

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 00/2

9946 HOUSE LABOR & COMMERCE

SECTION-BY-SECTION ANALYSIS OF CSHB 310

As used herein, "the Alaska Act" or "Act" refers to the Alaska Insurance Guaranty Association Act, AS 21.80.010 *et seq.*

As used herein, "the Model Act" refers to the National Association of Insurance Commissioners' 1996 Post-Assessment Property and Liability Insurance Guaranty Association Model Act.

As used herein, "the AIGA" refers to the Alaska Insurance Guaranty Association created by AS 21.80.040.

Section 1.

Amends AS 21.80.010, "Purpose," to bring into conformance with Section 2 of the Model Act. The primary change is to specify an intent to minimize, consistent with the limitations contained in the Act, a claimant's or policyholder's financial loss related to an insolvency. Prior national litigation experience under the existing language ("avoid financial loss") showed insureds were trying to argue that the language should be read to avoid *any* financial loss, despite limitations within the Act. The phrase regarding detection and prevention of insolvencies is being deleted consistent with changes to AS 21.80.110, whereby the AIGA's role in that regard is reduced.

Section 2.

Repeals and reenacts AS 21.80.020, "Applicability," to bring into conformance with Section 3 of the Model Act. Experience has shown the existing language is not definite enough in specifying what types of insurance are not covered by the Act. The amendment expands on the categories of insurance and other indemnity agreements not covered by the Act. As explained by the NAIC's comment to Section 3:

This bill focuses on property and liability kinds of insurance and therefore exempts those kinds of insurance deemed to present problems quite distinct from those of property and liability insurance. The bill further precludes from its scope certain types of insurance that provide protection for investment and financial risks.

The Alaska Life and Health Insurance Guaranty Insurance Association Act, AS 21.79.010 *et seq.*, provides coverage for some of the lines excluded by this provision. Unlike the Model Act, the amendment preserves existing coverage under the Alaska Act for ocean marine insurance, and preserves an existing exclusion for a risk retention group formed under 15 U.S.C. 3901-3906. Subsection (10) adds an exclusion not found in the Model Act. It is adopted from an Idaho statute, and indicates that for policy reasons, there is no coverage for any type of insurance written on a retroactive basis to cover known losses which existed when the insurance was bound.

Section 3.

Amends AS 21.80.030, "Construction," to bring into conformance with Section 4 of the Model Act. The amendment deletes the word "liberally." Prior national litigation experience showed courts were using the presence of this word to justify the extension of coverage under similar acts in such a manner as to disrupt the balance between reducing the financial loss of claimants/policyholders of an insolvent insurer and increasing the expense of insurance coverage to the purchasers of insurance generally.

Section 4.

Amends AS 21.80.040, "Creation of association," to simply rename "board of directors" to "board of governors," which is consistent with the appellation used in the Alaska Life and Health Insurance Guaranty Insurance Association Act. It also avoids confusion with references within the Act to the Director of Insurance. This change is also seen in subsequent sections where the board members are presently referred to as "directors."

Section 5.

Amends AS 21.80.040, "Creation of association," by adding a new subsection. The language comes from the definition of "member insurer" in Section 5.H(2) of the Model Act. The language is placed here to avoid putting substantive law in a definition section. It makes clear when a member insurer is no longer liable for assessments as to new insolvencies, and when it remains liable even though its license has expired or been terminated. The intent is to eliminate certain objections by members as to their liability for assessments.

Section 6.

Amends AS 21.80.050, "Board of governors," to bring into conformance with Section 7 of the Model Act. The primary change is to allow for up to two public members to be appointed to the board at the discretion of the Director of Insurance. Limitations on who can serve as a public member are given. There are related changes on how vacancies on the board are to be filled, with the board filling vacancies of member insurers, and the Director filling public member vacancies. The existing language provides that the board consists of between five and nine members. This amendment adds a requirement for the plan of operation to establish the exact number of members currently comprising the board within that range. This will allow the Director of Insurance to know whether vacancies exist on the board. "Persons" is changed to "members" to reflect the actual practice that AIGA members, and not individual persons, serve as board members.

Section 7.

Amends AS 21.80.060, "Powers and duties of the association," to bring into general conformance with Section 8 of the Model Act. Subsection (a)(1) removes past ambiguity by providing a bright line test for when the AIGA becomes obligated, i.e., when an order of

liquidation is entered. A policy decision regarding the allocation of the AIGA's limited resources is reflected by removal of the requirement for a claim to exceed \$100 to be covered, and the addition of a limitation that a claim for unearned premiums may not exceed \$10,000 per policy. A deadline, or bar date, is also added for when a claim must be filed with the AIGA to be covered. This prevents a situation the AIGA has faced in the past where a claim is made against it after the time when the AIGA can make a subrogation claim against the insolvent estate for reimbursement. A bar date is found in virtually every other state's insurance guaranty acts.

Subsection (a)(3) deletes existing language referencig AS 21.80.110 because it is superfluous. An existing ambiguity is also cured by specifying that the applicable "preceding year" to be used in calculating assessments is the calender year "preceding the assessment." This also reflects the AIGA's actual practice. Language allowing a financially-troubled member to be "exempt" from an assessment is deleted as unnecessary given the fact assessments in Alaska are passed through directly to insureds, and thus, an assessment would not impair the financial position of the member. Language is also added to make clear the AIGA is empowered to decide in what order claims are paid. This reduces the risk of suits stemming from dissatisfaction with the order chosen. New language also addresses the AIGA's ability to collect on assessments that had been deferred because of a member insurer's financial condition, and how other member insurers who have to cover a deferred assessment can later recoup the excess assessment they may have paid. An assessment should not be paid where it would drive an insurer closer to insolvency, and a member who has to pay extra because of some other member's inability to do so should be able to get paid back when the deferment ends.

Subsection (a)(5) deletes certain existing language given a corresponding deletion to AS 21.80.080. The deleted language is replaced with new language recognizing the right of the AIGA to control the defense of a covered claim. If the AIGA is the one paying the claim, it should be allowed to control the direction of the defense of the claim, including identity of defense counsel. This reflects the AIGA's existing practice.

Subsection (b)(7) is deleted. It has never been part of the Model Act, and it is uncertain what it adds beyond what would be authorized under subsection (b)(3).

Section 8.

Amends AS 21.80.070(c), "Plan of operation," to bring into conformance with Section 9 of the Model Act. Requires the plan of operation to establish procedures for handling assets received from the estate of an insolvent insurer, and to require board members to designate an individual as their representative on the board, as well as the alternate or substitute representative for the appointed person. Such requirements place reasonable bounds on the discretion of the board in its operations.

Section 9.

Amends AS 21.80.080, "Duties and powers of the director," to bring into conformance with Section 10 of the Model Act. In so doing, the former requirement for the AIGA to notify insureds

of insolvent insurers of the insolvency and their rights under the Act is deleted. This role has historically been accomplished by the Division of Insurance itself, or through the receiver for the estate of the insolvent insurer.

Section 10.

Amends AS 21.80.090(a), "Effect of paid claims," to bring into conformance with Section 11.A of the Model Act. The changes are limited to stylistic clarifications and cross-referencing changes in the next section.

Section 11.

Amends AS 21.80.090(b), "Effect of paid claims," to bring into conformance with Section 11.C of the Model Act. Adds language recognizing the AIGA's status as a claimant in the estate of the insolvent insurer as to amounts paid out by the AIGA to satisfy covered claims against the insolvent insurer, and also grants the AIGA the right to receive distributions under applicable liquidation statutes with a priority equal to what the claimant would have been entitled. Such rights allow the AIGA to recoup some or all of the amounts it pays to satisfy covered claims, and thus not overburden the system or Alaska insureds. A clarification is made that although a receiver is bound by the AIGA's determinations or settlements which release the AIGA's liability to a claimant, this does not extend to claim amounts alleged to exceed the AIGA's statutory limit. This primarily comes up when there is a dispute as to the amount of the AIGA's statutory limit as to certain claims. If the receiver contends the AIGA paid more than its statutory limit, the amendment makes clear the receiver may seek review of the issue by the court, and is not automatically bound by the amount of the AIGA's payment.

Section 12.

Creates new section AS21.80.095, "Prohibited claims." The language comes from the Model Act's definition of "covered claim," and is also present in existing AS 21.80.180(3). The language is placed in a separate section to avoid putting substantive law in a definition section.

Section 13.

Amends AS 21.80.100(a), "Nonduplication of recovery," to bring into conformance with Section 12.A of the Model Act. Makes clear that the obligation of a claimant to exhaust other available insurance coverage before seeking a recovery from the AIGA extends to insurance available from insurers other than those who are members of the AIGA.

Section 14.

Repeals and reenacts AS 21.80.110, "Prevention and detection of insolvencies," to bring into conformance with Section 13 of the Model Act. Makes the AIGA's role in advising the Director on insurer insolvency and reporting discretionary. The changes reflect actual practice and avoid the appearance of any conspiracy by the board against an impaired member.

Section 15.

Amends AS 21.80.120, "Examination of the association," to change the due date for the AIGA to file its certified financial report. The report is prepared by an outside auditing firm. By not having it due until after April 15, the AIGA obtains the report at a cheaper price. The due date also coincides with the board's annual meeting, when the report is provided to the Director.

Section 16.

Amends AS 21.80.150, "Immunity," to bring into conformance with Section 17 of the Model Act. Clarifies that immunity is provided not only for action taken, but for any failure to act. Also expressly extends immunity to an alternate or substitute representative of a board governor.

Section 17.

Amends AS 21.80.160, "Stay of proceedings and reopening of default judgments," to bring into general conformance with Section 18 of the Model Act, except it was felt a 90-day stay, rather than the six months specified in the Model Act, would be sufficient as the remaining language would allow extensions to be sought. Also gives the AIGA the right to waive a stay of proceedings. Under this section, a stay of proceedings is automatic. The waiver option provides a quick and easy way to allow a suit to continue where the AIGA sees that to be advantageous.

Sec 18.

Repeals and reenacts AS 21.80.180, "Definitions," to bring into conformance with Section 5 of the Model Act. Adds definitions for "affiliate," "claimant," "control," and "resident." These terms are contained within language being added to the Act under previous sections.

Section 19.

This section provides a transitional provision regarding how the amendments will affect the existing terms of the board of governors.

Received from: Dwight Perkins, Deputy Commissioner
Department of Labor & Workforce Development

RECEIVED

FEB 08 2000

MEMO

This is in response to your request to review House Bill 310, a proposal to amend AS 21.80.010, et seq., relating to the Alaska Insurance Guaranty Association (AIGA). This bill was introduced into the Alaska House on 1/21/2000, and referred to the Labor and Commerce and the Judiciary Committees. As you requested, I examined it only in light of the Alaska Workers' Compensation Act (AWCA) (AS 23.30) and the regulations and case law relating to workers' compensation in Alaska.

Although the proposed legislation appears to provide for coverage of the full benefit amount of most workers' compensation claims against insolvent member insurers, it does not appear to provide coverage for all workers' compensation claims. Specifically, proposed AS 21.80.060(a)(1)(B) contains time limits on the filing of claims with the AIGA, which would bar certain (otherwise compensable) workers' compensation claims.

Proposed AS 21.80.060(a)(1) places a \$10,000.00 maximum cap on the AIGA's liability for claims against an insolvent member insurer. However, this section specifically exempts workers' compensation claims from this monetary amount limit, permitting the AIGA to meet liability for full benefits provided under the AWCA.

Proposed AS 21.80.060(a)(1)(B) exempts the AIGA from liability for claims filed with the AIGA more than 18 months after the order liquidating the insolvent member insurer, or the liquidation order's final date for filing claims (whichever is earliest). The AWCA at AS 23.30.105(a) specifically permits workers' compensation claims to be filed more than two years after a work injury for "latent defects pertinent to and causing compensable disability." In plainer English, an injured worker can file a claim more than two years after a work injury, if that injury later progresses into a disabling condition. It is also worth noting that the AWCA provides that even very late notice-of-injury reports will not bar a claim under certain, enumerated, circumstances. AS 23.30.100(d).

In the proposed legislation, there appears to be no workers' compensation exception to the AIGA liability time limits. From our years of experience, we know that a fair number of compensable claims are filed more than two years after a work injury. H.B. 310 appears to have a significant gap in the AIGA's proposed coverage of the workers' compensation liability of insolvent member insurers. If the proposed legislation contained a workers' compensation exception to the claim time limits, similar to the proposed exception to the monetary limits, this gap in liability would presumably close.

HB

314

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 24, 2000

FURTHER REFERRALS:

Judiciary

Date of Committee Action: Feb 23, 2000

The LABOR AND COMMERCE Committee considered:

HB 314

HOUSE BILL NO. 314

PROCUREMENT PREFS: PARTNERSHP/LTD LIAB CO

"An Act clarifying the requirements for limited liability companies and partnerships to qualify for the Alaska bidder's and disability preferences under the State Procurement Code; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DOA 11/30/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Nan Kotely</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *Nan Kotely* 2-23-00

FISCAL NOTE

No: 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 314
(H) Publish Date: 1/24/00

Revision Date/Time (Note if Correction): _____
Title: LLC/LLP's qualifying for Alaska Bidder Preference and Disability Preference
Sponsor: Rules Committee
Requestor: Governor

Department Affected: All
BRU: Centralized Administrative Services
Component: Purchasing
COMPONENT SERIAL NO. 60

Expenditures/Revenues: (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2001	FY 2002	FY2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 2000) cost: \$ 0.0

POSITIONS:

FULL-TIME	N/A					
PART-TIME	N/A					
TEMPORARY	N/A					

ANALYSIS: (Attach a separate page if necessary.)

This bill would amend AS 36.30.170(b) and (e) to establish qualifications for application of the Alaska Bidder and Disability preferences to Limited Liability Companies and Limited Liability Partnerships bidding on State contracts.

There is no fiscal impact.

Prepared by: Marsha Hubbard, Director
Division: General Services

Phone: 465-5687
Date: 11/29/99

Approved by Commissioner: Robert Foe Jr.
Agency: Department of Administration

Date: 11/30/99

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HB-514

TONY KNOWLES

Governor

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

I am transmitting a bill clarifying the statutory requirements for limited liability companies and limited liability partnerships to qualify for the Alaska bidder's and disability preferences under the State Procurement Code.

Limited liability companies (LLCs) and limited liability partnerships (LLPs) were recently recognized in state law, well after the state procurement code established its Alaska bidder and disability preferences. Therefore, the procurement code preferences do not clearly prescribe qualification requirements for LLCs or LLPs.

By providing needed clarification and recognizing LLCs and LLPs under the state procurement code, this bill furthers the legislative objective of ensuring that Alaska businesses receive a preference while safeguarding application of the preferences to bonafide resident businesses.

Sincerely,



Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

Sponsor Statement for HB 314

"An act clarifying the requirements for limited liability companies and partnerships to qualify for the Alaska bidder's and disability preferences under the State Procurement Code; and providing for an effective date."

Passage of HB 314 is necessary to clarify the Alaska bidder and disability preferences sections of the State procurement statutes regarding limited liability partnerships and limited liability corporations.

Our Procurement Code became effective in 1988, before the inception of limited liability corporations and limited liability partnerships, which were allowed to organize in 1995 and 1997 respectively. Therefore, the procurement preference sections in statute make no reference to them.

This bill inserts language that specifically mentions these types of businesses in the preference sections of the Procurement Code. It also stipulates that all managing directors of the limited liability corporation or partnership must be residents of Alaska to qualify for the Alaska bidder's preference. In order to qualify for a disability preference, each of the managing directors of the limited liability corporation or partnership must also have a disability.

This clarification is necessary for us to grant preferences to bonafide Alaskan businesses, and it furthers the legislative objectives of the Procurement Code by ensuring that Alaskan businesses receive an advantage in state procurements.



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STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

February 2, 2000

RECEIVED
FEB 03 2000

The Honorable Norman Rokeberg
Alaska State Representative
State Capitol, Room 208
Juneau, AK 99801

Dear Representative Rokeberg:

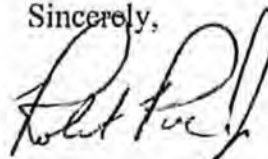
I respectfully request that you schedule House Bill 314, an act clarifying the requirements for limited liability companies (LLCs) and partnerships (LLPs) to qualify for the Alaska bidder's and disability preferences under the State Procurement Code, for a hearing in the House Labor and Commerce Committee.

This bill provides needed clarification in recognizing LLCs and LLPs under the state procurement code and furthers the legislative objective of ensuring Alaska businesses receive a preference while safeguarding application of the preferences to bonafide resident businesses.

If you have any questions or need additional information, please feel free to contact me or my legislative liaison, David Koivuniemi.

Thank you in advance for your cooperation.

Sincerely,



Robert Poe, Jr.
Commissioner

RP/DMD/jd

cc: Pat Pourchot, Legislative Director, Office of the Governor



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HB

316

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Session
State Capitol Bldg., Suite 406
Juneau, AK 99801
Phone: 907-465-3783
Fax: 907-465-293

REPRESENTATIVE LISA MURKOWSKI
GOVERNMENT HILL • ELMENDORF • EAST ANCHORAGE

RECEIVED
FEB 28 2000

To: Labor and Commerce Committee
From: Representative Lisa Murkowski
CC:
Date: 2/28/00
Re: HB 316 / SB 222 – Employment Securities Act Subcommittee Report

February 15, 2000.

Members present: Representative(s) Halcro, Rokeberg and Cissna.

Also present Dwight Perkins, Deputy Commissioner, DOL; Rebecca Gamez, Director, Division of Employment Security and Charles Blankenship of the same Division.

Amendment #1 by Representative Pokeberg

Issue: Including failure to comply with an employer's written drug policy while on the job under the definition of "Misconduct"

Action: The Department representatives noted that they have no objection to the addition of the language, however, they wished to take the proposed language and work to make it a bit clearer. With no objection that was so moved.

Result: The "Misconduct" amended language was returned, approved and inserted into the CS SB 222 which is before the committee today.

Amendment #2 by Representative Murkowski

Issue: Relating to allowing a person on unemployment insurance the ability to attend jury service and keep their insurance uninterrupted.

Action: The Department representatives noted this exception and that they have created steps to alleviate this situation.

Result: The subcommittee decided not to take action on this amendment as it was an isolated case. Instead, the Department was asked to come forward to explain on the record these types of situations and how they have acted to alleviate them.

1-GH2032VA.1
Cramer
2/5/00

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 316

BY REPRESENTATIVE ROKEBERG

1 Page 2, following line 20:

2 Insert a new bill section to read:

3 **** Sec. 4.** AS 23.20.379 is amended by adding a new subsection to read:

4 (f) In this section, "misconduct" includes conduct in violation of an
5 employer's policy concerning the use of drugs."

Whittam

6 Renumber the following bill sections accordingly.

7 Page 3, line 11:

8 Delete "sec. 5"

9 Insert "sec. 6"

10 Page 3, line 17:

11 Delete "Sections 1 - 4"

12 Insert "Sections 1 - 5"

13 Page 3, line 18:

14 Delete "Sections 5 and 6"

15 Insert "Sections 6 and 7"

Post-it® Fax Note		7671	Date <i>2/7/00</i>	# of pages <i>1</i>
To <i>Cramer</i>	From <i>Ames</i>			
Co/Dept	Co.			
Phone #	Phone #			
Fax # <i>2293</i>	Fax #			

AMENDMENT # 2

OFFERED IN THE HOUSE

REPRESENTATIVE MURKOWSKI

TO: HB 316

Page 2, following line 12

Insert a new bill section to read

“ Sec. 3 AS 23.20.378 (a)(2) is amended to read:

(2) for a condition described in ~~(1)(A) – (C) or (E)~~ [(1)] of this subsection, the condition occurs during an uninterrupted period of unemployment immediately following a week for which the insured worker has filed a compensable claim, and 3work has not been offered that would have been suitable for the insured worker before the illness, disability, hunting, fishing, medical travel, [JURY SERVICE,] or funeral attendance.”

Renumber the following bill sections accordingly.

Sec. 23.20.378. Able to work and available for suitable work.

(a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work. An insured worker is not considered available for work unless registered for work in accordance with regulations adopted by the department. An insured worker may not be disqualified for failure to comply with this subsection if

(1) the insured worker is not available for work because the insured worker

(A) is ill or disabled;

(B) is traveling to obtain medical services that are not available in the area in which the insured worker resides, or, if a physician determines it is necessary, the insured worker is accompanying a spouse or dependent who is traveling to obtain medical services;

(C) resides in the state and is non commercially hunting or fishing for personal survival or the survival of dependents;

(D) is serving as a prospective or impaneled juror in a court; or

(E) is attending the funeral of an immediate family member for a period of no longer than seven days; and

(2) a condition described in (1) of this subsection occurs during an uninterrupted period of unemployment immediately following a week for which the insured worker has filed a compensable claim, and work has not been offered that would have been suitable for the insured worker before the illness, disability, hunting, fishing, medical travel, jury service, or funeral attendance.

2/15/00
Rebecca Gomez
prefer not to see
but cause no
hardness
seventer get more
information

Overview

HB 316

Section 1

- Amends AS 23.20.110 (n)
- Statute pertains to items contained in statistical or other public reports
- Replaces reference to Standard Industrial Classification System with North American Industry Classification System
- North American Industry Classification System (NAICS) ensures uniform and comparable data among North American countries.
- New system to be in place for reporting purposes 1/1/01.
 - Federal Reports:
 - ETA 203 Distribution of Characteristics of the Insured Unemployed
 - ETA 9049 Worker Profiling and Re-employment Services Outcomes

Section 2

- Amends AS 23.20.170 (b)
- Statute pertains to Employer Rate of Contributions
- Replaces reference to Standard Industrial Classification System with North American Industry Classification System
- Industry tax rate determined by industry classification code
- Employer rates determined in fall and mailed in December for following year.
- Initial analysis indicates new classification will have minimal or no affect on employer rates - no different than current system.

Section 3

- Amends AS 23.20.379 (a)(2)
- Statute pertains to potential disqualification for voluntary leaving work or a discharge for misconduct connected with the work.
- Technical change to clarify that potential disqualification for misconduct applies only to the last period of employment held prior to filing for unemployment benefits.
- Proposed language parallels voluntary leaving provision

Section 4

- Amends AS 23.20.382 (d)
- Statute pertains to payment of benefits while attending approved vocational training
- Amends reference to training approved under 29 U.S.C. 1651-1658 (JTPA) to P.L. 105-220 Workforce Investment Act (WIA)
- WIA repeals JTPA effective 7/1/2000

Section 5

- Amends AS 23.20.520 (5)
- Repeals current definition of an unemployment benefit year and replaces it with a new definition.
- New definition sets out that benefit years will begin on the Sunday of the week filed and continues for 52 weeks.
- Allow for 53 week benefit year if subsequently filed benefit year will result in overlapping base periods.
- Proposed change will make benefit years mutually exclusive and eliminate confusion in determining on which benefit year a week will be filed.
- Positions UI program for future technological advances such as Internet filing.

Section 6

- Adds a transitional provision in uncodified law to address benefit years that began under old definition but will expire under new definition.

Section 7

- Sections 1 - 4 take effect 7/1/2000

Section 8

- Sections 5 and 6 take effect 10/7/2001

FISCAL NOTE

No: 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 316
BILL NO. (H) Publish Date: 1/24/00

Revision Date/Time (Note if correction): _____ Department Affected: Labor
 Title: An Act relating to the Alaska BRU: Employment Security
Employment Security Act Component: _____
 Sponsor: Rules Committee Unemployment Insurance
 Requestor: Governor COMPONENT SERIAL NO. 2276

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

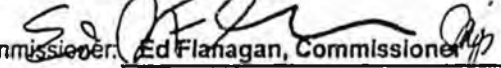
Estimate of current year (FY00) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill proposes to amend the standard industrial classification for, and eligibility for benefits while in training as recognized under the Alaska Employment Security Act, AS 23.20.



Prepared by Rebecca Gamez, Director Phone: 465-2711
 Division: Employment Security Division Date/Time: 10/14/99 2:05 PM



Approved by Commissioner: Ed Flanagan, Commissioner
 Agency: Department of Labor Date: 10/14/1999

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TONY KNOWLES
GOVERNOR
governor of the state of alaska

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

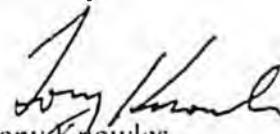
Recent amendments to federal law regarding job training and unemployment insurance require the state to update certain statutory references in these areas. This bill I transmit today accomplishes this requirement.

Congress repealed the Job Training Partnership Act, replacing it with the Workforce Investment Act of 1998. This bill makes corresponding changes to state law. Similarly, the bill updates the classification system for employers determining their contribution rate to the unemployment compensation fund. The federal Office of Management and Budget decided in 1997 to replace the Standard Industrial Classification Code with the North American Industry Classification System. The updated coding system was developed jointly by the United States, Canada, and Mexico to provide new comparability in data about business activity across North America.

The bill also clarifies that an unemployment insurance claimant is not entitled to benefits for the first six weeks of unemployment if termination was for misconduct connected with the claimant's last work. Finally, the bill provides definite beginning and ending dates for a claimant's "benefit year."

In order to keep Alaska's labor and unemployment statutes current with federal law, I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

NATURE SAVER™ FAX MEMO 01616		Date	2/16	# of pages	1
To	Dwight		From	Bec.	
Co./Dept.	CYS Rep. Padberg		Co.	Padberg	
Phone #			Phone #		
Fax #	2040		Fax #		

Page 2, following line 20,

Insert a new bill section to read:

** Sec. 4. AS 23.20.379 is amended by adding a new subsection to read:

- (f) In this section, "misconduct" includes a violation of an employer's written policy concerning the use of drugs or alcohol that is consistent with AS 23.10.620.

New Section

Definitions:

Add to Sec. 23.20.520

(22) "alcohol" means ethanol, isopropanol, or methanol;

(23) "drugs" means a substance considered unlawful under AS 11.71 or the metabolite of the substance;

Drug Testing Statutes

AS 23.10.600. Employer Protection From Litigation.

(a) If an employer has established a drug and alcohol testing policy and initiated a testing program under AS 23.10.600 - 23.10.699, a person may not bring an action for damages against the employer for

- (1) actions in good faith based on the results of a positive drug test or alcohol impairment test;
- (2) failure to test for drugs or alcohol impairment or failure to test for a specific drug or another controlled substance;
- (3) failure to test or, if tested, failure to detect a specific drug or other substance, a medical condition, or a mental, emotional, or psychological disorder or condition; or
- (4) termination or suspension of a drug or alcohol prevention or testing program or policy.

(b) A person may not bring an action for damages based on test results against an employer who has established and implemented a drug and alcohol testing program under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false positive test result and the employer knew or clearly should have known that the result was in error and ignored the true test result because of reckless or malicious disregard for the truth or the wilful intent to deceive or be deceived.

(c) In a claim, including a claim under AS 23.10.600 - 23.10.699, if it is alleged that an employer's action was based on a false positive test result,

- (1) there is a rebuttable presumption that the test result was valid if the employer complied with the provisions of AS 23.10.600 - 23.10.699; and
- (2) the employer is not liable for monetary damages if the employer's reliance on a false positive test result was reasonable and in good faith.

(d) A person may not bring an action for damages against an employer for an action taken related to a false negative drug test or alcohol impairment test.

(e) A person may not bring an action against an employer based on failure of the employer to establish a program or policy on substance abuse prevention or to implement drug testing or alcohol impairment testing.

AS 23.10.610. Limits On Causes of Action For Disclosures.

A person may not bring an action for defamation of character, libel, slander, or damage to reputation against an employer who has established a program of drug testing or alcohol impairment testing under AS 23.10.600 - 23.10.699 if the action is based on drug or alcohol testing unless

(1) the results of the test were disclosed to a person other than the employer, an authorized employee, agent or representative of the employer, the tested employee, the tested prospective employee, or another person authorized or privileged by law to receive the information;

(2) the information disclosed was a false positive test result;

(3) the false positive test result was disclosed negligently; and

(4) all elements of an action for defamation of character, libel, slander, or damage to reputation as established by law are satisfied.

AS 23.10.615. Employer's Compliance Voluntary.

Compliance with AS 23.10.600 - 23.10.699 by employers is voluntary.

AS 23.10.620. Employer Policy.

(a) Under AS 23.10.600 - 23.10.699, an employer may only carry out the testing or retesting for the presence or evidence of use of drugs or alcohol after adopting a written policy for the testing and retesting and informing employees of the policy. The employer may inform employees by distributing a copy of the policy to each employee subject to testing or making the policy available to employees in the same manner as the employer informs its employees of other personnel practices, including inclusion in a personnel handbook or manual or posting in a place accessible to employees. The employer shall inform prospective employees that they must undergo drug testing.

(b) The written policy on drug and alcohol testing must include, at a minimum,

(1) a statement of the employer's policy respecting drug and alcohol use by employees;

(2) a description of those employees or prospective employees who are subject to testing;

(3) the circumstances under which testing may be required;

(4) the substances as to which testing may be required;

(5) a description of the testing methods and collection procedures to be used, including an employee's right to a confirmatory drug test to be reviewed by a licensed physician or doctor of osteopathy after an initial positive drug test result in accordance with AS 23.10.640(d);

(6) the consequences of a refusal to participate in the testing;

(7) any adverse personnel action that may be taken based on the testing procedure or results;

(8) the right of an employee, on the employee's request, to obtain the written test results and the obligation of the employer to provide written test results to the employee within five working days after a written request to do so, so

long as the written request is made within six months after the date of the test;

(9) the right of an employee, on the employee's request, to explain in a confidential setting, a positive test result; if the employee requests in writing an opportunity to explain the positive test result within 10 working days after the

employee is notified of the test result, the employer must provide an opportunity, in a confidential setting, within 72

hours after receiving the employee's written notice, or before taking adverse employment action;

(10) a statement of the employer's policy regarding the confidentiality of the test results.

(c) An employer may require the collection and testing of a sample of an employee's or prospective employee's urine or breath for any job-related purpose consistent with business necessity and the terms of the employer's policy, including

- (1) investigation of possible individual employee impairment;
- (2) investigation of accidents in the workplace; an employee may be required to undergo drug testing or alcohol impairment testing for an accident if the test is taken as soon as practicable after an accident and the test is administered to employees who the employer reasonably believes may have contributed to the accident;
- (3) maintenance of safety for employees, customers, clients, or the public at large;
- (4) maintenance of productivity, the quality of products or services, or security of property or information;
- (5) reasonable suspicion that an employee may be affected by the use of drugs or alcohol and that the use may adversely affect the job performance or the work environment.

(d) In addition to tests required under (c) of this section, an employer may require employees or groups of employees to undergo drug testing on a random or chance basis.

(e) If an employer institutes a policy of drug testing or alcohol impairment testing under AS 23.10.600 - 23.10.699, the policy must identify which employees or positions are subject to testing. An employer must test all or part of the work force based on consideration of safety for employees, customers, clients, or the public at large. An employer may not initiate a testing program under AS 23.10.600 - 23.10.699 until at least 30 days after the employer notifies employees of the employer's intent to implement the program and makes written copies of the policy available as required by (a) of this section.

(f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to discourage, restrict, limit, prohibit, or require on-site drug testing or alcohol impairment testing.

AS 23.10.630. Collection of Samples.

(a) An employer may test an employee for the presence of drugs or for alcohol impairment. An employer may test a prospective employee for the presence of drugs.

(b) In order to test reliably, an employer may require an employee or prospective employee to provide a sample of the individual's urine or breath and to present reliable individual identification to the person collecting the sample. Collection of the sample must conform to the requirements of AS 23.10.600 - 23.10.699. The employer may designate the type of sample to be used for testing.

(c) An employer shall normally schedule a drug test or an alcohol impairment test of employees during, or immediately before or after, a regular work period. Alcohol impairment or drug testing required by an employer is considered to be

work time for the purposes of compensation and benefits for current employees. Sample collection shall be performed in a manner that guarantees the individual's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or misidentified.

(d) An employer shall pay the entire actual costs for drug testing and alcohol impairment testing required of employees and prospective employees. An employer shall also pay reasonable transportation costs to an employee if the required test is conducted at a (1) contact the employee within 48 hours and offer an opportunity to discuss the confirming test result;

(2) interpret and evaluate the positive drug test results for legal use; and

(3) report test results that have been caused by prescription medication as negative.

(e) A drug test conducted under this section or in an on-site test under AS 23.10.645 for a drug for which the United States Department of Health and Human Services has established a cutoff level shall be considered to have yielded a positive result if the test establishes the presence of the drug at levels equal to or greater than that cutoff level. For a drug for which the United States Department of Health and Human Services has not established a cutoff level, the employer shall, in the written policy under AS 23.10.620, inform employees of the cutoff level that the employer will use to establish the presence of the drug.

location other than the employee's normal work site.

AS 23.10.640. Testing Procedures.

(a) Sample collection and testing for alcohol impairment and drugs under AS 23.10.600 - 23.10.699 shall be performed under reasonable and sanitary conditions. The person collecting samples shall document the sample, including labeling the sample to preclude to the extent reasonable the possibility of misidentification of the person tested in relation to the test result provided, and shall provide the person to be tested with an opportunity to provide medical information that may be relevant to the test, including identifying current or recently used prescription and nonprescription drugs.

(b) Sample collection, storage, and transportation to the place of testing shall be performed in a manner reasonably designed to preclude the possibility of sample contamination, adulteration, or misidentification.

(c) Sample testing must comply with scientifically accepted analytical methods and procedures. Except for on-site testing under AS 23.10.645, drug testing shall be conducted at a laboratory approved or certified by the Substance Abuse and Mental Health Services Administration or the College of American Pathologists, American Association of Clinical Chemists.

(d) Drug testing, including on-site drug testing, must include confirmation of a positive drug test result. The confirmation must be by use of a different analytical process than was used in the initial drug screen. The second or confirmatory drug test shall be a gas chromatography mass spectrometry. An employer may not rely on a positive drug test unless the confirmatory drug test results have been reviewed by a licensed physician or doctor of osteopathy. The physician or osteopath shall

- (1) contact the employee within 48 hours and offer an opportunity to discuss the confirming test result;
- (2) interpret and evaluate the positive drug test results for legal use; and
- (3) report test results that have been caused by prescription medication as negative.

(e) A drug test conducted under this section or in an on-site test under AS 23.10.645 for a drug for which the United States Department of Health and Human Services has established a cutoff level shall be considered to have yielded a positive result if the test establishes the presence of the drug at levels equal to or greater than that cutoff level. For a drug for which the United States Department of Health and Human Services has not established a cutoff level, the employer shall, in the written policy under AS 23.10.620, inform employees of the cutoff level that the employer will use to establish the presence of the drug.

AS 23.10.645. On-Site Testing.

(a) An employer may include on-site drug and alcohol tests of employees and prospective employees as part of the employer's drug and alcohol testing policy under AS 23.10.600 - 23.10.699. In on-site testing under this section, an employer may only use products approved by the Food and Drug Administration for employee testing and shall use the products in accordance with the manufacturer's instructions. On-site testing under this section may only be conducted by a test administrator who is certified under AS 23.10.650(b).

(b) In on-site testing under this section, the specimen to be tested must be kept in sight of the employee or applicant who is the subject of the test. The test administrator shall

- (1) conduct the test in a manner that allows the subject of the test to observe the testing procedure and the results; in the case of a sight-impaired employee, the employee may request the presence of an observer; however, the test administrator is not required to delay collection of the sample or administration of the test because of the sight-impaired employee's request;

- (2) complete the sample documentation required under AS 23.10.640(a);
- (3) prepare a written record of the results of the on-site test.

(c) An employer may not take permanent employment action against an employee based on an unconfirmed, screen, positive on-site test result. If an employer takes temporary adverse employment action based on an on-site test result, the employer shall restore the employee's wages and benefits if the confirmatory test result is negative or if the employee demonstrates that the positive test result was caused by drugs taken in accordance with a valid prescription of the employee or by lawful nonprescription drugs.

AS 23.10.650. Training of Test Administrators.

(a) Each employer shall ensure that at least one designated employee receives at least 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on the use of controlled substances. The training will be used by the designee to determine whether reasonable suspicion exists to require an employee to undergo testing under AS 23.10.630.

(b) If an employer administers on-site drug or alcohol tests to test employees or prospective employees under AS 23.10.645, the employer shall ensure that each person who will be administering the on-site test receives training and meets the qualifications of this subsection. An on-site test administrator must

(1) have been trained by the manufacturer of the test or the manufacturer's representative on the proper procedure for administering the test and accurate evaluation of on-site test results; training must be conducted in person by a trainer from the manufacturer or the manufacturer's representative;

(2) be certified in writing by the manufacturer or the manufacturer's representative as competent to administer and evaluate the on-site test;

(3) have been trained to recognize adulteration of a sample to be used in on-site testing; and

(4) sign a statement that clearly states that the on-site test administrator will hold all information related to any phase of a drug test confidential.

AS 23.10.655. Disciplinary Procedures.

(a) An employer may take adverse employment action based on

(1) a positive drug test or alcohol impairment test result that indicates a violation of the employer's written policy;

(2) the refusal of an employee or prospective employee to provide a drug testing sample; or

(3) the refusal of an employee to provide an alcohol impairment testing sample.

(b) Adverse employment action under (a) of this section may include

(1) a requirement that the employee enroll in an employer provided or employer approved rehabilitation, treatment, or counseling program; the program may include additional drug testing and alcohol impairment testing; the

employer may require participation in the program as a condition of employment; costs of participating in the program may or may not be covered by the employer's health plan or policies;

(2) suspension of the employee, with or without pay, for a designated period of time;

(3) termination of employment;

(4) in case of drug testing, refusal to hire a prospective employee; and

(5) other adverse employment action.

AS 23.10.660. Confidentiality of Results; Access to Records.

A communication received by an employer relevant to drug test or alcohol impairment test results and received through the employer's testing program is a confidential and privileged communication and may not be disclosed except

(1) to the tested employee or prospective employee or another person designated in writing by the employee or prospective employee;

(2) to individuals designated by an employer to receive and evaluate test results or hear the explanation of the employee or prospective employee; or

(3) as ordered by a court or governmental agency.

AS 23.10.670. Effect of Mandatory Testing Obligations.

An employer who is obligated by state or federal requirements to have a drug testing or alcohol impairment testing policy or program shall receive the full benefits of AS 23.10.600 - 23.10.699 even if the required policy or program is not consistent with AS 23.10.600 - 23.10.699, so long as the employer complies with the state or federal requirements applicable to the employer's operations.

AS 23.10.699. Definitions.

In AS 23.10.600 - 23.10.699,

(1) "alcohol" means ethanol, isopropanol, or methanol;

(2) "drugs" means a substance considered unlawful under AS 11.71 or the metabolite of the substance;

(3) "drug testing" means testing for evidence of the use of a drug;

(4) "employee" means a person in the service of an employer;

(5) "employer" means a person who employs one or more full-time employees under a contract of hire, express or implied, oral or written;

(6) "good faith" means reasonable reliance on fact, or that which is held out to be factual, without the intent to deceive or be deceived and without reckless or malicious disregard for the truth;

(7) "prospective employee" means a person who has made application to an employer, whether written or oral, to become an employee;

(8) "random" means a scientifically valid method that ensures that all covered employees have an equal chance of being selected;

(9) "sample" means urine or breath from the person being tested.

HB

326

7/15/11
Deputy Commissioner
Dwight Perkins

**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
MECHANICAL FEE PROPOSAL/BOILERS AND PRESSURE VESSELS**

Current Situation:

There are a total of 24,500 active boilers and pressure vessels subject to our jurisdiction. Currently, the Mechanical Inspection Section (MIS) inspects approximately 3,300 vessels per year. We charge for those inspections and for a certificate of operation that is issued as a result of inspection. Inspection fees are set by regulation and vary from a total of \$50 every two years to a high of \$125 every year. The number of Boiler inspectors has been cut from five to three and one-half, and we are still facing a substantial backlog of overdue inspections. The number of revenue producing inspections shrinks annually and the revenue varies unpredictably.

The Proposal:

Adopted from the state of Oregon, the proposed plan would issue a certificate of operation to every active boiler and pressure vessel every year and charge a certificate fee. Boiler inspections would be done free of charge. This has two major advantages:

- Income would be leveled to a highly predictable rate every year. The number of active vessels does not fluctuate that greatly, and the changes that occur tend to be increases in the total number of vessels. The consumer would pay no more for the aggregate annual certificate fee than they do now for the periodic inspection and certificate fee and in many cases could pay less.
- The inspection staff could schedule inspections on a needs basis, using factors such as volatility of the unit (i.e.: high pressure fired versus unfired), last inspection date and so forth. In this manner the small cadre of inspectors could be used in the most effective manner.

This plan simplifies the administrative support and allows management to prioritize inspections to better address the needs of the public.

**Department of Labor and Workforce Development
Mechanical Fee Proposal/Boilers and Pressure Vessels**

Current Revenues Generated From Inspection Fees

<u>FY</u>	<u>Target Amount</u>	<u>Actual Revenue</u>	<u>% of FY Target</u>
96	286.8	331.6	116%
97	315.5	360.1	114%
98	319.0	321.0	101%
99	315.5	338.5	107%

Proposed Revenues and Consumer Savings from Annual Certificate of Operation Fees

<u>Vessel Type</u>	<u>Inspected</u>	<u># of Vessels</u>	<u>Annual Cert. Fee</u>	<u>Consumer Net Savings</u>	<u>State Revenue</u>
Hi. Pressure					
Steam (1)	Annually	259	\$35.00	\$45 - \$50*	9.1
(2)		124	\$35.00	\$45 - \$60*	4.3
(3)		139	\$35.00	\$60 - \$90*	4.9
Cast Iron And Mini- Boilers (A)					
	2 years	1234	\$35.00	\$0 - \$5*	43.2
(B)		208	\$35.00	\$10 - \$30*	7.3
(C)		8761	\$35.00	\$0	306.6
(M)		0	\$35.00	\$0	0
Hot Water Supply (X)					
	2 years	1152	\$30.00	\$0	34.6
Unfired Pressure Vessels (U1)					
	Annually	65	\$35.00	\$25	2.3
(U2)	2 yrs.	622	\$30.00	\$0	18.7
(U3)	3 yrs.	223	\$20.00	\$0	4.5
(U4)	4 yrs.	9256	\$15.00	\$0	138.8
(U5)	5 yrs.	2746	\$10.00	\$10	<u>27.5</u>
Total Annual Revenue					\$601.8

*Note: Savings vary because inspection fees vary depending whether inspection are performed internally (inside the vessel) or externally.

HD 304



TONY KNOWLES
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January 31, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

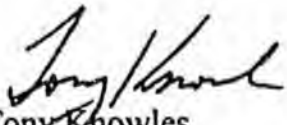
Dear Speaker Porter:

This bill I transmit today will bring greater efficiency to the state's boiler and pressure vessel inspection program while allowing the Department of Labor and Workforce Development to generate a predictable amount of revenue, prioritize routine inspections, and better address the needs of the public.

Under current law, the Department of Labor and Workforce Development (department) is to inspect boiler and pressure vessels every one to five years, depending on the type of machinery. At the time of inspection, the department charges an inspection fee in addition to a fee for a certificate of operation. This bill simplifies the system by allowing the department to annually issue certificates of operation to all boilers or pressure vessels, while selectively determining which of them need an inspection. A fee structure will be established for the certificates, but routine inspections would be free. A fee would be charged for any special inspections.

The State of Oregon has adopted a similar program and found it to be quite successful. This program will ensure safe operation of boilers and pressure vessels in the state while removing unnecessary steps in the inspection and certification process.

Sincerely,


Tony Knowles
Governor

FISCAL NOTE

No: 1

Bill version: HB 326

(H) Publish Date: 2/2/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): _____
 Title: An Act relating to the inspection of
boilers and pressure vessels and to fees
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Labor
 BRU: Labor Standards and Safety
 Component: Mechanical Inspection
 COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUE*	(41.5)	294.6	365.7	434.5	445.5	445.5
FUND SOURCE #	1005	1005	1005	1005	1005	1005

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY00) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 The Department of Labor and Workforce Development currently charges a fee for the inspection of a boiler or pressure vessel, as well as a fee for a certificate of operation issued as a result of the inspection. Inspections are performed every one to five years, depending on the type of boiler or pressure vessel. Under this bill, for a fee that will be established by regulation, a new certificate of operation would be issued annually. Routine inspections would be free, but a fee would be charged for special inspections. This bill will allow the department to generate a predictable amount of revenue and to prioritize routine inspections to better address safety needs. Under the bill there is no operating impact or funding change to the division budget. (next page)

Prepared by: Al Dwyer, Director Phone: 485-4855
 Division: Labor Standards & Safety Date/Time: 1/19/00 11:24 AM
 Approved by Commissioner: Ed Flanagan, Commissioner
 Agency: Department of Labor Date: 1/19/00

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Fiscal Note: An Act relating to the inspection of boilers and pressure vessels and to fees for services under the boilers and pressure vessels program.

Revenue Projections

Certificate Type	Insp. Freq.	FY 01	FY 02	FY 03	FY 04	FY 05
High pressure vessels (steam generators)	1 year	20,415	20,415	20,415	20,415	20,415
Cast-iron and mini boilers	2 years	229,568	459,135	459,135	459,135	459,135
Hot water tanks and unfired pressure vessels**	2 years	35,480	70,960	70,960	70,960	70,960
Unfired pressure vessels**	3 years	2,208	4,415	6,690	6,690	6,690
Unfired pressure vessels**	4 years	57,850	115,700	173,550	231,400	231,400
Unfired pressure vessels - owner/user inspected**	5 years	10,984	21,968	32,952	43,936	54,920
Total projected revenue:		362,504	898,593	769,702	838,536	849,520
Current projected revenue:		404,000	404,000	404,000	404,000	404,000
Difference		(41,496)	294,593	385,702	434,536	445,520

Assumption is that inspections phase in at rates shown below, because boilers with less frequent inspection requirements are grandfathered until current certificate expires.

Certificate Type	# of PV	Ann'l Fee	Total	year 1	year 2	year 3	year 4	year 5
High pressure vessels such as steam generators	587	45.00	26,415	100%	100%	100%	100%	100%
Cast-iron and mini boilers	10,203	45.00	459,135	50%	100%	100%	100%	100%
Hot water and unfired pressure vessels**	1,774	40.00	70,960	50%	100%	100%	100%	100%
Unfired pressure vessels**	223	30.00	6,690	33%	66%	100%	100%	100%
Unfired pressure vessels**	9,258	25.00	231,400	25%	50%	75%	100%	100%
Unfired pressure vessels - owner/user inspected**	2,748	20.00	54,920	20%	40%	60%	80%	100%

Assumptions:

1. Boilers and pressure vessels that are not currently inspected annually will phase in at an even rate. In other words, one-half of the two-year vessels phase in during the first year and the other half in the second year. The same phase-in rate is assumed for three, four and five-year vessels. While this is not statistically true, the variations are not substantial.
2. The total number of vessels remains static.

Notes:

* Current projections, based on the assumptions listed below, indicate that this fee plan will generate increasing revenues over the next five years, leveling off at approximately 570.0 above the current projected collection level of 404.0.

** Unfired pressure vessels (UPVs) include such things as air compressors, propane tanks, oxygen tanks, and hot water storage tanks, among others. New UPVs are inspected every four years. Depending upon age, condition and usage of the UPV, inspections may become more frequent over the life of the tanks. This decision is made by the inspector based on a number of factors, such as rate of deterioration.

HB

334

ALASKA STATE LEGISLATURE

HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Andrew Halcro, Vice-Chairman
Representative John Harris
Representative Lisa Murkowski
Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2040

MEMORANDUM

To: Rep. Gene Therriault, Co-Chairman
House Finance Committee

From: Rep. Norman Rokeberg, Chairman *Norman/rp*
House Labor & Commerce Committee

Date: March 15, 2000

RE: HB 334

Attached are the following:

1. Referral File on HB 334, which contains the House L&C version of this bill.
2. Memorandum from Legislative Council George Utermohle regarding the amendment the House Labor & Commerce Committee incorporated into its version of the legislation.

If you have any questions, please do not hesitate to contact me.

Attachments

cc: Jeff Bush, DCED (w/attachment 2)

LEGAL SERVICES

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

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 9, 2000

SUBJECT: CSHB 334(L&C), relating to an administrative cost charge for the state's role in the CDQ program (HB 334)

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: George Utermohle 
Legislative Counsel

Enclosed is the final for CSHB 334(L&C) as passed by the House Labor and Commerce Committee.

The CS incorporates the amendment adopted by the committee.

It is recommended that the language of the amendment (Sec. 2; Sec. 44.33.113(f), page, 3 lines 6 - 9) be altered slightly in its next committee of referral to read:

(f) The department *may* not assess *or* collect *an* administrative *cost* charge under this section from *a* new CDQ *group* representing communities *that were* not eligible for the CDQ program *as of June 30, 2000, during the first 24 months after* the actual award of *a* fishery quota to *the* newly formed CDQ group.

If I may be of further assistance, please advise.

GU:pl:glc
00-084.plm

3/08/00

AMENDMENT # / amended

OFFERED IN THE HOUSE

TO: HB334

BY: Rep Halcro

Page 3, line 5, insert new subsection (f) as follows:

Base:
New

"(f) The department shall not assess nor collect administrative charges under this section from CDQ groups, representing communities not eligible for the CDQ program as of the effective date established in section 6 of this Act, for a period of two years from the actual award of fishery quota to that newly formed CDQ group."

Re-letter subsequent sections accordingly.

Roll Call

SC - Y

JH - N

TB - Y

HNR - NO

JS - Y

AH - Y



Tony Knowles, Governor

Department of Community and Economic Development

Office of the Commissioner

P.O. Box 110800, Juneau, AK 99811-0800
Telephone: (907) 465-2500 • Fax: (907) 465-5442 • TDD: (907) 465-5437
Email: questions@dced.state.ak.us • Website: www.dced.state.ak.us/

MEMORANDUM

February 22, 2000

TO: Representative Norman Rokeberg, Chair
House Labor & Commerce Committee
FROM: Jeffrey Bush, Deputy Commissioner
Department of Community & Economic Development
RE: Scheduling request for House Bill 334

RECEIVED

FEB 22 2000

"An act relating to the establishment of and accounting for an administrative cost charge for the state's role in the Community Development Quota program and to the appropriation of receipts from the charge; and providing for an effective date."

This letter is to request a bill hearing for House Bill 334, by the Rules Committee by request of the Governor, and relating to administrative charges associated with the funding of the Community Development Quota Program (CDQ). HB 334 was heard February 22 in the Community & Regional Affairs Committee. The amended version was passed out the same day.

Under House Bill 334 Community Development Quota groups that participate in the CDQ program will pay assessment fees to the state. The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation.

The Department of Community and Economic Development would administer the cost charge, which is added to the statutory list of program receipts subject to separate accounting procedures.

Participants of the CDQ program recognize their future success hinges on the ability of the state to continue to administer the program. To that end, the groups proposed the funding plan forwarded in this bill and are in agreement with the contents of House Bill 334.

For further information please contact Jeffrey Bush at 465-2500 or Bryce Edgmon, CDQ Manager, at 465-5536. Thank for you considering this request.

Cc: Pat Pourchot, Legislative Liaison

HB 334

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

PO BOX 11963
Juneau, Alaska 99811-1963
(907) 465-3800
Fax (907) 465-3302
www.governor.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 1, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

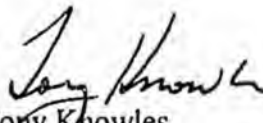
The community development quota (CDQ) program has created jobs and expanded economic opportunity in western Alaska. It is essential to this region of the state that we ensure the continuance of this federal fisheries resource program. This bill I transmit today meets that challenge by partnering with the CDQ participants to cover the state's administrative cost of the program.

Under this bill, community development groups that participate in the CDQ program will pay assessment fees to the state. The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation.

The Department of Community and Economic Development would administer the cost charge, which is added to the statutory list of program receipts subject to separate accounting procedures.

Participants of the CDQ program recognize their future success hinges on the ability of the state to continue to administer the program. To that end, the groups proposed the funding plan forwarded in this bill and are ready to give it their full support. To protect this vital program and improve the efficiency and operation of the state's role in it, I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 334 (CRA)

Revision Date/Time (Note if correction) _____ Dept. Affected Community and Economic
 Title Administrative charge for the state's role in the CDQ BRU Community and Economic Development
 Component Community and Economic Development
 Sponsor Rules
 Requester (H)L&C Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	250.0	250.0	250.0	250.0	250.0	250.0
-------------------------------	--------------	--------------	--------------	--------------	--------------	--------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(250.0)	(250.0)	(250.0)	(250.0)	(250.0)	(250.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Statutory Designated P/R	250.0	250.0	250.0	250.0	250.0	250.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 250.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will switch the funding source for the Community Development Quota (CDQ) program from the general fund to statutory designated program receipts, through the implementation of a fee structure on the groups benefiting under the program. This fee structure is supported by the CDQ groups and the department as a method of making this successful and lucrative program self-supporting.

Prepared by: Jeffrey W. Bush Phone _____
 Division Commissioner's Office Date/Time 2/22/00 2:29 PM
 Approved by Commissioner [Signature] Date 2/22/00
 Agency _____

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

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Tony Knowles, Governor

Department of Community and Economic Development

Municipal & Regional Assistance Division

P.O. Box 110800, Juneau, AK 99811-0800

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Email: mrad@dced.state.ak.us • Website: www.dced.state.ak.us/mra/Home.htm

Sponsor Statement

HB 334 (C&RA Amended)

“An act relating to the establishment of and accounting for an administrative cost charge for the state's role in the Community Development Quota program and to the appropriation of receipts from the charge; and providing for an effective date.”

In 1996, the Magnuson/Stevens Fisheries Conservation and Management Act authorized the Secretary of Commerce (Secretary) to collect and recover the costs associated with the management and enforcement of the CDQ program. The National Marine Fisheries Service, under the Secretary, has not taken any action yet on initiating a Community Development Quota (CDQ) fee program.

In view of an eventual CDQ fee program and in recognition of state budget reductions, the CDQ groups and the Department of Community & Economic Development (department) have decided to pursue a statutory fee program in advance of the implementation of a federal fee program.

HB 334 will switch the funding source for the CDQ program from the General Fund to Statutory Designated Program Receipts authority. The CDQ groups and the department support the fee as a method of making the CDQ program self-supporting. The total cost of state management is approximately \$250,000.

The proposed fee structure has two components. First, each group will pay a standard, flat amount that will total half the state's administrative costs. Second, each group will pay a variable share of the remaining administrative costs based upon the value of that group's fisheries quota allocation. The department would administer the cost charge.

The fee would be effective at the beginning of the new fiscal year, July 1, 2000. The House Community and Affairs Committee added a technical amendment to provide for an adjustment of the variable fee portion of the administrative cost charge.

Cc: Pat Pourchot, Governor's office



Tony Knowles, Governor

**Department of Community
and Economic Development**

Municipal & Regional Assistance Division

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-4750 • Fax: (907) 465-5085 • Text Telephone: (907) 465-5437

Email: mrad@dced.state.ak.us • Website: www.dced.state.ak.us/mra/Home.htm

M E M O R A N D U M

February 22, 2000

TO: Rep. Norman Rokeberg, Chair
House Labor & Commerce Committee

FROM: Bryce Edgmon, CDQ Manager
Department of Community & Economic Development

RE: Sectional analysis of House Bill 334 (C&RA amended)

“ An Act relating to the establishment of an accounting for an administrative cost charge for the state’s role in the community development quota program and to the appropriation of receipts from the charge; and providing for an effective date.”

Section One:

Creates a new subparagraph (X) to 37.05.146 adding the “CDQ administrative cost charge” to the list of program receipts that exist in statute. Other examples of program receipts include International Airport Fund, Fish and Game fund, Alaska Children’s Trust, Highway Working Capital Fund, etc.

Section Two:

AS 44.33 is amended to give the Department of Community and Economic Development the authority to determine and assess the annual administrative cost fee to the CDQ groups. It provides the department the authority to provide regulations in accordance with this section.

(b) The department must determine the administrative costs no later than June 30 before the start of the applicable fiscal year. Upon being notified, a CDQ group has 45 days to pay the department their share of the administrative cost charge.

(c) The total cost of the administrative cost charge cannot exceed \$400,000. This “ceiling” is higher than the cost of currently managing the program, which is approximately \$250,000.

The rationale is that future legislation will not be needed if a higher amount of program receipt authority is deemed necessary. The CDQ groups agreed to this provision with the understanding that any upward adjustment in the administrative cost charge would involve a mutual decision-making process with the state.

This section also addresses any adjustments to the administrative cost charge from “carryover funds” and reappropriations.

(d) The administrative cost charge is broken down into two categories; a pro rata share, which is by definition the standard portion, and represents 50% of the total administrative cost charge.

The second category is the variable portion, which is assessed through a formula to the CDQ groups. The formula comes from royalties derived by multiplying the remaining 50% administrative cost charge by the ratio of the value of quota allocated to each group to the total value of the CDQ quota for the applicable year.

Variable portion = One half of administrative cost charge * the ratio of value of CDQ group's quota relative to the value of all CDQ quota (for the applicable year).

(e) The department may adjust the variable fee for a fiscal year for the CDQ groups if an inequitable result occurs. This will be the department and the groups to use different specie's in relation to fluctuating harvest returns and prices. The aggregate amount assessed to the CDQ groups must be enough to compensate the state for the management costs in (c).

(f) The department will collect and enforce the fee, which will be deposited in the Community Development Quota Program Account in the state treasury.

(g) The Department of Administration shall identify the amount of the appropriation that lapses into the general fund each year. The legislature may appropriate an amount equal to operating costs of the CDQ program for the next fiscal year.

(h) Technical section.

Section Three:

Applicability section, which authorizes the administrative cost charge to begin on or after July 1, 2000.

Section Four:

Authorizes the Department of Community and Economic Development to adopt necessary regulations.

Section Five:

Grants the department the authority to adopt regulations.

Section Six:

Effective date -- This act takes effect June 30, 2000.



Aleutian Pribilof Island Community Development Association

□ 234 Gold St. • Juneau, Alaska 99801 • (907) 586-0161 • 1-888-9APICDA • Fax (907) 586-0165

□ Unalaska Office: P.O. Box 208 • Unalaska, Alaska 99685 • (907) 581-5960 • Fax (907) 581-5963

February 10, 2000

The Honorable John Harris, Co-Chair
The Honorable Carl Morgan, Co-Chair
Community & Regional Affairs Committee
Alaska House of Representatives
Juneau, Alaska

Re: HB 334

Dear Representatives Harris and Morgan:

The Aleutian Pribilof Island Community Development Association (APICDA) is one of six community development quota (CDQ) organizations in Alaska. APICDA supports HB 334. We have worked hard with the state and the other CDQ groups to fashion a fee system that is fair to all six CDQ groups and meeting the fiscal needs of the state. We believe HB 334 is a good bill and worthy of adoption.

If you have any questions, please don't hesitate to contact me.

Sincerely,



Larry Conner
CEO

cc: APICDA Board of Directors

Bristol Bay Economic Development Corporation

P.O. Box 1464 • Dillingham, Alaska 99576 • (907) 842-4370 • Fax (907) 842-4336 • 1-800-478-4370

114 S. Franklin, Suite 202 • Juneau, Alaska 99801 • (907) 463-5054 • Fax (907) 463-5056 • E-mail bbedc@ptlalaska.net



February 14, 2000

The Honorable Carl Morgan, Co-Chair
The Honorable John Harris, Co-Chair
House of Representatives, Community & Regional Affairs Committee
State Capitol
Juneau, Alaska 99801-1182

RE: House Bill 334

Dear Co-Chairs Morgan and Harris,

Bristol Bay Economic Development Corporation (BBEDC) is one of the six Community Development Quota (CDQ) groups formed under the Western Alaska Community Development Quota Program. BBEDC represents 5,607 residents in the 17 member communities located in Southwest Alaska.

BBEDC would like to comment on House Bill 334; "An Act relating to the establishment of and accounting for an administrative cost charge for the state's role in the community development quota program and to the appropriation of receipts from the charge; and providing for and effective date."

In conjunction with the other CDQ groups and the State of Alaska CDQ Team, BBEDC contributed to the development of the CDQ fee proposal before you today. BBEDC would like to express our support for House Bill 334 and urge the committee to implement the Bill as written.

Respectfully,

A handwritten signature in black ink, appearing to read "Eric A. Olson". The signature is written in a cursive style with a long, sweeping underline.

H. Robin Samuelsen, Jr.,
Chairman of the Board, BBEDC

FOR



Coastal Villages Region Fund

711 H Street, Suite 200 • Anchorage, Alaska 99501 • Phone 907-278-5151 • Fax 907-278-5150

February 10, 2000

The Honorable Brian Porter
Speaker of the House
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Porter:

The Coastal Villages Region Fund supports HOUSE BILL NO. 334 relating to the establishment of and accounting for an administrative cost charge for the state's role in the community development quota (CDQ) program and to the appropriation of receipts from the charge to cover the state's administrative cost of the program. The Coastal Villages Region Fund is a CDQ group that represents twenty villages in the Kuskokwim River region of western Alaska.

The CDQ program has created jobs and expanded economic opportunity in the Coastal Villages region. It is essential that we ensure the continuance of this federal fisheries resource program. I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edgar Hoelscher".

Edgar Hoelscher, Vice President
Board of Directors

Cc: Fred Phillip, President
Senator Lyman F. Hoffman
Senator Al Adams
Representative Mary Kapsner
Representative Richard Foster
Governor Tony Knowles



Brevig Mission Dinnale Elm Gambell Galvin Kiguk Nonne Saint Michael Saenunga Shaktualik Stebbins Teller Unalakleet Wales White Mountain

February 14, 2000

The Honorable John Harris, Co-Chair
 The Honorable Carl Morgan, Co-Chair
 State Capitol
 Juneau, AK 99801-1182

Re: Support For HB 334

Dear Representatives Harris and Morgan:

Norton Sound Economic Development Corporation (NSEDC) is in support of the concept of an administrative cost charge for the reasonable and necessary expenses of the state for their participation in the administration of the federal Community Development Quota (CDQ) program. HB334 sets forth a mechanism for the six groups participating in the CDQ program to pay the cost.

The CDQ program is a relatively new program. There are significant issues regarding the program which can affect its nature and success. Because at this time there is no Alaska statutory direction governing the state's participation, NSEDC suggests that the bill be amended to require periodic legislative reauthorization of the bill, such as every three years.

Subject to a modification of the bill which would require periodic reauthorization, NSEDC is in support of HB 334.

Sincerely yours,

Eugene Asicksik
 President and CEO



Yukon Delta Fisheries Development Association

2200 6th Avenue • Suite 707
Seattle • WA 98121
Tel: (206) 443-1565 Fax: (206) 443-1912

P.O. Box 2626
Seward • AK 99664
Tel: (907) 224-5158 Fax: 224-5159

February 14, 2000

COPY

The Honorable Carl Morgan
Alaska State Legislature
State Capitol, Room 409
Juneau, AK 99801-1182

Dear Representative Morgan:

Yukon Delta Fisheries Development Association, a Community Development Quota organization representing the communities of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village and Sheldon Point, fully supports the passage of HB 334, "An Act relating to the establishment of and accounting for an administrative cost charge for the state's role in the community development quota program".

Our organization wholeheartedly endorses the oversight provided to the CDQ program by the State of Alaska. We feel it is our responsibility to reimburse the State of Alaska for our share of the administrative costs involved in providing oversight for this Federal Community Development Quota Program.

Respectfully yours,

Ragnar O. Alstrom
Executive Director

HB

339

(7)

Date Referred to Committee: February 4, 2000

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

Finan

Date of Committee Action: MARCH 31, 2000

The LABOR AND COMMERCE Committee considered:

HB 3

HOUSE BILL NO. 339

CFAB LOANS FOR TOURISM & NAT RESOURCE

"An Act authorizing the Alaska Commercial Fishing and Agriculture Bank to make loans relating to tourism ar development or exploitation of natural resources."

recommends it be replaced with the following committee substitute CS&A 339(L+C) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) DCE D 2/24/00 zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

CHAIR'S SIGNATURE *[Signature]*

3-31-2000

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 339(L&C), Draft Version "G"

1 Page 1, line 3, following "resources":

2 Insert "; and authorizing Alaska commercial fishing entry permits to be used as
3 collateral for loans made by commercial lending institutions"

4 Page 1, following line 4:

5 Insert new bill sections to read:

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

7 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.442 -
8 16.43.448, AS 44.81.215, 44.81.225, and 44.81.231 - 44.81.250, an entry permit may
9 not be

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

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

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

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

16 (h) Unless an entry permit holder has expressed a contrary intent in a will that
17 is probated, the commission shall, upon the death of the permit holder, transfer the
18 permanent permit by right of survivorship directly to the surviving spouse or, if no
19 spouse survives, to a natural person designated by the permit holder on a form
20 provided by the commission. If no spouse survives and if the person designated on
21 the form, if any, does not survive, the permit passes as part of the permit holder's
22 estate. A designation under this subsection must be acknowledged before a person
23 authorized to administer an oath under AS 09.63.010 or must be witnessed by two
24 persons who are qualified under AS 13.12.505 to witness the will of the permit

1 holder. Except as provided in AS 16.10.333 - 16.10.337, AS 16.43.442 - 16.43.448,
2 AS 44.81.215, and 44.81.231 - 44.81.250, the permit is exempt from the claims of
3 creditors of the estate.

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

5 (a) Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.442 -
6 16.43.448, and in AS 44.81.231 - 44.81.250, entry permits and interim-use permits are
7 transferable only through the commission as provided in this section and
8 AS 16.43.180 and under regulations adopted by the commission. An involuntary
9 transfer of an entry permit in a manner inconsistent with the statutes of this state and
10 the regulations of the commission is void.

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

12 (b) Except as provided in (c) and (e) of this section, the holder of an entry
13 permit may transfer the permit to another person or to the commission upon 60 days'
14 [DAYS] notice of intent to transfer under regulations adopted by the commission. No
15 sooner than 60 days nor later than 12 months from the date of notice to the
16 commission, the holder of an entry permit may transfer the permit. If the proposed
17 transferee, other than the commission, can demonstrate the present ability to
18 participate actively in the fishery and the transfer does not violate any provision of
19 this chapter or regulations adopted under this chapter [IT], and if a certificate for the
20 permit under AS 16.10.333(b)(1) - (2), 16.10.338, AS 16.43.442, or AS 44.81.231(a)
21 is not in effect, the commission shall approve the transfer and reissue the entry permit
22 to the transferee provided that neither party is prohibited by law from participating in
23 the transfer.

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

25 (g) A person may request the commission to transfer an entry permit due to
26 an execution on the holder's interest in that permit. The request shall be made in the
27 form and manner provided in this chapter and regulations adopted under this chapter.
28 The commission may deny a request for transfer of an entry permit due to an
29 execution of a holder's interest in that permit if

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

32 (2) the transfer violates this chapter or regulations adopted under this

1 chapter;

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

4 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
5 16.10.338, AS 16.43.442, or AS 44.81.231(a) is in effect at the time of the proposed
6 transfer;

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

10 (6) the holder of the entry permit as shown by the records of the
11 commission demonstrates, under regulations adopted by the commission, that the entry
12 permit is a necessary means of support for the holder and those dependent upon the
13 holder.

14 * Sec. 6. AS 16.43 is amended by adding new sections to read:

15 **Article 6A. Pledge of Entry Permits as Collateral.**

16 **Sec. 16.43.442. Pledge of permits.** (a) A limited entry permit issued under
17 this chapter may be pledged by the holder as security for a loan made by a
18 commercial lending institution if the certificate for the pledged permit lists the
19 commercial lending institution as the legal owner of the permit and the pledger as the
20 equitable owner of the permit.

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

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

27 (d) Upon payment of the loan, the commercial lending institution shall certify
28 to the commission that the loan has been repaid, the commission shall amend the
29 permit certificate to list the equitable owner as the holder, and the legal interest of the
30 commercial lending institution terminates.

31 (e) In anticipation of a possible foreclosure under AS 16.43.442 - 16.43.448,
32 the equitable owner of a permit that is pledged as security for the loan may nominate

1 a person to whom the permit may be transferred if the pledge is foreclosed under
2 AS 16.43.445.

3 **Sec. 16.43.443. Initial notice of default.** If there is a default on a loan
4 secured by a permit pledged under AS 16.43.442, the commercial lending institution
5 shall notify the borrowers and guarantors on the loan of the default and of the right
6 to cure the default by sending a notice by certified mail to their last known address
7 or addresses on file with the commercial lending institution. The notice must include

8 (1) the date of the notice;

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

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

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

14 (5) the total indebtedness, including interest, penalties, and costs of
15 collection, remaining owing on the loan as of the date of the notice;

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

17 (7) a statement that the costs of collection of the loan incurred by the
18 commercial lending institution after the date of the notice will be added to the total
19 amount of the indebtedness owing on the loan;

20 (8) a statement that the default may be cured within 60 days from the
21 date of the notice or within an extended time period that is specified in an extension
22 notice provided by the commercial lending institution within the 60-day period under
23 AS 16.43.447;

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

26 (10) a statement in at least 10 point bold type stating: "IMPORTANT:
27 UNLESS YOU CURE THE LOAN DEFAULT WITHIN THE TIME SPECIFIED BY
28 THIS NOTICE, THE TOTAL INDEBTEDNESS OWING ON THE LOAN SHALL
29 BE IMMEDIATELY DUE AND PAYABLE TO THE COMMERCIAL LENDING
30 INSTITUTION WITHOUT FURTHER NOTICE TO YOU. ALSO, THE
31 COMMERCIAL LENDING INSTITUTION SHALL THEN BE ENTITLED TO
32 TAKE ANY LEGAL ACTION AGAINST YOU TO COLLECT THE LOAN,

1 INCLUDING THE INSTITUTION OF LAWSUITS AND THE FORECLOSURE OF
2 THE PLEDGE OF ANY PERMIT PLEDGED TO SECURE THIS LOAN."

3 **Sec. 16.43.444. Lender's remedies after failure to cure.** If the borrowers
4 and guarantors on a loan secured by a permit pledged under AS 16.43.442 fail to cure
5 a default within the time stated in the notice given under AS 16.43.443, the total
6 indebtedness owing on the loan immediately becomes due and payable to the
7 commercial lending institution, and the commercial lending institution shall be entitled
8 to take any legal action to collect the loan, including the foreclosure under
9 AS 16.43.445 of the permit pledge that secures the loan and the institution of legal
10 action. If the commercial lending institution forecloses the permit pledge, the
11 commercial lending institution may proceed in the order the commercial lending
12 institution selects, whether before, after, or concurrent with other action taken to
13 collect the loan.

14 **Sec. 16.43.445. Foreclosure notice.** The commercial lending institution may
15 foreclose on a permit pledge that secures a loan by sending to the equitable owner of
16 the permit pledged and any other borrowers and guarantors on the loan a notice of
17 foreclosure. The notice shall be sent by certified mail to their last known address or
18 addresses on file with the commercial lending institution and must include

19 (1) the date of the notice;

20 (2) a statement that the total indebtedness owing on the loan became
21 due and payable to the commercial lending institution because the loan default was
22 not cured within the time specified in the notice of default and right to cure provided
23 under AS 16.43.443, and that, as a result, the commercial lending institution is entitled
24 to take legal action to collect the loan, including the forfeiture of a permit pledge that
25 secures the loan and the institution of legal action;

26 (3) a description of the permit pledge that is being foreclosed by the
27 notice, including an identification of the permit by the number assigned by the
28 commission and the name of the equitable owner;

29 (4) the amount of the total indebtedness owing as of the date of the
30 notice;

31 (5) the amount of daily interest that accrues from the date of the
32 notice;

1 (6) a statement that the costs of collection of the loan incurred by the
2 commercial lending institution after the date of the notice will be added to the total
3 amount of the indebtedness due on the loan;

4 (7) a statement that, to avoid forfeiture of all rights of the equitable
5 owner of the permit identified in the notice, the loan must be paid in full within 60
6 days from the date of the notice or within an extended time period that is specified
7 in an extension notice provided by the commercial lending institution within the 60-
8 day period under AS 16.43.447;

9 (8) a statement that, once a forfeiture of all rights of the equitable
10 owner of a permit described in the notice occurs, the permit may not be redeemed;

11 (9) a statement of the right of the equitable owner to nominate a
12 person to assume the loan under AS 16.43.442;

13 (10) the place where payment in full may be made; and

14 (11) a notice in at least 10 point bold type stating: "IMPORTANT: IF
15 THE LOAN IS NOT PAID IN FULL BY THE DATE SPECIFIED, ALL RIGHTS
16 OF THE EQUITABLE OWNER TO THE PERMIT IDENTIFIED IN THIS NOTICE
17 WILL BE FORFEITED WITHOUT FURTHER NOTICE TO YOU. IN THAT
18 EVENT, THERE WILL NOT BE A RIGHT OF REDEMPTION OF THE PERMIT.
19 IN ADDITION, THE COMMERCIAL LENDING INSTITUTION MAY NOW TAKE
20 OTHER ACTION TO COLLECT THE LOAN, INCLUDING THE INSTITUTION
21 OF LEGAL ACTION AGAINST YOU AND THE FORECLOSURE OF OTHER
22 PERMIT PLEDGES THAT SECURE THE LOAN."

23 **Sec. 16.43.446. Termination of permit interest.** (a) If a loan is not paid
24 in full within the time specified by the notice provided for the loan under
25 AS 16.43.445, the equitable interest in the permit identified in the notice terminates
26 by operation of law without further notice. The commission shall cancel an entry
27 permit card issued to the equitable owner of the permit immediately upon receipt by
28 the commission of a certificate of termination containing a copy of the notices
29 required by AS 16.43.443 and 16.43.445.

30 (b) If a limited entry permit that has been pledged as security under
31 AS 16.43.442 is revoked under AS 16.43.970, the debtor's interest in the permit is
32 terminated by operation of law without further notice as of the date that the revocation

1 takes effect.

2 **Sec. 16.43.447. Cancellation, extension, and delivery of notices.** (a) The
3 commercial lending institution may cancel a notice provided under AS 16.43.443 or
4 16.43.445 by delivering a written notice of cancellation to the persons who were given
5 the cancelled notice. The notice shall be given in the same manner as is required for
6 the cancelled notice.

7 (b) The commercial lending institution may extend the 60-day period for
8 curing a default under AS 16.43.444 and the period before a forfeiture occurs under
9 AS 16.43.446 by giving a written notice of extension to the persons who were given
10 the notice. The notice shall be given in the same manner as is required for the giving
11 of the notice being extended.

12 (c) The commercial lending institution may give a notice required to be
13 provided under AS 16.43.443, 16.43.445, or 16.43.446 by personal delivery instead
14 of by certified mail.

15 **Sec. 16.43.448. Transfer of entry permits after foreclosure.** (a) Upon
16 foreclosure of a pledge of an entry permit under AS 16.43.442 - 16.43.448, or the
17 termination of a debtor's interest in an entry permit under AS 16.43.446(b), the
18 commercial lending institution shall determine if the permit is subject to a buy-back
19 program under AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program,
20 shall offer the permit to the commission at a price equal to the outstanding
21 indebtedness on the loan.

22 (b) If the permit is not subject to a buy-back program, or if the commission
23 fails to buy back the permit within 30 days after the commission receives the offer,
24 the commercial lending institution shall sell the permit to a person who qualifies as
25 a transferee of an entry permit under this chapter and the regulations adopted by the
26 commission. The commercial lending institution shall give preference to an offer to
27 purchase a permit made by a state resident if the price offered is equal to or greater
28 than the price offered by a nonresident. If the proceeds of the sale of a permit exceed
29 the amount necessary to pay the indebtedness in full, the commercial lending
30 institution shall remit the excess to the borrower.

31 (c) At any time before foreclosure of a pledge of a permit, or within 30 days
32 following foreclosure of a pledge of a permit, the equitable owner or former equitable

1 owner may nominate a person to assume the loan. A person nominated must qualify
 2 as a transferee of the permit under this chapter and must qualify to assume the loan
 3 under the requirements of the commercial lending institution. If the person qualifies,
 4 the permit shall be transferred to the nominee upon the nominee's assumption of the
 5 loan.

6 (d) This section does not affect the right of the commercial lending institution
 7 to institute legal actions against the borrowers, guarantors, or other sureties for
 8 performance to collect the indebtedness owing on the loan and to take other legal
 9 action on the collateral securing the loan.

10 * Sec. 7. AS 16.43.960(i) is amended to read:

11 (i) An entry permit revoked by the commission under this section that is
 12 pledged as security for a loan under AS 16.10.333, AS 16.43.442, or AS 44.81.231
 13 shall be reassigned or sold as provided in AS 16.10.337, AS 16.43.448, or
 14 AS 44.81.250.

15 * Sec. 8. AS 16.43.970(f) is amended to read:

16 (f) A commercial fishing permit revoked under this section that is pledged as
 17 security for a loan under AS 16.10.333, [OR] 16.10.338, AS 16.43.442, or
 18 AS 44.81.231 shall be reassigned as provided in AS 16.10.337, AS 16.43.448, or
 19 AS 44.81.250.

20 * Sec. 9. AS 16.43.990 is amended by adding a new paragraph to read:

21 (10) "commercial lending institution" means an organization authorized
 22 to make loans under state or federal law, and includes a bank, trust company, savings
 23 bank, building and loan association, savings and loan company or association, and
 24 credit union."

25 Page 1, line 5:

26 Delete "Section 1."

27 Insert "Sec. 10."

28 Renumber the following bill sections accordingly.

FOR SALE BY ALASKA DIVISION OF INVESTMENTS

The Alaska Division of Investments, offers for sale the limited entry permits listed below. This sale is governed by 3 AAC 77.010-900. The Division reserves the right to accept or refuse any and all offers and the Division's decision is final.

Offers must be made in writing and received no later than 1 p.m., local time, April 14, 2000. Offers should contain the buyer(s) name, mailing address, telephone number, the amount of the offer, and must be signed by the party(ies) making the offer. The Division reserves the right to request additional information to complete or supplement any offer.

A buyer is expected to make a minimum 10% down payment within 15 days of acceptance of the offer, with the balance due within 30 days on cash sales. Seller financing may be considered for Alaskan residents only. If seller financing is requested, a completed loan application package with all necessary fees should be included with the offer, but must be received by the Division no later than 15 days after acceptance of the offer, together with the down payment.

Loan application packages are available by contacting the Alaska Division of Investments at 1-800-478-LOAN(5626) or e-mail: investments@dced.state.ak.us. Financing information and applications are also available at the Division's web site: www.dced.state.ak.us/investments/.

Offers may be mailed to: Alaska Division of Investments, Box 34159, Juneau, AK 99803 4159; Attention: Mr. Kelley Sharp. Offers may be delivered to: Alaska Division of Investments, 3032 Vintage Blvd., Juneau, AK 99801 between 8 a.m. and 5 p.m., local time. Timely offers will be reviewed for acceptance on or before April 21, 2000. If no offer received timely is accepted, the Division may accept and review new offers without re-advertising. Offers, are not binding unless accepted by the Division in writing and are subject to approval of permit transfer by the Alaska Commercial Fisheries Entry Commission.

LIMITED ENTRY PERMITS

The values listed below are as of March 2000 for informational purposes only and do not represent minimum offers that will be accepted:

Kodiak Salmon Purse Seine Permit No.	S01K 564500	Value: \$24,800
● Kodiak Salmon Purse Seine Permit No.	S01K 63433G	Value: \$24,800
● Kodiak Salmon Purse Seine Permit No.	S01K 57373F	Value: \$24,800
Pr. Wm. Snd. Salmon Purse Seine Permit No.	S01E 57014K	Value: \$22,100
● Pr. Wm. Snd. Salmon Purse Seine Permit No.	G01E 64535U	Value: \$80,000
Southeast Salmon Purse Seine Permit No.	S01A 56492N	Value: \$40,900
⌘ Pen/Aleutians Salmon Drift Gillnet Permit No.	S03M 58152R	Value: \$160,300
Pen/Aleutians Salmon Drift Gillnet Permit No.	S03M 57433Q	Value: \$160,300
⊙ Bristol Bay Salmon Drift Gillnet Permit No.	S03T 65930M	Value: \$90,900
Bristol Bay Salmon Drift Gillnet Permit No.	S03T 65895S	Value: \$90,900
Southeast Salmon Drift Gillnet Permit No.	S03A 59444K	Value: \$34,200
Cook Inlet Salmon Drift Gillnet Permit No.	S03H 57179U	Value: \$24,300
Lower Yukon Salmon Gillnet Permit No.	S04Y 62457V	Value: \$12,300
Lower Yukon Salmon Gillnet Permit No.	S04Y 63387F	Value: \$12,300
Lower Yukon Salmon Gillnet Permit No.	S04Y 63256K	Value: \$12,300
● Kotzebue Salmon Gillnet Permit No.	S04X 65074S	Value: \$2,500
Statewide Salmon Power Troll Permit No.	S15B 55141O	Value: \$14,500
Statewide Salmon Power Troll Permit No.	S15B 55357J	Value: \$14,500
Statewide Salmon Power Troll Permit No.	S15B 55503R	Value: \$14,500
Norton Sound Herring Gillnet Permit No.	G34Z 66133C	Value: \$7,600

NOTES:

● A Conditional Commitment to Discharge this permit from a Federal Tax Lien has been obtained from the IRS. Upon completion of the permit sale, a Certificate of Discharge is anticipated.

⌘ The Division has applied for a Conditional Commitment to Discharge this permit from a Federal Tax Lien.

⊙ A lien release from the Alaska Child Support Enforcement Division has been requested.

FDN 26 Mar 2000 P 15-5

Subject: Support for HB 339

Date: Tue, 28 Mar 2000 14:27:58 -0900

From: Dave Nanney <eaglebb@wytbear.com>

To: Representative_Eldon_Mulder@legis.state.ak.us,
Representative_Alan_Austerman@legis.state.ak.us,
Representative_Bill_Hudson@legis.state.ak.us,
Representative_Norman_Rokeberg@legis.state.ak.us,
Representative_Lisa_Murkowski@legis.state.ak.us,
Representative_Andrew_Halcro@legis.state.ak.us,
Representative_John_Harris@legis.state.ak.us, Representative_Tom_Brice@legis.state.ak.us,
Representative_Sharon_Cissna@legis.state.ak.us,
Representative_Gene_Therriault@legis.state.ak.us,
Representative_Con_Bunde@legis.state.ak.us, Representative_Gary_Davis@legis.state.ak.us,
Representative_Richard_Foster@legis.state.ak.us,
Representative_Gail_Phillips@legis.state.ak.us,
Representative_Bill_Williams@legis.state.ak.us,
Representative_John_Davies@legis.state.ak.us,
Representative_Ben_Grussendorf@legis.state.ak.us,
Representative_Carl_Moses@legis.state.ak.us

RECEIVED
MAR 29 2000

House Bill 339

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

Dear Representative: I heartily support HB 339 as it would give very timely financial assistance to fledgling tourism and resource development businesses and assist Alaska in diversification of its economy.

**Yours truly, Dave Nanney Haines, Alaska Tel: 766-2763
email: eaglebb@wytbear.com**

Subject: HB 339

Date: Tue, 28 Mar 2000 11:25:32 -0800

From: "Cindy Cashen" <jsclc3@ptialaska.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg,

I am writing in support of House Bill 339, providing lending authority to not only commercial fishermen but opening CFAB up to certain Alaskan small businesses.

I am looking at my 10th season as a Bed and Breakfast owner in Juneau Alaska. I see many Bed and Breakfasts having a hard time obtaining loans when they wish to enlarge their business or begin a remodeling venture. These are successful hardworking Alaskans who are frustrated because the red tape and rules Banks have set up prevent them from seeing their dreams realized. Some end up selling the business and leaving Alaska.

Alaskan Innkeepers are known to be among the hardest working, most dependable visionaries in our state. Banks should drool when we walk through their doors. We pay our bills and we look to expand. Most of us are living our dream by running a tourism business and we want to keep operating in the best capacity possible. Often we run into dead end streets with banking loans unavailable because of various restrictions.

I hope you will be able to get this bill onto the floor and passed. The majority of Alaskans know tourism is a successful venture and we need to keep it that way. This bill would help.

Sincerely,

Cindy Cashen

Cashen Quarters Bed & Breakfast

315 Gold Street

Juneau, Alaska

<http://www.cashenquarters.com>

jsclc3@ptialaska.net

586-9863 Fax: 907 586-9861

RECEIVED
MAR 29 2000

1-LS1285G
Utermohle
3/9/00

CS FOR HOUSE BILL NO. 339(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MULDER, Hudson, Austerman

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing the Alaska Commercial Fishing and Agriculture Bank to
2 make loans relating to tourism and development or exploitation of natural
3 resources."

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

5 * **Section 1.** AS 44.81.010(a) is amended to read:

6 (c) There is established the Alaska Commercial Fishing and Agriculture Bank.
7 The exercise by the bank of the powers conferred by this chapter is considered to be
8 for a public purpose. In the exercise of its powers under AS 44.81.215(11)
9 [AS 44.81.215(7)], the bank is acting as an agent under the express authority and
10 reservations of the state as the issuer of limited entry permits under AS 16.43. The
11 bank is exempt from the provisions of AS 06.05 (Alaska Banking Code) and AS 10.15
12 (Alaska Cooperative Corporation Act) in its structure and operations and in the
13 exercise of powers granted by this chapter.

14 * **Sec. 2.** AS 44.81.215 is amended to read:

1 **Sec. 44.81.215. Lending powers of the bank.** The bank may

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

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

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

20 (4) make loans, in an amount not to exceed \$500,000 a loan, to
21 individuals, including married couples, who are residents of the state and who will
22 use the majority of the loan proceeds to commercially engage in, or in support of,
23 tourism within the state if at least one of the primary obligors on the loan is a
24 member of the bank;

25 (5) make loans, in an amount not to exceed \$500,000 a loan, to
26 corporations, partnerships, or limited liability companies that will use the
27 majority of the loan proceeds to commercially engage in, or in support of, tourism
28 within the state if the majority interest of the corporation, partnership, or limited
29 liability company is beneficially owned by residents of the state and a majority of
30 the owners are residents of the state, and if at least one of the primary obligors
31 on the loan is a member of the bank;

1 (6) make loans, in an amount not to exceed \$1,000,000 a loan, to
2 individuals, including married couples, who are residents of the state and who will
3 use the majority of the loan proceeds to commercially engage in, or in support of,
4 the development or exploitation of natural resources within the state if at least
5 one of the primary obligors on the loan is a member of the bank;

6 (7) make loans, in an amount not to exceed \$1,000,000 a loan, to
7 corporations, partnerships, or limited liability companies . . . will use the
8 majority of the loan proceeds to commercially engage in, or in support of, the
9 development or exploitation of natural resources within the state if the majority
10 interest of the corporation, partnership, or limited liability company is beneficially
11 owned by residents of the state and a majority of the owners are residents of the
12 state, and if at least one of the primary obligors on the loan is a member of the
13 bank;

14 (8) [(4)] make a loan for capital investment or operating capital to a
15 shore-based fish processor, a timber processor, or an agricultural processor or harvester
16 who does not meet the resident ownership requirements of (1) or (2) of this section if
17 a facility of the processor or harvester is located in the state and the majority interest
18 in the processor or harvester is beneficially owned by residents of the United States;

19 (9) [(5)] make a loan to a person, regardless of residency, if the board
20 determines that the loan is necessary to preserve the value of property held by the bank
21 as security for a loan that was made under AS 44.81.210 or this section and that is in
22 default;

23 (10) [(6)] make loans, as provided in (1), (2), or (4) - (8) [(1), (2), OR
24 (4)] of this section, that are secured by liens subordinate to valid first liens and
25 security agreements granted to another creditor;

26 (11) [(7)] accept the pledge of a limited entry permit as security for
27 a loan made under this chapter subject to the conditions set out in AS 44.81.236 on
28 pledges of limited entry permits;

29 (12) [(8)] make loans in participation with other lenders as provided
30 in (1), (2), or (4) - (6) [(1), (2), OR (4)] of this section, whether or not an obligor is
31 a member of the bank;

1 (13) [(9)] purchase or acquire participations in loans from other lenders
2 if the participations conform to the provisions of (1), (2), or (4) - (8) [(1), (2), OR (4)]
3 of this section, whether or not an obligor is a member of the bank;

4 (14) [(10)] issue certificates of loan participation to members and to
5 other individuals, corporations, partnerships, and limited liability companies, but the
6 bank may not issue a certificate of loan participation if the certificate would allow
7 participation by the member, individual, corporation, partnership, or limited liability
8 company in loans that individually or cumulatively involve more than 20 percent of
9 the commercial fishery entry permits issued for one type of gear in a specific fishery
10 resource administrative area.

11 * Sec. 3. AS 44.81.350 is amended by adding new paragraphs to read:

12 (9) "natural resources" includes water, coal or other minerals, oil or gas,
13 and geothermal systems; in this paragraph

14 (A) "coal" means all forms of coal, including lignite;

15 (B) "gas" includes all natural gas and all hydrocarbons produced
16 at the wellhead that are not oil;

17 (C) "geothermal system" means a stratum, pool, reservoir, or
18 other geologic formation containing geothermal resources;

19 (D) "oil" includes crude petroleum oil and other hydrocarbons
20 regardless of gravity that are produced at the wellhead in liquid form and the
21 liquid hydrocarbons known as distillate or condensate recovered or extracted
22 from gas, other than gas produced in association with oil and commonly known
23 as casinghead gas;

24 (E) "other minerals" means clay, stone, sand, gravel,
25 metalliferous and non-metalliferous ores, and other solid materials or
26 substances of commercial value excavated in solid form from natural deposits
27 on or in the earth; "other minerals" does not include coal or minerals that occur
28 naturally in liquid or gaseous forms;

29 (10) "tourism" means the provision or presentation of goods, supplies,
30 equipment, food and food stuffs, accommodations, entertainment, cultural practices and
31 attractions, natural resource access, transportation, or other services to nonresident or

1 extra-regional visitors;

2 (11) "water" has the meaning given in AS 46.15.260.



ALASKA VISITORS ASSOCIATION

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Phone: (907) 561-5733 • Fax: (907) 561-5727

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1999-2000

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Executive Director

March 2, 2000

Representative Eldon Mulder
House Finance Committee Co-Chair
State Capitol Room 507
Juneau, AK 99801

RECEIVED
MAR 07 2000

Dear Representative Mulder,

I am writing to express the Alaska Visitors Association's support for two bills in the Legislature.

AVA recently voted to support HB 339, which would expand the abilities of the Commercial Fishing and Agriculture Bank to allow loans to small tourism businesses. This new loan option would greatly benefit small tourism businesses and start-up enterprises that might otherwise have difficulty obtaining a regular commercial loan.

AVA also supports House Bill 42, which would discourage frivolous lawsuits by assigning financial penalties for false suits. Many small Alaskan tourism businesses cannot afford the legal fees incurred in such lawsuits, and in some cases the expense of fighting unmerited claims can put an operator out of business. Tourism is the fastest growing industry in the state and the second largest private-sector employer with more and more small Alaskan businesses starting up each year. In order to continue this small business growth, owners need a fighting chance to get their businesses off the ground without the hassle of frivolous litigation.

AVA is a private, non-profit statewide trade association representing all facets of the tourism industry. With more than 500 member businesses, AVA is the largest, statewide visitor industry association representing the full spectrum of visitor industry business interests from small localized rafting operators and wilderness guides to large air and cruise lines. Since 90% of our members are small businesses with fewer than 10 employees, we see that a majority of them would benefit from protection against frivolous lawsuits and increased access to small business loans.

Sincerely,

Anne Adasiak-Andrew

Acting Executive Director

cc: Representative Hudson
Representative Austerman
Representative Rokeberg

Subject: HB 339

Date: Wed, 1 Mar 2000 12:25:47 -0900

From: Trefon Angasan <tang@bbnc.net>

To: "Representative_Norman_Rokeberg@legis.state.ak.us" <Representative_Norman_Rokeberg@le

CC: "Bob King (E-mail)" <bob_king@gov.state.ak.us>

Dear Honorable Representative Norman Rokeberg:

I am writing in support of HB # 339 by Representatives Mulder, and Austerman, entitled "An Act authorizing the Alaska Commercial Fishing and Agriculture Loan Bank to make loans relating to tourism and development or exploitation of natural resources."

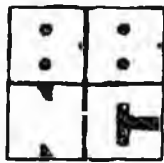
The reason that I support the bill is because of the enormous benefit that this bill would have for economic development opportunities for village corporations in rural Alaska. Many of the village corporations in rural Alaska to a large extent have not participated in the growth of tourism in Alaska. They do not have the capital necessary to develop the tourism industry on their lands. The reasons are many but the principal reason is that they have spent a great deal of their ANCSA settlement money on the implementation of many of the requirements of ANCSA. A case in point is the village that I sit on the board for. The Alaska Peninsula Corporation has had to hire outside land experts, lawyers, and staff just to meet the requirements of Section 14(c) of ANCSA. That section required that we reconvey to anyone that had a prior existing right to the land, for future expansion, air port extension. This was a tremendous undertaking and was a financial boom for the land experts and lawyers but was an economic hardship for the village. We aspire to get into the tourism business but costs are prohibitive when we try to borrow from the existing lending institutions in Alaska.

There is some mineral potential on some of the 44 million plus acres that were conveyed to ANCSA Corporations. The options to develop the natural resources are limited. We have had to search for companies to partner with us in the exploitation of our natural resources. The current trend of those businesses are to focus their exploration money on known reserves and have little interest in exploring or developing the natural resources such as natural gas on our lands. There are known reserves on some Native lands but many of the companies do not want to risk their venture capital or consider the prospect to small for their global portfolios.

Sincerely,

Trefon Angasan
Vice President, Shareholder and Corporate Relations, BBNC
Alaska Peninsula Corporation, Secretary

RECEIVED
MAR 02 2000



Bristol Bay Native Corporation

Enriching Our Native Way of Life

800 Cordova Street, Suite 200 / Anchorage, Alaska 99501-6299 / (907) 278-3602 / fax (907) 276-3924

Representative Norman Rokeberg
State Capitol, Room 24
Juneau, AK 99801-1182
Fax: 907-465-2040

RECEIVED
MAR 07 2000

March 6, 2000

Re: House Bill 339

Dear Representative Rokeberg:

I am writing in support of HB # 339 sponsored by Representatives Mulder, Hudson and Austerman, entitled "An Act authorizing the Alaska Commercial Fishing and Agriculture Loan Bank to make loans relating to tourism and development or exploitation of natural resources."

The reason that I support the Bill is because of the enormous benefit that this bill would have for economic development opportunities for village corporations in rural Alaska. Many village corporations in rural Alaska largely have not participated in the growing tourism industry in Alaska. They do not have the venture capital necessary to develop the tourism industry on their lands. When village corporations received their share of the settlement from the Alaska Native Claims Settlement Act, (ANCSA), it was based on a per capita share. Under this formula, if enrollment of the village corporation was under 1,000, it limited their investment portfolio simply because they did not receive enough cash. The cash received was typically spent in the implementation of ANCSA such as Section 14(c) which required that the corporations reconvey to anyone who had a prior use of the land, for expansion of the municipality in the future and for air port expansion. This was a tremendous undertaking and was a financial windfall for the land experts, auditors, and lawyers, but was an economic hardship for the village corporation. Many of us aspire to get into the tourism business but costs are prohibitive when we try to borrow from the existing lending institutions in Alaska.

I understand the concern that some banking institutions of Alaska have about the competition that CEAB would present in the lending industry but if the legislature would adopt HB#339, the earnings would stay in Alaska through the revolving loan philosophy of the co-op. Changes are taking place as I speak. One of Alaska's largest banking institutions is merging with a national conglomerate. The remaining banks have survived the economic downturn of the '80's because of its conservative investment lending practices. I remember when Alaska State Bank, United Bank of Alaska, and other Alaska banks had an expanded portfolio to lend money to rural businesses. They are gone now and no one has stepped forward to fill the

void.

There is some mineral potential on some of the 44 million plus acres conveyed to ANCSA Corporations. The options to develop and exploit that potential is limited. Native corporations have had to search for companies to partner with to develop the mineral potential on Native land. The current trend of the companies that we contact are to focus their exploration money on known reserves and have little interest in exploring or developing the natural resources such as natural gas on our lands. There are known reserves on some Native lands but so far, the companies do not want to risk their venture capital or they consider the prospect too small for their global portfolios.

Sincerely,



Trefon Angasan

Vice President, Shareholder and Corporate Relations

Secretary, Alaska Peninsula Corporation. (A merger of five village corporations in BB)

cc: House of Representatives

Subject: HB339

Date: Fri, 25 Feb 2000 23:47:35 -0800

From: "Bob Dindinger" <atalap@email.msn.com>

Organization: Microsoft Corporation

To: <Representative_Eldon_Mulder@legis.state.ak.us>, "Representative Bill Hudson" <Representative_Bill_Hudson@legis.state.ak.us>, <Representative_Alan_Austerman@legis.state.ak.us>

CC: <Representative_Lisa_Murkowski@legis.state.ak.us>, <Representative_John_Harris@legis.state.ak.us>, <Representative_Andrew_Halcro@legis.state.ak.us>, <Representative_Tom_Brice@legis.state.ak.us>, <Representative_Norman_Rokberg@legis.state.ak.us>

Dear Representatives Mulder, Hudson, & Austerman

Have reviewed HB339 and support it whole heartedly. The inclusion of tourism businesses in this loan program may well be the States most meaningful action for truly small businesses.

As you know, most Alaska tourism businesses have less than five employees. Given the current nature of Alaska's economy, tourism most probably represents the best opportunity for Alaskan entrepreneurs.

I only have to think back to the early days for my own company (Alaska Travel Adventures) to appreciate the value of this legislation to new businesses.

Bob Dindinger
Juneau, Alaska

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FEB 28 2000

City Of Seldovia

P.O. Drawer B

Seldovia, Alaska 99663

Phone (907) 234-7643

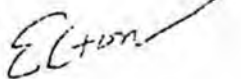
Fax (907) 234-7430

March 3, 2000

Honorable Elton Mulder
Co-Chair Finance
State of Alaska
House of Representatives
State Capitol
Juneau, Alaska 99811

Hand Delivered

Reference: HB 339



Dear Representative Mulder:

On behalf of the City of Seldovia and the Seldovia Chamber of Commerce, please let this letter express our support for HB 338, expanding CFAB's authority to handle loans for tourism and natural resources.

The City of Seldovia and its residents are a prime example of the need for CFAB to include tourism and resource development loans in its preview. Seldovia was once the largest city on the Kenai Peninsula. At one time we have over six major seafood processing plants in the community. Now we have none. Natural resource development once provided numerous jobs for area residents, in timber and mining activities. Now there is no activity.

Seldovia is a community that is losing residents every year. Our school population decreased this last year to the point that we lost a teacher. Once a proud and growing community, where everyone who wanted to work had a job, we were a primary example of why CFAB was founded. After all, very few places in Alaska processed more seafood than we did in Seldovia. We now suffer close to 40% unemployment. Future expansion of the fishing industry in Seldovia seems highly unlikely.

Tourism is one of our major hopes in reversing this downward economic trend. Seldovia is truly a beautiful place. It has the potential of becoming a major destination for both Alaskan and tourists. We are desperately seeking the infrastructure to make this a reality.

For a community that once heavily relied on the fishing industry for its very existence, we are now forced to switch gears. Giving CFAB the authority to include tourism and natural resource development within its scope of operations provides the private sector and the City with an additional and well-respected source of assistance.

Thank you for your time. Please let me know if a resolution from the City of Seldovia and the Seldovia Chamber of Commerce will help achieve passage of your bill.

I hope this letter finds you and your family in good health and enjoying, as best you can, the session.

Kindest personal regards;



Dave Choquette
City Manager

February 28, 2000

Representative Norman Rokeberg
Alaska State Legislature
State Capitol Room 24
Juneau, AK 99801-1182

VIA FAX AND MAIL
Fax 1-907-465-2040

Re: House Bill 339

Dear Mr. Chairman:

This is to supplement my testimony at last Friday's Labor and Commerce Committee hearing respecting **HB 339**.

The Alaska Bankers Association opposes HB 339. No expansion of the lending authority of CFAB is necessary or desirable.

Twenty years ago, CFAB was created to provide commercial financing to resident Alaska commercial seafood harvesters, processors and farmers. Since that time CFAB has fulfilled its purpose admirably, and continues to do so.

As others testified at the hearing on the bill conducted by the Labor and Commerce Committee on February 25, 2000, CFAB's capital position is strong. It currently has more than enough capital to meet the current demand for loans by commercial seafood harvesters, processors and farmers. Its continued existence is not threatened for that reason.

CFAB's chief executive officer testified that its current members have been and will continue to receive a dividend that yields a 6% to 8% return on their investment. That return is above the range currently enjoyed by active investors in fixed income obligations like banks.

There is no unsatisfied demand in Alaska for the small business loans that CFAB management considers a worthwhile use of CFAB capital. Alaska is no longer capital poor. No bank in Alaska has reached its loan limits. But all of them are required by the Community Reinvestment Act to satisfy the credit needs of the communities they serve. At present all of them are currently achieving at least a satisfactory rating from Federal Regulators in that connection, and largely by making small business loans. For that matter there's nothing in the proposed legislation that would limit the amount CFAB could lend to any one borrower anyway.

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