, which have lower costs, and it must be able to attract lower cost lending capital. It is now dependent for lending capital on the Farm Credit system, which has many problems and expensive money. Commercial banks will lend CFAB money at lower rates but will want to see a broader lending base with larger and more proven companies than can be provided just using Alaskan owned operations. Thus, for CFAB to better serve the Alaskan sector of the industry, it needs access to more of the industry. Note that it would be limited to lending to shorebased operations only.

Third, CFAB needs to be given a chance to repay the state's investment. The limits the state has placed on the lending base will make it difficult for CFAB to either serve its intended clients or to repay the state its initial investment. That situation should clearly be rectified. Thus, though initially it appears contradictory for a state capitalized institution to provide services to nonresidents, it is necessary, if CFAB is to be a competitive and viable financial institution capable of serving those it was originally intended to serve.

Sincerely,



Paul Peyton
Director

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BR

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-0862



TO: LABOR AND COMMERCE COMMITTEE
FROM: SENATOR JACK COGHILL 
DATE: FEBRUARY 18, 1987
RE: SB 10 ALASKA RAILROAD RIGHT-OF-WAY

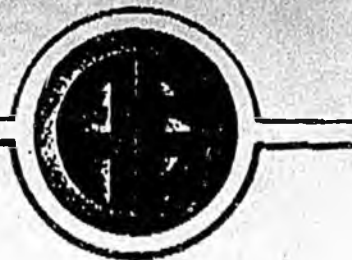
SB 10 repeals Section 42.40.355 of the Alaska Railroad Act. This sub-section prohibits the railroad from applying for rights-of-way in the western unit of the Gates of the Arctic National Preserve under 16 U.S.C. 410hh(4)(b)-(e). 16 U.S.C., etc., refers to Chapter 11 of the ANILCA Act. Chapter 11 allows the State of Alaska to apply for access across or into national parks and preserves if the appropriate requirements are met.

This bill would provide the Alaska Railroad Corporation with the flexibility to study and plan for future railroad extension into an important mineral and resource rich area of the state.

Frank Turpin, President and CEO of the Alaska Railroad Corporation, favors repeal of A.S. 42.40.355. He states in a letter to me: "The legislature has previously found that the Corporation must function as a viable economic entity, which will also provide a level of transportation service that best satisfies the needs of the people of the State. Although any proposed extension of the rail system calls for careful scrutiny consistent with such Legislative purposes, by promoting flexibility, SB 10 meshes well with our desire to responsibly plan for the future."

I urge you to pass this bill as one step toward future resource development.

ALASKA RAILROAD CORPORATION



Pouch 7-2111 • Anchorage, Alaska 99510-7069

April 30, 1985

The Honorable John B. "Jack" Coghill
Alaska State Legislature
Pouch V
Juneau, AK 99811

Subject: SB 303

Dear Senator Coghill:

Thank you for inviting our response to Senate Bill 303, which proposes repeal of A.S. 42.40.355.

As you know, A.S. 42.40.355 provides that the Corporation may not apply for a right-of-way across, or exercise eminent domain in, the western unit of the Gates of the Arctic National Preserve.

Among the many powers assigned to it, the Corporation is authorized to plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system. We support Senate Bill 303, because it creates a flexibility to plan for extensions in an important part of our State.

The Legislature has previously found that the Corporation must function as a viable economic entity, which will also provide a level of transportation service that best satisfies the needs of the people of the State. Although any proposed extension of the rail system calls for careful scrutiny consistent with such Legislative purposes, by promoting flexibility, SB 303 meshes well with our desire to responsibly plan for the future.

Sincerely,

F. G. Turpin
President and Chief Executive Officer

SB

14

**STATE OF ALASKA
1988 LEGISLATIVE SESSION**

BILL VERSION: SB 14
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: January 22, 1988
Title: An Act relating to the interest
rate on commercial fishing loans
Sponsor: Kerttula
Requester: _____

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

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	[154.4]	[308.8]	[463.2]	[617.6]
---------	-----	-----	---------	---------	---------	---------

FUNDING: (Thousands of dollars)

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

POSITIONS:

FULLTIME						
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would reduce the interest rate charged on commercial fishing loans from 10.5% to 9%.

(CONTINUED - NEXT PAGE)

Prepared by: Martin J. Richard, Director Phone: 465-2510
Division: Investments Date: January 22, 1988

Approved by Commissioner: J. Anthony Smith Date: 1-26-88
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

page 1 of 2

0686D-1/12288a

SB 14, "An Act relating to the interest rate on commercial fishing loans

ANALYSIS: (CONTINUED)

The assumptions used in developing this fiscal note are as follows:

1. An effective date of July 1, 1988.
2. An annual investment of \$14.5 million in new loans.
3. An average loan term of 11.5 years.
4. Payments made on loans made in FY 89 are not due until FY 90.

Based on an average loan size of \$57,650.00, the annual payment required at 9% would be \$614.00 less (\$8,866.00 vs. \$8,252.00) than at the existing rate of 10.5%. Revenues would be reduced \$154.4 in FY 90, with an increasing cumulative effect in all years thereafter.

For every \$14.5 million invested, a 1.5% reduction in interest would result in approximately \$1.8 million in lost revenue to the state over the life of those loans.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

COMMERCIAL FISHING LOAN PROGRAM
Alaska Statutes 16.10.310-370

SECTION A
(Limited Entry Permit Loans to Individuals)

WHAT IS THIS LOAN PROGRAM FOR?

If you are interested in buying a limited entry permit, this program may provide financial assistance. If you receive a loan under this section, you will not be able to borrow under section B of this program in the future.

WHO CAN APPLY FOR A LOAN?

An individual who is 18 years old or older, is a two-year resident of Alaska, and has experience in a commercial fishery during three of the last five years, including the season prior to filing a loan application, may apply for a loan.

HOW MUCH CAN BE BORROWED?

Depending upon your needs, up to \$300,000 can be borrowed.

WHAT IS THE INTEREST RATE?

An interest rate of 10½% per year will be charged on the outstanding loan balance.

HOW MUCH TIME IS ALLOWED TO REPAY THE LOAN?

You may be allowed up to 15 years to repay the loan.

IS COLLATERAL REQUIRED?

The State will require collateral, such as a security interest in the limited entry permit, until the loan is repaid. Under certain circumstances, the State may require additional collateral.

WHERE CAN I APPLY FOR A LOAN?

For more information on this program or a loan application form, please contact the office located in your area:

Division of Investments
Pouch D
Juneau, Alaska 99811
Telephone: 465-2510

Division of Investments
3601 C Street, Suite 740
Anchorage, Alaska 99503
Telephone: 562-3779

Division of Investments
675 7th Avenue, Station A
Fairbanks, Alaska 99701
Telephone: 452-8182

Division of Investments
P.O. Box 370
Dillingham, Alaska 99576
Telephone: 842-1087

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

COMMERCIAL FISHING LOAN PROGRAM
Alaska Statutes 16.10.310-370

SECTION B
(Permit, Vessel and Gear Loans)

WHAT IS THIS LOAN PROGRAM FOR?

If you are interested in the repair, restoration, or upgrading of your vessel and gear, or in the purchase of a limited entry permit, gear, or vessel, this program may provide financial assistance if no other source of financing is available to you.

WHO CAN APPLY FOR A LOAN?

An individual who is 18 years old or older, and is a two-year resident of Alaska may apply for a loan if the individual, because of lack of training or employment opportunities is dependent upon commercial fishing, or is economically dependent upon commercial fishing for earning a living, and for whom commercial fishing has been a traditional Alaskan way of life. Two or more commercial fishermen may apply jointly to this program, except for the purchase of a permit.

HOW MUCH CAN BE BORROWED?

Up to \$100,000 can be borrowed.

WHAT IS THE INTEREST RATE?

An interest rate of 10½% per year will be charged on the outstanding loan balance.

HOW MUCH TIME IS ALLOWED TO REPAY THE LOAN?

You may be allowed up to 15 years to repay the loan.

IS COLLATERAL REQUIRED?

The State will require collateral, such as a security interest in the limited entry permit, the vessel or gear, until the loan is repaid.

WHERE CAN I APPLY FOR A LOAN?

For more information on this program or a loan application form, please contact the office located in your area:

Division of Investments
Pouch D
Juneau, Alaska 99811
Telephone: 465-2510

Division of Investments
3601 C Street, Suite 740
Anchorage, Alaska 99503
Telephone: 562-3779

Division of Investments
675 7th Avenue, Station A
Fairbanks, Alaska 99701
Telephone: 452-8182

Division of Investments
P.O. Box 370
Dillingham, Alaska 99576
Telephone: 842-1087

**SPECIAL REPORT 4
STATISTICS ON DCED LOAN PROGRAMS
(Thousands of Dollars)**

January 2, 1987

	Veterans	Small Business	Commercial Fish	Tourism	Bulk Fuel	Child Care	Hist Dist	Mining	Alternative Energy	Resid. Energy	Fish Enhance	Power Dev.	Water Resource	Total
COMMITMENTS														
Total No. Loans														
Committed FY 72-87	7,718	1,338	3,120 ³	59	231	62	12	71	2,944	2,232	133	5	5	17,930
Total Dollar Amount														
Committed FY 72-87	371,795.2	202,529.3	181,395.0 ³	29,874.7	8,357.2	2,175.6	1,345.4	28,428.4	19,299.6	8,346.5	52,577.8	193,847.0	2,500.0	1,102,469.7
Total No. Loans														
Committed FY 87	-0-	-0-	70 ³	-0-	14	3	1	-0-	10	2	9	1	-0-	110
Total Dollar Amount														
Committed FY 87	-0-	-0-	4,014.5 ³	-0-	351.4	150.0	250.0	-0-	88.8	8.6	1,804.3	1,000.0	-0-	7,667.6
APPROPRIATIONS														
FY 84	-0-	-0-	9,091.0	-0-	-0-	869.5	500.0	-0-	2,400.0	3,123.4	6,500.0	N/A	-0-	22,483.9
FY 85	-0-	-0-	3,500.0	-0-	-0-	-0-	-0-	-0-	1,000.0	-0-	5,000.0	210,000.0	-0-	219,500.0
FY 86	-0-	-0-	3,710.0	-0-	-0-	-0-	-0-	-0-	845.0	-0-	812.0	-0-	-0-	5,367.0
FY 87					64.0		400.0							464.0
LOANS OUTSTANDING														
Owned by Fund														
Number of Loans														
Outstanding	28	20	1,441	3	48	35	5	47	1,612	1,243	112	1	1	4,596
Principal Amount														
Outstanding	1,667.8	3,067.3	82,014.7	1,074.7	951.1	1,362.3	736.0	13,114.2	10,952.3	3,269.9	45,497.4	186,104.1	867.6	330,679.4
Average Loan Amount														
Outstanding	59.6	153.4	43.0	358.2	19.8	38.9	147.2	279.0	6.8	2.6	406.2	186,104.1	867.6	72.0
Serviced for AIDA														
Number of Loans														
Outstanding	1,592	201	324	7	N/A	1	3	N/A	N/A	N/A	11	N/A	N/A	2,139
Principal Amount														
Outstanding	69,204.8	17,473.6	11,378.1	914.7		6.9	97.7				6,134.2			105,210.0
Average Loan Amount														
Outstanding	43.5	86.1	35.1	130.7		6.9	32.8				557.7			49.2
Summary														
Total No. of Loans														
Outstanding	1,620	221	1,765	10	48	36	8	47	1,612	1,243	123	1	1	6,735
Total Principal														
Amount Outstanding	70,872.6	20,540.9	73,392.8	1,989.4	951.1	1,369.2	833.7	13,114.2	10,952.3	3,269.9	51,631.6	186,104.1	867.6	435,889.4
DELINQUENCY RATES AND DEFAULT STATISTICS														
Statistics Based on Balances Outstanding														
% Delinquent ¹	5.2%	10.2%	17.1%	1.9%	27.5%	10.4%	-0-	22.3%	4.1%	7.9%	4.7%	-0-	-0-	5.7%
% In Default ²	1.6%	23.1%	4.2%	4.2%	1.3%	19.9%	-0-	29.5%	3.8%	2.3%	3.0%	-0-	-0-	3.5%
Statistics Based on Number of Loans														
% Delinquent ¹	4.5%	11.3%	13.9%	20.0%	31.2%	8.3%	-0-	19.2%	3.7%	6.9%	2.4	-0-	-0-	7.7%
% In Default ²	1.4%	17.2%	2.7%	10.0%	4.1%	13.8%	-0-	27.6%	4.2%	1.6%	1.6%	-0-	-0-	3.3%

¹ Delinquent is defined as 60 days or more past due, not in litigation.

² Default is defined as in litigation.

³ Prequalifications NOT included

⁴ WWII Veterans Loans sold to AHFC as mandated by Sec. 102, Ch 138 SLA 1986, effective close of business December 31, 1986.

Prepared by: Division of Accounting and Collections

1/21/87

not adjusted for outstanding pending AIDA

DIVISION of ACCOUNTING & COLLECTIONS

Commercial Fishing Extension Statistics

as of January 5, 1987

EXTENSION REQUESTS

Area	<u>Number Received to Date</u>	<u>Number Processed to Date</u>	<u>Number Tabled to Date</u>	<u>Number Approved to Date</u>	<u>Number Disapproved to Date</u>	<u>Number Paid to Date (in lieu of ext)</u>
Bristol Bay	<u>30</u>	<u>6</u>	<u> </u>	<u>4</u>	<u>2</u>	<u> </u>
Cook Inlet	<u>6</u>	<u>3</u>	<u> </u>	<u>2</u>	<u>1</u>	<u> </u>
Prince William Sound	<u>44</u>	<u>25</u>	<u>1</u>	<u>16</u>	<u>8</u>	<u> </u>
Kodiak	<u>10</u>	<u>3</u>	<u> </u>	<u>1</u>	<u>2</u>	<u> </u>
Kuskokwim	<u>2</u>	<u>-0-</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Southeastern	<u>18</u>	<u>12</u>	<u> </u>	<u>8</u>	<u>3</u>	<u>1(workout)</u>
Norton Sound	<u>1</u>	<u>1</u>	<u> </u>	<u> </u>	<u>1</u>	<u> </u>
Yakutat	<u>1</u>	<u>1</u>	<u> </u>	<u>1</u>	<u> </u>	<u> </u>
Peninsula/Aleutians	<u>1</u>	<u>1</u>	<u> </u>	<u> </u>	<u>1</u>	<u> </u>
Kotzebue	<u>4</u>	<u>4</u>	<u> </u>	<u>2</u>	<u>2</u>	<u> </u>
Chignik	<u>1</u>	<u>-0-</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Other	<u>3</u>	<u>-0-</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL	<u><u>121</u></u>	<u><u>56</u></u>	<u><u>1</u></u>	<u><u>34</u></u>	<u><u>20</u></u>	<u><u>1</u></u>

<u>REQUEST HISTORY</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>CHANGE (1985-86)</u>	<u>%CHANGE (1985-86)</u>
Bristol Bay	<u>18</u>	<u>68</u>	<u>89</u>	<u>30</u>	<u>-59</u>	<u>-66.3%</u>
Cook Inlet	<u>22</u>	<u>5</u>	<u>18</u>	<u>6</u>	<u>-12</u>	<u>-66.6%</u>
Prince William Sound	<u>48</u>	<u>27</u>	<u>15</u>	<u>44</u>	<u>+29</u>	<u>+193.3%</u>
Kodiak	<u>62</u>	<u>21</u>	<u>20</u>	<u>10</u>	<u>-10</u>	<u>-50.0%</u>
Kuskokwim	<u> </u>	<u> </u>	<u>6</u>	<u>2</u>	<u>-4</u>	<u>-66.6%</u>
Southeastern	<u>56</u>	<u>13</u>	<u>16</u>	<u>18</u>	<u>+2</u>	<u>+12.5%</u>
Norton Sound	<u>N/A</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u> </u>	<u> </u>
Yakutat	<u>N/A</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u> </u>	<u> </u>
Peninsula/Aleutians	<u>14</u>	<u>2</u>	<u>7</u>	<u>1</u>	<u>-6</u>	<u>-85.7%</u>
Kotzebue	<u>N/A</u>	<u>1</u>	<u>0</u>	<u>4</u>	<u>+4</u>	<u> </u>
Chignik	<u>5</u>	<u>1</u>	<u>11</u>	<u>1</u>	<u>-10</u>	<u>-90.9%</u>
Other	<u>11</u>	<u>25</u>	<u>9</u>	<u>3</u>	<u>-6</u>	<u>-66.6%</u>
TOTAL	<u><u>236</u></u>	<u><u>208</u></u>	<u><u>193</u></u>	<u><u>121</u></u>	<u><u>-72</u></u>	<u><u>-37.3%</u></u>

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 14
Publish Date: 1/19/87

Revision Date: _____
Title: Interest rate on commercial
fishing loans.

Agency Affected: Comm. & Econ. Devel.
BRU: Investments

Sponsor: Senator Kerttula
Requestor: _____

Components: Economic Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	[154.4]	[308.8]	[463.2]	[617.6]

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached.

Prepared by: Paul B. Arnoldt, Director
Division: Investments

Phone: 465-2510
Date: 2/5/87

Approved by Commissioner: _____
Agency: Commerce and Economic Development

Date: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Attachment to Fiscal Note for SB 14.

This bill would reduce the interest rate charged on commercial fishing loans from 10.5% to 9%.

The assumptions used in developing this fiscal note are as follows:

1. An effective date of July 1, 1987.
2. An annual investment of \$14.5 million in new loans.
3. An average loan term of 11.5 years.
4. Payments made on loans made in FY 88 are not due until FY 89.

For every \$14.5 million invested, a 1.5% reduction in interest would result in approximately \$2.8 million (\$1.9 million present value at 8% discount) in lost revenue to the state over the life of those loans.

Based on an average loan size of \$57,650, and an average term of 11.5 years, the annual payment required at 9% would be \$614.00 less (\$8,866 vs. \$8,252) than at the existing rate of 10.5%.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INVESTMENTS

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2510

February 11, 1987

M

Honorable Tim Kelly
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

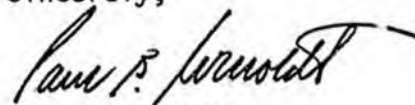
Re: Delinquency Statistics

As requested during my testimony on SB 14 before the Senate Labor and Commerce Committee, I researched the department's archive records for commercial fishing loan delinquency reports for the years 1972 and 1979. Unfortunately, it appears that delinquency records were not kept during those years, and I am unable to provide you with that information.

Since the division's split in 1983, the Division of Accounting and Collections has maintained delinquency records. You may wish to contact Martin J. Richard, the director of the Division of Accounting and Collections, if you need recent delinquency information.

I am sorry I could not provide you the information you requested.

Sincerely,



Paul B. Arnoldt
Director

PBA/GW/ssD2
02108/b

cc: Martin J. Richard, Director
Division of Accounting and Collections

15

BR

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 3, 1987

The Honorable Tim Kelly
Alaska State Legislature
P.O. Bcx V
Juneau, AK 99811

Re: SB 15 (Trade Secrets)

Dear Senator Kelly:

Mark Johnson of your office asked the Department of Law to propose language which would alleviate our concerns about the application of SB 15 to the Alaska Consumer Protection Act, AS 45.50.471 et seq. and the Alaska Restraint of Trade Act, AS 45.50.462 et seq.

Our suggestion would be to add another subsection to proposed AS 45.50.930, "Effect on Other Laws," to read:

(c) AS 45.50.910 - 45.50.945 do not apply to investigations or actions by the Attorney General under the Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 -- 45.50.561, or under the Restraint of Trade Act, AS 45.50.562 -- 45.50.596.

Thank you for your consideration of this proposed language.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:


Richard D. Monkman
Assistant Attorney General

RDM:nb

Alaska State Legislature



PRESIDENT
907-465-3755

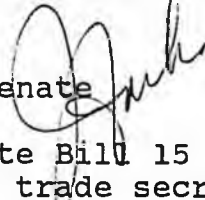
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

January 30, 1987

MEMORANDUM

TO: Senator Tim Kelly, Chairman
Senate Labor and Commerce Committee

FROM: Senator Jan Faiks 
President of the Senate

SUBJECT: Background on Senate Bill 15
An Act relating to trade secrets

Senate Bill 15 has been referred to your committee for consideration. This bill proposes the enactment of the Uniform Trade Secrets Act in Alaska.

The purpose of the act is to provide statutory protection for persons who develop and own trade secrets in Alaska. By protecting trade secrets, the person who develops and owns them obtains a competitive advantage which is different from, but in addition to, protection allowed under the federal patent and copyright laws.

Trade secrets are identified by an element of secrecy. A trade secret is not merely the privacy in which an ordinary commercial business is carried on; rather, it is something known to only one or a few, which is kept from the general public, and not susceptible of general knowledge. The nature of a trade secret is such that so long as it remains a secret it is valuable property to its possessor, who can exploit it commercially to his own advantage.

The classic example of a trade secret is the formula for Coca-Cola. Had the company sought a patent on the formula, it would have been kept a secret from the public for a period of

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

seventeen years. Upon the expiration of the patent, all the world would have access to the formula, thus extinguishing the monopoly that the Coca-Cola Company has had to produce its beverage. Instead, by keeping the formula as a trade secret, the company has had exclusive use of it for almost one hundred years.

A patent is best described as a contract between the inventor and the public, providing a seventeen-year monopoly for disclosure of the idea.

The protection of ideas depends on the nature of the idea. If the product itself can be used to determine the invention, then protection by patent should be used. For example, if the invention contained in a marketed product can be ascertained by taking the product apart, then patent law will provide the inventor with a monopoly of his idea for a period of seventeen years. To properly qualify for patent protection, the material must merit such monopoly.

However, if the idea can be kept a secret even if it is marketed, as in the example of Coca-Cola, then trade secret protection should be sought.

Technical innovation and its development into marketable products can take place only in surroundings that encourage the development of new ideas and protect the right of developers to grow and profit from their work. The protection provided by trade secret legislation is essential to an innovative society.

Given the unusual geographical and climatic conditions in our state, Alaskans have historically been innovative in developing unique means and methods to solve unusual and challenging construction and industry problems. As such, Alaskans should be afforded protection from misappropriation of their efforts, which are of value to the public at large.

Senate Bill 15 proposes the following:

Section 1. AS 45.50 is amended to add the Alaska Uniform Trade Secrets Act (AS 45.50.910 - 45.50.945)

AS 45.50.910 (a). A court may enjoin actual or threatened misappropriation of trade secrets. An injunction will be terminated when the trade secret has ceased to exist, or within a reasonable time thereafter to eliminate commercial advantage that would otherwise be derived from such misappropriation.

AS 45.50.910 (b). The court may issue an injunction which conditions future use of a trade secret upon payment of a reasonable royalty, should it determine that it would be unreasonable to prohibit such future use.

AS 45.50.910 (c). The court may order affirmative acts to protect a trade secret.

AS 45.50.915 (a) The complainant may recover for unjust enrichment and damages for the actual losses caused by the misappropriation.

AS 45.50.915 (b). Exemplary damages in an amount up to twice the actual damages may be awarded for willful and malicious misappropriation.

AS 45.50.920. The court shall preserve the secrecy of an alleged trade secret by reasonable means.

AS 45.50.925. An act for misappropriation must be brought within three years of discovery of the misappropriation.

AS 45.50.930(a). This act displaces conflicting tort, restitutionary, and other state laws which effect civil liability for misappropriation of a trade secret.

AS 45.50.930 (b). This act does not affect contractual or other civil liability or relief that is not based upon misappropriation of a trade secret, or criminal liability which may arise from such misappropriation.

AS 45.50.935. This act shall be applied and construed to make the laws consistent with respect to trade secret legislation enacted by other states.

AS 45.50.940. Definitions of relevant terms.

AS 45.50.945. This act shall be named the Alaska Uniform Trade Secrets Act.

A M E N D M E N T

Offered in the SENATE

By FAIKS

TO: SB 15

Page 2, line 20, delete "or"

Page 2, line 22, following "secret":

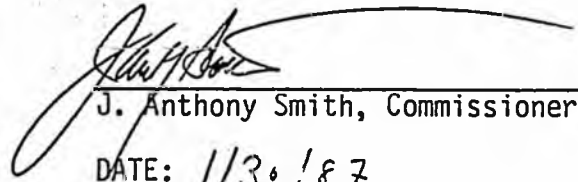
Insert "; or

(3) the power of the Department of Law to obtain information relevant to civil and criminal investigations and prosecutions"

SB 15 An Act relating to trade secrets.

The Department of Commerce and Economic Development has no position on this bill.

Although the bill amends Title 45, which generally applies to the department, Section 50 does not contain a stipulation of responsibility for the department. Sec. 45.50.910(a) stipulates that a court may provide relief. Under this circumstance, the department defers to the Department of Law.



J. Anthony Smith, Commissioner
DATE: 1/30/87

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 3, 1987

The Honorable Tim Kelly
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: SB 15 (Trade Secrets)

Dear Senator Kelly:

Mark Johnson of your office asked the Department of Law to propose language which would alleviate our concerns about the application of SB 15 to the Alaska Consumer Protection Act, AS 45.50.471 et seq. and the Alaska Restraint of Trade Act, AS 45.50.462 et seq.

Our suggestion would be to add another subsection to proposed AS 45.50.930, "Effect on Other Laws," to read:

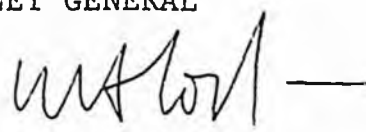
(c) AS 45.50.910 - 45.50.945 do not apply to investigations or actions by the Attorney General under the Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 -- 45.50.561, or under the Restraint of Trade Act, AS 45.50.562 -- 45.50.596.

Thank you for your consideration of this proposed language.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:

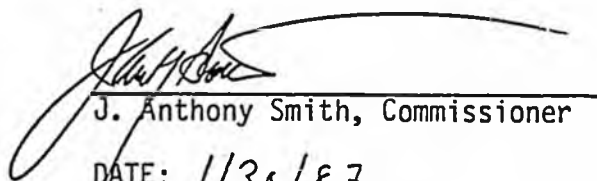

Richard D. Monkman
Assistant Attorney General

RDM:nb

SB 15 An Act relating to trade secrets.

The Department of Commerce and Economic Development has no position on this bill.

Although the bill amends Title 45, which generally applies to the department, Section 50 does not contain a stipulation of responsibility for the department. Sec. 45.50.910(a) stipulates that a court may provide relief. Under this circumstance, the department defers to the Department of Law.



J. Anthony Smith, Commissioner
DATE: 1/30/87

5282W13087a

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB15
Publish Date: _____

Revision Date: _____
Title: "An Act relating to trade secrets."

Agency Affected: Department of Law
BRU: Legal Services, Consumer Protection

Sponsor: Senator Faiks
Requestor: Senate Labor and Commerce

Components: Antitrust, Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: Jan. 27, 1987
 Ronald W. Lorensen,
 Approved by Commissioner: Acting Attorney General Date: Jan. 27, 1987
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB15

This legislation could have an adverse impact on the Department of Law's enforcement of both the Restraint of Trade Act (AS 45.50.562) and the Consumer Protection Act (AS 45.50.471). Under both of these statutes, the attorney general routinely subpoenas information which could be classified as "trade secret" under SB15. Consequently, prospective defendants could use SB15 to block or delay our investigations.

The cost of investigations and prosecution of antitrust and consumer protection cases could go up as a result. Because it is difficult to quantify increased cost, any estimate on our part would be speculative at best. More importantly, enactment of the bill in its present form could seriously delay the state's ongoing antitrust activities. It is therefore recommended that the bill be amended by adding a clause exempting investigations and prosecutions by the attorney general.

AS 45.50.910 (b). The court may issue an injunction which conditions future use of a trade secret upon payment of a reasonable royalty, should it determine that it would be unreasonable to prohibit such future use.

AS 45.50.910 (c). The court may order affirmative acts to protect a trade secret.

AS 45.50.915 (a) The complainant may recover for unjust enrichment and damages for the actual losses caused by the misappropriation.

AS 45.50.915 (b). Exemplary damages in an amount up to twice the actual damages may be awarded for willful and malicious misappropriation.

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AS 45.50.930(a). This act displaces conflicting tort, restitutionary, and other state laws which effect civil liability for misappropriation of a trade secret.

AS 45.50.930 (b). This act does not affect contractual or other civil liability or relief that is not based upon misappropriation of a trade secret, or criminal liability which may arise from such misappropriation.

AS 45.50.935. This act shall be applied and construed to make the laws consistent with respect to trade secret legislation enacted by other states.

AS 45.50.940. Definitions of relevant terms.

AS 45.50.945. This act shall be named the Alaska Uniform Trade Secrets Act.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 15
Publish Date: 1-27-87

QUEST:
Revision Date:
Title: An Act Relating to Trade Secrets
Sponsor: Faiks & Kertula
Requestor: Senate Labor & Commerce

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES
TRAVEL
CONTRACTUAL
SUPPLIES
EQUIPMENT
LAND & STRUCTURES
DEBTS & CLAIMS
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
OTHER	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:	
Full-time	. . . .
Part-time	. . . .
Temporary	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Robert G. Fisher, Fiscal Officer
 Division: Alaska Court System
 Phone: 264-8215
 Date: 1-27-87
 Approved by: *Stephanie Cole*
 Stephanie J. Cole, Deputy Director
 Date: 1-27-87
 Agency: Alaska Court System

Distribution (by preparer):
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 Impacted Agency(ies)
 Senate Secretary