

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2878

**HB**

**156**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSHB 156(HES)  
 ( H ) Publish Date: 3/18/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: MEMBERSHIP OF THE ALASKA COMMISSION ON AGING  
 RDU: Boards and Commissions  
 Component: Commission on Aging

Sponsor: HOLM  
 Requester: HOUSE (HES)

Component No. 2674

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This proposed legislation removes the Commissioner of Administration from the Commission and instead adds a regular member from the public to the Commission (from 7 to 8). This change has no fiscal impact on DHSS

Prepared by: Janet Clarke, Assistant Commissioner  
 Division: Finance and Management Services  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 465-1630  
 Date/Time: 02/11/2005  
 Date: 02/23/2005

*Withdrawn*

*Meyer*

AMENDMENT

1

OFFERED IN THE HOUSE  
TO: CS HB 156 (HES)

- 1 Page 2, line 6
- 2 Delete Section 2
- 3 Renumber the remaining section accordingly.
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# Representative Jim Holm

## Alaska State Legislature

### District 9

**Session**  
Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



**Interim**  
119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

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## HB 156

### Sectional Analysis

3/3/5

"An Act relating to the membership of the Alaska Commission on Aging"

Section 1 Amends existing statute governing members of the Alaska Commission on Aging

Removes the Department of Administration member

Replaces that seat with a Senior Program grant recipient

Section 2 Makes conforming changes

Section 3 Makes the bill effective immediately upon passage

**Representative Jim Holm**  
**Alaska State Legislature**  
District 9

**Session**

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
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**Interim**

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Fairbanks, AK 99701  
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---

**CS HB 156**  
**Sponsor Statement**  
2/28/05

"An Act relating to the membership of the Alaska Commission on Aging"

The mission of the Alaska Commission on Aging (ACoA) is to ensure dignity and independence for Alaska's seniors and to assist them, through programs and services funded by the Commission, in leading useful and meaningful lives.

In 2003, Executive Order No. 108 transferred the Alaska Commission on Aging from the Department of Administration to Health and Social Services.

In 2004, my HB 394 implemented that change and also extended the Commission's sunset date from 2004 to 2008. This year, HB 156 makes one change to ACoA's membership.

The Commissioner of the Department of Administration has indicated he is not able to participate as a member of the ACoA and supports removing DOA's seat. At its February 2005 quarterly meeting, the ACoA passed a motion requesting that the seat vacated by DOA be filled by "a senior services provider, regardless of age, and that the provider be a recipient of a Division of Senior and Disabilities Services grant under the Senior Grant Program." HB 156 simply makes this change, and I urge your support.

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### *Alaska Commission on Aging*

FRANK H. MURKOWSKI  
GOVERNOR

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

March 3, 2005

The Honorable Representative Jim Holm  
State Capitol, Room 513  
Juneau, AK 99811

Re: HB 156, Change to ACoA Membership

Dear Representative Holm:

On behalf of the ACoA, thank you very much for your willingness to sponsor Legislation that would change the membership of the ACoA. Initially, the ACoA requested that legislation be introduced that would change the Department of Administration (DOA) seat to a public member seat. However, the ACoA took action during its meeting on February 24<sup>th</sup> to request an amendment to HB 156 that replaces the DOA membership with a senior services provider. The motion as stated below passed by unanimous consent:

That HB 156 be amended, so that one ACoA member be a senior services provider regardless of age, and that the provider be a recipient of a Division of Senior and Disabilities Services grant.

The ACoA took this action after reconsidering a request from AGENET, an advocacy organization of senior services agencies. AGENET has emphasized that other boards representing individuals with disabilities, mental illness, or who have chemical dependencies, have at least one service provider seat on their board or council.

Adding a provider seat to the ACoA would not cause a conflict of interest if the provider applied for a senior services grant. AS 47.45.240(a)(7) requires the Commissioner of the Department of Health & Social Service's approval to allow the ACoA grant evaluation and award responsibilities, and that authority is not delegated to the ACoA. These grant process functions remain within the department, and only the DHSS Commissioner or his designee approves grant awards.

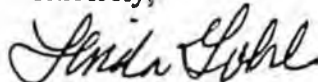
Also, I have contacted Ray Matiashowski, Commissioner of the Department of Administration (DOA) and have asked that he send you a letter of support for passage of HB 156. Mr. Matiashowski has indicated in the past that he would support legislation that removes the Department of Administration on the ACoA.

Page 2  
HB 156

On behalf of the ACoA, thank you for introducing HB 156 and considering this request to amend HB 156. Please feel free to contact me at 465-4879 if you need any other information. Also, once the bill is scheduled for a Committee hearing, I would be happy to testify on behalf of the Commission, as well as enlist the support of AGENET members to testify.

Thank you for your continued support of the Commission's activities and issues impacting older Alaskans.

Sincerely,

A handwritten signature in cursive script that reads "Linda Gohl".

Linda Gohl  
Executive Director

# State of Alaska

## Office of Boards and Commissions

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### AGING COMMISSION

BOARD: Alaska Commission on Aging

BOARD IDENTIFICATION NUMBER: 071

DEPARTMENT: Department of Health and Social Services

AUTHORITY: AS 47.45.200

STATUS: Active

SUNSET DATE: 6/30/2008

REQUIREMENTS: No Legislative Confirmation or Financial Disclosure required

PROHIBITIONS: Cannot serve more than two consecutive terms or 8 consecutive years, whichever is longer.

TERM: 4 years

DESCRIPTION: 11 Members - Seven persons appointed by the Governor based on their knowledge and demonstrated interest in the concerns of older Alaskans; plus the chair of the Pioneers Homes Advisory Board; the commissioner of the Dept. of Administration or designee; the commissioner of the Dept. of Community and Economic Development or designee; and the commissioner of the Dept. of Health and Social Services or designee. Names of persons qualified for and interested in serving are requested from senior citizens' organizations. Appointments shall be made to assure representation of low-income and minorities and rural/urban areas and statewide geographical representation. At least two persons appointed by the Governor shall be 60 years of age or older, 2 of whom shall be 65 years of age or older. Each must be a resident of the State of Alaska. Non-voting members include the Commissioners or their designees of the Dept. of Community and Economic Development, and the Dept. of Health and Social Services. Commission elects chair.

FUNCTION: Formulates a comprehensive statewide plan that identifies the concerns and needs of older Alaskans and prepares and submits to the Governor and Legislature an annual analysis and evaluation of the services that are provided to older Alaskans. Makes recommendations to the Governor and Legislature regarding legislation, regulations, and appropriations for programs or services that benefit older Alaskans. Encourages the development of programs and services which benefit older Alaskans, helping them to lead dignified, independent, and useful lives. Evaluates grant applications and makes grant awards under federal and state programs. Provides to the Alaska Mental Health Trust Authority recommendations concerning the integrated comprehensive mental health program for older Alaskans who suffer major mental illness as a result of senility (AS 47.30.056(b)(4)).

CHAIR: Commission selects.

SPECIAL FACTS: Serve at the pleasure of the Governor. Quorum - majority of voting members.  
Meetings: four quarterly meetings per year

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: At call of chair or majority of members; at least 4 times each year.

FOR FURTHER INFORMATION CONTACT:

Ms. Linda Gohl

Director

Alaska Commission on Aging

DHSS, P.O. Box 110693

Juneau, AK 99811-0693

Phone: (907) 465-3250, FAX: (907) 465-1398

Aging Commission Roster

Go to the Aging Commission Home page

**HB**

**156**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/26/05

FURTHER:

REPORTED OUT

MAY 2 2005

SENATE FINANCE  
COMMITTEE

DATE TURNED  
IN TO OFFICE:

*2 May 2005*

Finance Committee considered CS FOR HOUSE BILL NO. 156(RLS) am

## HB 156 COMMISSION ON AGING

"An Act relating to the membership and duties of and quorum requirements for the Alaska Commission on Aging; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 156 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
H&SS	2/23/05			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	No REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>	X			
COCHAIR: <i>[Signature]</i>	✓			

MAY 2 2005

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSHB 156(HEJ)  
 ( H ) Publish Date: 3/18/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):  
 Title MEMBERSHIP OF THE ALASKA COMMISSION ON AGING  
 RDU Boards and Commissions  
 Component Commission on Aging  
 Sponsor HOLM  
 Requester HOUSE (HES) Component No. 2674

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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Contractual						
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Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
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Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This proposed legislation removes the Commissioner of Administration from the Commission and instead adds a regular member from the public to the Commission (from 7 to 8). This change has no fiscal impact on DHSS

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630  
 Division Finance and Management Services Date/Time 02/11/2005  
 Approved by: Joel S. Gilbertson, Commissioner Date 02/23/2005  
 Agency Department of Health and Social Services

**COMMITTEE COPY**

Adopted  
5/2/05

WORK DRAFT

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24-LS0615\S  
Mischel  
4/25/05

SENATE CS FOR CS FOR HOUSE BILL NO. 156( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the membership and duties of and quorum requirements for the  
2 Alaska Commission on Aging; and providing for an effective date."

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

4 \* Section 1. AS 47.45.200(a) is amended to read:

5 (a) The Alaska Commission on Aging is established in the Department of  
6 Health and Social Services. The members of the commission include

7 (1) the commissioner of health and social services or the  
8 commissioner's designee;

9 (2) the commissioner of commerce, community, and economic  
10 development or the commissioner's designee;

11 (3) a senior services provider, regardless of age, appointed by the  
12 governor [THE COMMISSIONER OF ADMINISTRATION OR THE  
13 COMMISSIONER'S DESIGNEE];

14 (4) the chair of the Alaska Pioneers' Homes Advisory Board under

1 AS 44.29.500; and

2 (5) seven persons selected on the basis of their knowledge and  
3 demonstrated interest in the concerns of older Alaskans, appointed by the governor in  
4 accordance with (b) of this section.

5 \* Sec. 2. AS 47.45.200(c) is amended to read:

6 (c) The persons appointed under (a)(3) and (a)(5) of this section serve  
7 overlapping four-year terms, and serve at the pleasure of the governor. A member may  
8 be reappointed, but a member appointed under (a)(3) or (a)(5) of this section may not  
9 serve more than two consecutive terms or eight consecutive years, whichever is  
10 longer.

11 \* Sec. 3. AS 47.45.200(d) is amended to read:

12 (d) If a person appointed under (a)(3) or (a)(5) of this section fails to attend  
13 three consecutive meetings of the commission, a majority of the members of the  
14 commission may request the governor to terminate the membership of the member and  
15 to fill the vacancy.

16 \* Sec. 4. AS 47.45.200(e) is amended to read:

17 (e) A vacancy in the membership of persons appointed under (a)(3) and (a)(5)  
18 of this section shall be filled by appointment by the governor. The person appointed  
19 serves for the unexpired portion of the term.

20 \* Sec. 5. AS 47.45.210(b) is amended to read:

21 (b) [THE MEMBERS OF THE COMMISSION LISTED IN  
22 AS 47.45.200(a)(2) AND (3) MAY NOT VOTE ON MATTERS BEFORE THE  
23 COMMISSION.] A majority of the members of the commission [LISTED IN  
24 AS 47.45.200(a)(1), (4), AND (5)] constitutes a quorum for conducting business and  
25 exercising the powers of the commission.

26 \* Sec. 6. AS 47.45.240(a) is amended to read:

27 (a) The commission shall

28 (1) approve a comprehensive statewide plan that identifies the  
29 concerns and needs of older Alaskans and, with reference to the approved plan,  
30 prepare and submit to the governor and legislature an annual analysis and evaluation  
31 of the services that are provided to older Alaskans;

1 (2) make recommendations directly to the governor and the legislature  
2 with respect to legislation, regulations, and appropriations for programs or services  
3 that benefit older Alaskans;

4 (3) encourage the development of municipal commissions serving  
5 older Alaskans and community-oriented programs and services for the benefit of older  
6 Alaskans;

7 (4) employ an executive director who serves at the pleasure of the  
8 commission;

9 (5) help older Alaskans lead dignified, independent, and useful lives;

10 (6) request and receive reports and audits from state agencies and local  
11 institutions concerned with the conditions and needs of older Alaskans;

12 (7) with the approval of the commissioner of health and social  
13 services, set policy for the administration of federal programs subject to state control  
14 as provided under 42 U.S.C. 3001 - 3058ee (Older Americans Act), as amended [,  
15 AND EVALUATE GRANT APPLICANTS AND MAKE GRANT AWARDS  
16 UNDER THOSE PROGRAMS];

17 (8) with the approval of the commissioner of health and social  
18 services, set policy for the administration of state programs as provided under  
19 AS 47.65 [AND EVALUATE GRANT APPLICANTS AND AWARD GRANTS  
20 UNDER THOSE PROGRAMS];

21 (9) give assistance, on request, to the senior housing office in the  
22 Alaska Housing Finance Corporation in administration of the senior housing loan  
23 program under AS 18.56.710 - 18.56.799 and in the performance of the office's other  
24 duties under AS 18.56.700; and

25 (10) provide to the Alaska Mental Health Trust Authority, for its  
26 review and consideration, recommendations concerning the integrated comprehensive  
27 mental health program for persons who are described in (d) of this section and the use  
28 of the money in the mental health trust settlement income account in a manner  
29 consistent with regulations adopted under AS 47.30.031.

30 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 2 May 2005 TIME: 2:15 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please

SCS CS HB 156 (FIN)

24-LS0615 \ S

Mischel 4/25/05

no changes

-Tlx

Mindy

**Representative Jim Holm**  
**Alaska State Legislature**  
District 9

**Session**

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



**Interim**

119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

**CS HB 156**  
**Sponsor Statement**  
04/26/05

"An Act relating to the membership of the Alaska Commission on Aging"

The mission of the Alaska Commission on Aging (ACoA) is to ensure dignity and independence for Alaska's seniors and to assist them, through programs and services funded by the Commission, in leading useful and meaningful lives.

Executive Order No. 108 transferred the ACoA from the Department of Administration to the Department of Health and Social Services in 2003. The ACoA has requested that a senior services provider replace the DOA member. HB 156 makes that change.

In addition, HB 156 changes all 11 seats to voting seats and also removes the duty of the ACoA to "evaluate grant applicants and make grant awards."

# Representative Jim Holm

## Alaska State Legislature

### District 9

#### Session

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
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#### Interim

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## HB 156

### Sectional Analysis

04/26/05

"An Act relating to the membership of the Alaska Commission on Aging"

- Section 1 Removes [the Commissioner of Administration] from the Alaska Commission on Aging.
- Replaces that seat with a Senior Services Provider, regardless of age to insure service providers are represented on the Commission and that age specifications already in existing statute do not limit choices for the service provider's seat.
- Section 2 Makes conforming changes.
- Section 3 Makes conforming changes.
- Section 4 Makes conforming changes.
- Section 5 Makes all 11 members voting members.
- Section 6 Removes [evaluate grant applicants and make grant awards] from the Commission's statutory duties.
- Section 7 Makes the bill effective immediately upon passage.

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

FRANK H. MURKOWSKI  
GOVERNOR

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

### *Alaska Commission on Aging*

March 22, 2005

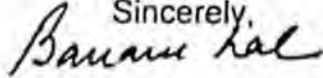
The Honorable Jim Holm  
House of Representatives  
State Capitol Room 513  
Juneau, AK 99801-1182

Re: HB 156, Commission on Aging

Dear Representative Holm:

On behalf of the members and staff of the Alaska Commission on Aging, I would like to express our sincere appreciation to you for sponsoring HB 156, which provides for changing the designation of a Department of Administration seat on the Commission to a senior service provider seat. We believe this change in designation will improve the Commission's ability to carry out its responsibilities to plan and advocate for the needs of older Alaskans.

We would also like to thank you for the efforts of your staff person, Barbara Cotting, who has been a tremendous help in the crafting of HB 156. We would like to commend her for all of her efforts in supporting our organization in this endeavor. Barbara was able to anticipate issues that might arise before the bill reached the House HES Committee hearing and met with our members during our last quarterly meeting in Juneau to address these issues. Thanks to your willingness to introduce HB 156 and Barbara's help, we are looking forward to a smooth and timely passage of this legislation.

Sincerely,  


Banarsi Lal, Chairman  
Alaska Commission on Aging

# SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4.25.05

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 156(RLS) am

## HB 156 COMMISSION ON AGING

"An Act relating to the membership and duties of and quorum requirements for the Alaska Commission on Aging; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
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**CS Senate Bill:**

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- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/23			X	1

APPROPRIATION - no fiscal note

**SIGNATURES AND RECOMMENDATIONS:**

Elton  
Green  
Olson

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>				✓
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

Dyson

**HB**

**157**

**HFIN**

**FILE**

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

House Bill 157  
House Labor and Commerce Committee

1. Greetings – Good afternoon, my name is Robert Baumgartner, I am president of Bristol Alliance Fuels, an independent Tank Farm Operator and Fuel Supplier in Dillingham, Alaska.
2. On behalf of Bristol Alliance and our related operations with approximately 20 employees, I am opposed to House Bill 157 as it is written.
3. I am painfully fully aware of the high cost of fuel, especially in rural Alaska. But the causes for such high prices have more to do with global and west coast energy markets than rural delivery systems.
4. There is tremendous infrastructure that has been invested in and assembled by many private entities throughout the State of Alaska for the purpose of providing fuel products to the residents of Alaska.
5. HB 157 provides an unfair advantage to electric utilities, including publicly funded or subsidized electric cooperative utilities, to provide this service in competition with private industry.
6. There are currently 117 Motor Fuel Qualified Dealers licensed by the State of Alaska to provide fuel, some of which are operators with multiple tank farm sites. Bristol Alliance Fuels is just one dealer with a single site located in Dillingham. Dillingham also has another local dealer, Delta Western, Inc. While I cannot speak for Delta or any other dealer in the state, I can say that our operation alone requires invested and operating capital of over \$10 million.
7. After investing 20 years building our enterprise, I resent the effort to thwart the free market system: that encourages such initiative. There must be other ways to address the high costs of energy delivery in the State of Alaska.
8. This bill will result in an even greater imbalance in the price of energy products especially in rural areas. Not everyone will be able to take advantage of this service and those that are left to be supplied by private industry will be called upon to support an infrastructure requiring even higher margins to carry the related costs of such investments. In many communities, your bill will result in higher fuel costs for those who can least afford it.
9. The Institute of Social and Economic Research previously investigated this particular idea for the onetime Western Alaska Fuel Cooperative, located in Dillingham, Alaska. The ultimate end of years of effort and support by the Alaska Power Authority as well as the explicit assistance of the City of Dillingham and the investigation by the local electric utility, Nushagak Electric Cooperative, found the effort was not practical. Why? Fundamentally, because

there were already two fuel companies in Dillingham. A fuel cooperative would not be economically feasible if required to stand on its own merits in a divided and small marketplace.

10. There are some who may question Bristol Alliance's motives but let me be very clear about this. I believe in the free market system and am opposed to consolidating monopolistic positions. Along with AVEC, the City of Bethel, and others, Bristol Alliance has opposed the consolidation of fuel suppliers in the Yukon-Kuskoquim area.
11. There are communities so small with no fuel delivery system in place where a waiver of current restrictions placed on electric utilities might apply, but a blanket approach that encourages subsidies and movement away from entrepreneurial effort is not the way.
12. Bristol Alliance Fuels is opposed to this legislation as it is written. Publicly funded or subsidized electric utilities should not compete with private industry and have no business doing so.
13. I would be happy to help explore what other methods might be employed to address the high costs of energy delivery, especially in rural Alaska.
14. Are there any questions?
15. Thank you for listening to my concerns.



April 7, 2005

**Subject: House Bill 157**

Dear Representative Harris:

Service Oil & Gas, Inc. has been privileged to do business in Alaska since 1975. Over the years, we have grown our business to include branch offices in Glennallen, Valdez, Delta Junction, Fairbanks, Talkeetna, Wasilla, Palmer and Anchorage. We provide work for 120 Alaskans in jobs that provide good compensation and benefits for them and their families. We are writing to express our concerns about the referenced bill now before the House Labor & Commerce Committee.

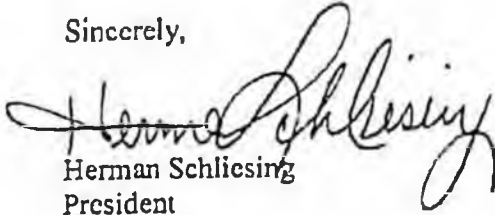
Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Service Oil & Gas, Inc., along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

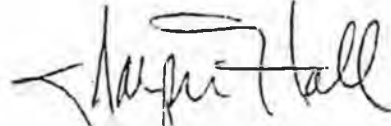
We respectfully request that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief

proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Sincerely,



Herman Schliesing  
President  
907.822.8429  
herman@serviceoil.com



Jasper Hall  
General Manager  
907.822.8427  
jasper@serviceoil.com

# CROWLEY

## DRAFT

April 6, 2005

**Subject: Alaska House Bill 157 (HB 157)**

Dear Business Colleagues:

We wanted to bring your attention to Alaska House Bill 157 introduced in the Legislature in February. A copy of the most recent draft of HB 157 is attached. This bill is now before the House Labor & Commerce Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. Crowley, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation. HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We appreciate that fuel prices directly impact the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change this dynamic or address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

We respectfully suggest that you take the time to become familiar with this proposed legislation, fully consider its potential impact on your business, and actively communicate your views to the House Labor & Commerce Committee. A listing of Committee members is attached for your reference.

Yours truly,

M. Bruce Barto  
Vice President & General Manager  
Petroleum Services  
206.332.8081  
[bruce.barto@crowley.com](mailto:bruce.barto@crowley.com)

James M. Dwight  
Director, Sales  
Petroleum Services  
206.332.8084  
[jim.dwight@crowley.com](mailto:jim.dwight@crowley.com)

**Yukon Fuel Company**

April 19, 2005

**Subject: Alaska House Bill 157 (HB 157)**

Dear Representative Carl Moses:

Yukon Fuel Company has been privileged to do business in Alaska throughout the years. We are writing to express our concerns about the referenced bill now before the House Finance Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Yukon Fuel Company, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Yukon Fuel Company respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly,

Mark Smith  
President  
907.777.5555  
msmith@yukonfuel.com

**Yukon Fuel Company**

April 19, 2005

Subject: Alaska House Bill 157 (HB 157)

Dear Representative Kevin Meyer:

Yukon Fuel Company has been privileged to do business in Alaska throughout the years. We are writing to express our concerns about the referenced bill now before the House Finance Committee.

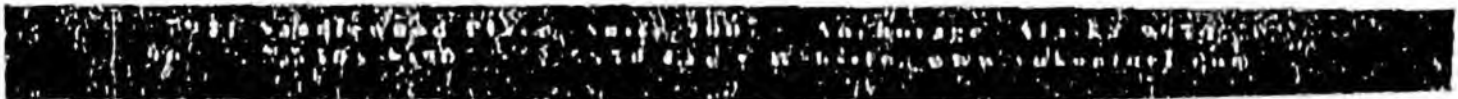
Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Yukon Fuel Company, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Yukon Fuel Company respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly

Mark Smith  
President  
907 777 5505  
msmith@yukonfuel.com





April 19, 2005

**Subject: Alaska House Bill 157 (HB 157)**

Dear Representative Mike Chenault:

Yukon Fuel Company has been privileged to do business in Alaska throughout the years. We are writing to express our concerns about the referenced bill now before the House Finance Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Yukon Fuel Company, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Yukon Fuel Company respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly,

Jon Bartalos  
Kernal Supervisor  
(907) 283-4542



April 19, 2005

**Subject: Alaska House Bill 157 (HB 157)**

Dear Representative Mike Chenault:

Yukon Fuel Company has been privileged to do business in Alaska throughout the years. We are writing to express our concerns about the referenced bill now before the House Finance Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Yukon Fuel Company, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Yukon Fuel Company respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly,

Michele Moore  
Kanal Office Administrator  
(907) 283-7893

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### Sectional Analysis for HB 157 BY: Representative Tom Anderson

Section 1. Amends AS 10.25.020

Adds the ability to form a limited liability company organized for any lawful purpose to the list of the powers of an electric cooperative.

# STATE OF ALASKA

DEPARTMENT OF COMMERCE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3469  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533  
WEBSITE: [www.state.ak.us/rca/](http://www.state.ak.us/rca/)

April 12, 2005

The Honorable Kurt Olson, Co-Chairman  
House Community & Regional Affairs Committee  
Alaska House of Representatives  
Alaska State Capitol Room 428  
Juneau, AK 99801-1182

Re: HB 157

Dear Representative Olson:

During the committee hearing of HB 157 on March 31, 2005, a question was raised regarding the potential impact of this bill on the Power Cost Equalization (PCE) levels of electric utility cooperatives. We understand HB 157 would, in part, allow electric cooperatives to have memberships in LLCs that could be formed to purchase and sell fuel.

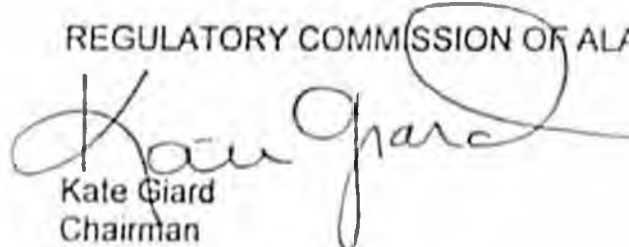
The amount of reimbursement or support that is provided under the PCE program is determined by calculating the total eligible costs incurred by the utility times the current funding rate. The total amount of PCE funding is determined annually by the Legislature and is allocated among eligible utilities on a pro-rata basis as determined by the Alaska Energy Authority. The current PCE pro rata funding rate is 65 percent of total eligible costs.

If cooperatives were successful in lowering their costs, then the fixed amount of Legislative funding for PCE could be allocated on a higher ratio than is available today. In summary, any reduction in an individual or group of utility's costs could have the effect of helping to increase the pro rata funding rate of all utilities participating in the PCE program.

If you have any additional questions, please feel free to call me at (907) 263-2110.

Warm regards,

REGULATORY COMMISSION OF ALASKA

  
Kate Giard  
Chairman



# STATE OF ALASKA

DEPARTMENT OF COMMERCE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

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FAX: (907) 276-0160  
TTY: (907) 276-4533  
WEBSITE: [www.state.ak.us/rca/](http://www.state.ak.us/rca/)

April 13, 2005

The Honorable Tom Anderson, Chairman  
House Labor & Commerce Committee  
House of Representatives  
Alaska State Capitol  
Juneau, AK 99801-1182

Re: HB 157

Dear Chairman Anderson:

During the April 11, 2005 committee hearing on CSSSHB 157, the Regulatory Commission of Alaska (RCA) was asked to provide an opinion regarding how AS 10.25.010(a)(4) and AS 10.25.010(a)(9) relates to the proposed legislation and what the RCA's jurisdiction is in this area. Additionally, the RCA was asked whether it reviews issues of solvency and cross-ownership.

CSSSHB 157 proposes to amend AS 10.25.020, powers of electric cooperatives, by adding the following language allowing an electric utility cooperative to:

(8) become a member of other limited liability companies or corporations organized for any lawful purpose, or own stock in them;

(9) sell fuel not needed to generate electric energy.

There was testimony at the committee hearing that the existing language in AS 10.25.010(a)(9) already provided electric and telephone cooperatives with the power to become a member of other cooperatives or corporations or own stock in them. This appears to be correct. AS 10.25.010(a)(9) states, "[e]xcept as provided in (b) of this section, an electric or telephone cooperative may ... become a member of other cooperatives or corporations or own stock in them." The limitations addressed in section (b) relate to the use of funds to promote or oppose a candidate for the director of a cooperative.

We note that the earlier bill proposing to amend AS 10.25.010(a)(9) contained the reference to "cooperatives" while the language proposed in CSSSHB 157 for AS 10.25.020(8) drops this reference.  
AS 12.05.141



At the hearing, it was suggested that AS 10.25.010(a)(4) may be at odds with AS 10.25.010(a)(9). AS 10.25.010(a)(4) provides that an electric or telephone cooperative may:

... construct, buy, lease, or otherwise acquire, and equip, maintain, and operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of or encumber lands, buildings, structures, electric or telephone lines or systems, dams, plants and equipment, and any other real or personal property, tangible or intangible, that is necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

Our review of these provisions does not lead us to the conclusion that they are necessarily in conflict. The two provisions appear to address the different powers that a cooperative may exercise and do not appear to be a limitation on each other. An electric cooperative's ability to engage in activities other than the generation and distribution of power may be limited by other provisions such as AS 10.25.010(a)(4) and (14), and AS 10.25.610. However, interpretation and application of these statutes is not within the jurisdiction of the RCA.

The RCA's jurisdiction over the activities of electric cooperatives is found in AS 42.05 and is limited to public utility operations.<sup>3</sup> An electric cooperative's membership in another cooperative or ownership interest in a corporation is not subject to our approval. We generally only review the implications of such an arrangement when the arrangement would affect the operations or rates of an economically regulated public utility, or the power cost equalization<sup>4</sup> (PCE) levels of an unregulated utility.<sup>5</sup>

If a regulated electric cooperative were to purchase fuel from an affiliated interest, the RCA would review these costs to determine the reasonableness of including the costs in consumer rates. AS 42.05.511(c) provides that

In a rate proceeding the utility involved has the burden of proving that any written or unwritten contract or arrangement it may have with any of its affiliated interests for the furnishing of any services or for the purchase, sale, lease, or exchange of any property is necessary and consistent with the public interest and that the payment made therefor, or consideration given, is reasonably based, in part, upon the submission of satisfactory proof as to the cost to the affiliated interest of furnishing the service or property and, in part, upon the estimated cost the utility would have incurred if it furnished the service or property with its own personnel and capital.

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<sup>3</sup>AS 42.05

<sup>4</sup>Many electric cooperatives are exempt from economic regulation under AS 42.05.711.

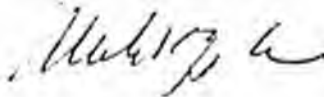
Thus, the RCA's authority is limited to determining whether the costs associated with affiliated transactions should be included in a regulated utility's rates.

The RCA also has the jurisdiction to review the affiliated transactions of non-regulated electric cooperatives when it sets PCE levels. The RCA reviews affiliated transactions under the same standard provided for in AS 42.05.511(c). While the RCA has the authority to determine the PCE levels of unregulated utilities, it does not have the authority to review the actual rates those utilities charge its customers.

If you have any additional questions, please feel free to call me at (907) 263-2110.

Warm regards,

REGULATORY COMMISSION OF ALASKA



 Kate Giard  
Chairman

**HOUSE BILL NO. 157 BACKGROUND  
MARCH 2005**

**I. Introduction.**

House Bill No. 157, "An Act clarifying the powers of electric or telephone cooperatives to become members of or own stock in other entities," proposes to amend AS 10.25.010(a) to read:

**Sec. 10.25.010. Powers of electric or telephone cooperative; prohibited action.** (a) Except as provided in (b) of this section, an electric or telephone cooperative may

...  
(9) become a member of other cooperatives, limited liability companies, or corporations organized for any lawful purpose, or own stock in them;

....

The purpose and function of this amendment are to (1) clarify the existing power of an electric or telephone to become a member of, or own stock in, other legal entities, and (2) expressly include limited liability companies (which did not exist in Alaska until 1994) as a type of legal entity in which a cooperative can become a member.

**II. Background.**

**A. Current powers of electric and telephone cooperatives.**

As it currently exists, the Alaska Electric and Telephone Cooperative Act (AS 10.25) grants electric and telephone cooperatives broad powers to conduct various activities. For example, AS 10.25.010 provides 14 various general powers of electric and telephone cooperatives. In addition to traditional powers closely related to the provision of electric and telephone utility services, those powers include the power to:

(9) become a member of other cooperatives or corporations or own stock in them; [and]

...  
(14) do and perform any other act and thing, and have and exercise any other power which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

AS 10.25.010(a).

In addition, AS 10.25.630 provides:

This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things.

**B. The current power to become members of, or own stock in, other legal entities.**

As stated above, by statute, Alaska electric and telephone cooperatives, themselves, have the power to engage in a broad range of activities. In addition, through AS 10.25.010(a)(9), as it is currently written, electric and telephone cooperatives can also form subsidiary corporations or cooperatives either through becoming a member of other cooperatives or corporations or by owning stock in them. Ownership in a cooperative, and often in a non-profit corporation, occurs through "membership" in that entity. Ownership in a for-profit corporation occurs through ownership of "stock" in the corporation.

The power to become a member of, or own stock in, another cooperative or corporation allows a cooperative to own all or a portion of another legal entity that conducts activities separate from the cooperative's utility operations. Examples of this could include a cooperative purchasing stock in a publicly traded corporation for investment purposes, or owning all of the stock or membership interest of another corporation that performs services in which the cooperative is interested or has operational experience and expertise. For example, cooperatives often have wholly-owned subsidiary corporations that provide educational services and scholarships to members of the cooperative. In addition, some cooperatives form subsidiary corporations that separately provide other types of services, including Internet and miscellaneous contracting services.

**III. The proposed amendment in HB 157 clarifies the power to become a member of, or own stock in, other legal entities "organized for any lawful purpose."**

Again, AS 10.25.010(a)(9) already provides the power for an electric or telephone cooperative to "become a member of other cooperatives or corporations or own stock in them." The statute does not limit this power in any way, but there are no published Alaska court decisions that have addressed this power. In other states, however, courts have recently addressed challenges to the power of electric cooperatives to own stock in for-profit subsidiaries. Typically, the issue has arisen when an electric cooperative owns stock in a subsidiary corporation that sells propane gas to the cooperative's members. In those cases, competing propane distributors have challenged the cooperative's power to own a subsidiary corporation whose activities extend beyond the narrow activity of providing electric energy.

In recent decisions, courts in Alabama, Colorado, and Kentucky have held that an electric cooperative has the power to own a subsidiary corporation that provides propane gas service. However, courts in Georgia, Mississippi, and Texas have held that electric cooperatives cannot own subsidiary corporations that provide services not associated the provision of electric energy. Although the specific language of the particular cooperative statutes that were interpreted in those

cases vary in different ways from the language of the Alaska co-op statute. those cases could be cited in the future to help interpret cooperative powers in Alaska.

Given these recent conflicting court decisions from other states, there is a concern that AS 10.25.010(a)(9) could be misinterpreted in the future to infer an unintended and unstated limitation on the power of a cooperative to become a member of, or own stock in, other legal entities. That is, a litigant might attempt to argue that the statute should be interpreted to limit a cooperative's power to own a subsidiary to allow only ownership of entities that provide traditional electric or telephone utility services. Although there is no such limitation in AS 10.25.010(a)(9) as it currently exists, the uncertainty created by the conflicting court decisions makes it prudent to clarify that AS 10.25.010(a)(9) imposes no such limitation.

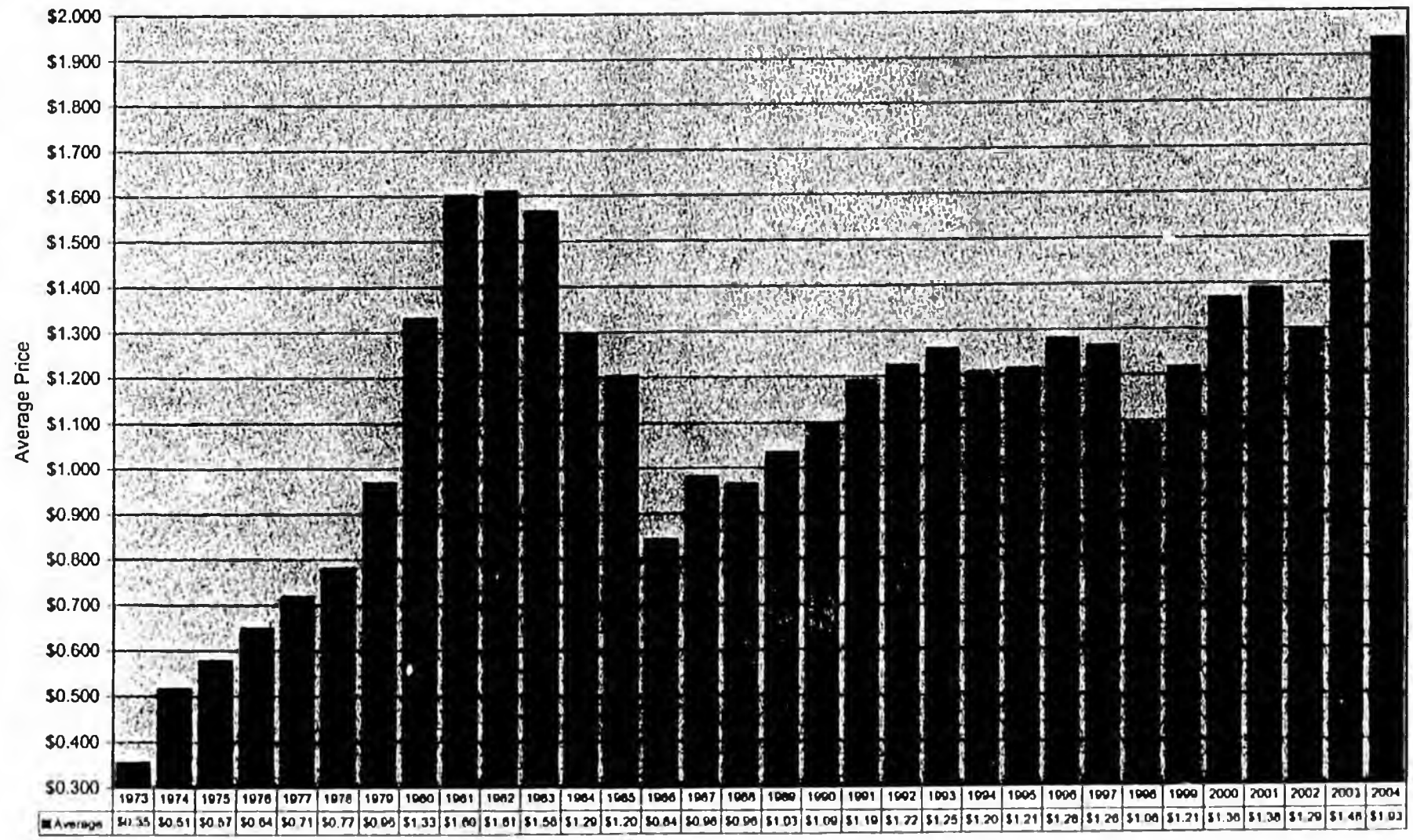
HB 157 proposes to clarify AS 10.25.010(a)(9) by adding the clause "organized for any lawful purpose." As amended, AS 10.25.010(a)(9) would provide that an electric or telephone cooperative may "become a member of other cooperatives, limited liability companies, or corporations organized for any lawful purpose, or own stock in them;". The addition of "organized for any lawful purpose" will clarify that the power of a cooperative to own an interest in another entity is not limited to only those entities that provide electric or telephone utility services.

This amendment simply preserves and clarifies the status quo with respect to cooperatives as they provide diversified services with meaningful benefits to their members. Particularly in rural areas of Alaska, co-op subsidiaries can fulfill important needs that are not directly associated with the provision of traditional electric or telephone utility service and that are, in many cases, requested by local residents.

For example, in some rural areas, cost-effective and environmentally sound bulk fuel storage, facilities maintenance, and delivery are lacking. This is an activity in which rural electric cooperatives have experience and expertise. Through membership or ownership interests in subsidiary entities, electric cooperatives may be able to provide those types of services more safely and at a lower cost than would otherwise occur.

The other change to AS 10.25.010(a)(9) proposed in HB 157 is the addition of "limited liability companies" as a legal entity in which a cooperative may become a member. Limited liability companies (LLCs) are a relatively new type of member-owned legal entity. They were first recognized in Alaska in 1994 and are codified in the Alaska Revised Limited Liability Company Act, AS 10.50. LLCs did not exist when AS 10.25.010(a)(9) was adopted. However, LLCs are increasingly becoming preferred over corporations and cooperatives for many types of non-profit and for-profit organizations, including subsidiaries. Even though LLCs are not prohibited by the current statute, the addition of "limited liability companies" in HB 157 clarifies this by expressly including LLCs as a type of legal entity in which an electric or telephone cooperative may become a member.

**Alaska Village Electric Cooperative, Inc.  
1973 - 2004 Fuel Prices**





# ALASKA POWER ASSOCIATION R E S O L U T I O N

## 1.6) A Resolution Supporting Legislative Action to Clarify the Cooperative's Ability to become the Full-Service Energy Provider in the Communities that they Serve

Alaska's electric cooperatives are increasingly receiving requests from their members asking the cooperative to become the full-service energy supplier in the community, supplying not only electric energy but also home heating oil and other forms of energy. Recent court cases in other states (notably, Georgia, Texas, and Mississippi) have called into question the ability of Alaska's electric cooperatives to form subsidiaries to respond to these member needs.

Alaska Power Association urges legislative action that would confirm Alaska's electric cooperatives' ability to meet this need by amending AS 10.25.010(a), Powers of electric or telephone cooperative, to include a new subsection to read:

(15) Become a member of or own stock in a corporation, limited liability company or subsidiary, organized for a lawful purpose or purposes for which a corporation or company may be organized.

Approved 12/04 by Alaska Power Association Board of Directors

Anchorage Office  
703 W. Tudor Road, Ste. 200  
Anchorage, Alaska 99503  
Phone: (907) 561-6103  
Toll-free: 1-877-992-7322  
Fax: (907) 561-5547

Juneau Office  
302C Assembly Building  
211 Fourth Street  
Juneau, Alaska 99801  
Phone: (907) 463-3636  
Fax: (907) 463-3611

eyould@alaskapower.org  
www.alaskapower.org

P.O. Box 189  
NAKNEK, ALASKA 99633

www.theborough.com



TELEPHONE  
(907) 246-4224  
FAX  
(907) 246-6633

## *Bristol Bay Borough*

March 25, 2005

Legislators:

The Bristol Bay Borough supports House Bill No. 157, expanding the powers given to electric or telephone cooperatives. We feel it is important to provide as many avenues as possible to reduce costs in rural Alaska. It will be impossible for rural Alaska to reduce costs if we are forced to do business with the limited existing companies presently providing services.

House Bill No.157 will afford an opportunity for electric or telephone cooperatives to work together to reduce costs, that until now remained fixed or on the increase.

**THE BRISTOL BAY BOROUGH SUPPORTS HOUSE BILL 157 AND URGES THE ALASKA STATE LEGISLATURE TO PASS THIS ACT.**

Thank you.

A handwritten signature in cursive script, appearing to read "Fred W. Pike".

Fred W. Pike, BBB mgr.



ALASKA VILLAGE ELECTRIC COOPERATIVE, INC.

April 11, 2005

Rep. Tom Andersen, Chairman  
Rep. Pete Kott, Vice Chairman  
Members of the House Labor and Commerce Committee  
Room 17, Capitol Building  
Juneau, Alaska

Re: **CSSSHB 157**

Honorable Chairman and Committee Members:

I regret that I am unable to testify in person before your committee on the merits of House Bill 157, clarifying the powers of electric cooperatives.

Please accept the attached written testimony supporting passage of this bill, with which I urge you to pass this bill out of your committee and to the House floor for consideration.

If any further information is needed, I am available at the address below, by email at [mkohler@avec.org](mailto:mkohler@avec.org) or by telephone at (907) 565-5531 at any time.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Meera Kohler".

Meera Kohler  
President & CEO

Attachment



ALASKA VILLAGE ELECTRIC COOPERATIVE, INC.

## ALASKA VILLAGE ELECTRIC COOPERATIVE, INC.

### Support for Passage of HB 157

April 2005

HB 157 clarifies Alaska's existing statute on electric cooperatives, allowing them to establish subsidiaries or own stock in companies doing non-electric business without fear of legal challenge. Such challenges have occurred in other states, where some courts have ruled in favor of co-ops and some have ruled against.

HB 157 has been brought forward in response to members of electric cooperatives who are asking their locally owned, not-for-profit company to utilize the co-ops' established management and administrative structure to provide other essential community services such as heating oil in communities where such services are not available, or where existing suppliers are preparing to exit the market.

Objections are being raised, apparently by for-profit fuel transport interests, who cite such issues as "a non-level playing field" and "subsidies such as the Power Cost Equalization Program." These are not legitimate concerns. The cooperatives are not going to compete with the fuel transport companies. Any subsidiary providing fuel or other services, whether owned in part by an electric cooperative or not, would have to follow the same rules as any other company.

The issue of PCE is a non-issue. Any assets or operating costs that might be used by an electric co-op in any non-electric-related business would be required, by statute, to be separately accounted for under contract with the business. The practical effect of this would be to reduce eligible cost for the PCE program and would result potentially in lower PCE credits for our individual consumers. Our consumers would therefore expect that reduced PCE to be offset by lower costs for other essential goods and services that they would like their electric cooperative to provide for them. In that case, our consumers would benefit and the PCE program would also benefit.

It is indeed ironic that protests are emanating from the fuel transport industry – the very industry that is currently engaged in a process to merge to transform the current fuel oligopoly into a monopoly.

In the pending buyout of Yukon Fuel by Crowley Maritime, which incidentally, the utilities of Western Alaska have been fighting now for almost two years, the parties have asserted that the fuel market is an open one that 'anyone can enter' easily. While the electric cooperatives are not planning to compete with Yukon Fuel or Crowley Marine, they do want to have the ability to help form companies that can provide other services in communities that desperately need them. AVEC and its consumer-members throughout our 52 villages strongly support HB 157 and urge the House Labor & Commerce Committee to advance this bill without delay.

## Josh Applebee

---

From: Tom Bolen [tbolen@nwabor.org]  
Sent: Tuesday, April 12, 2005 10:08 AM  
To: Rep. Tom Anderson  
Subject: House Bill 157

Dear Rep. Anderson,

I feel compelled to follow my testimony yesterday afternoon before your committee with this email for several reasons. First, because I was the last to testify, I was very frustrated and didn't really deliver the concise message I had hope to deliver on behalf of the Northwest Arctic Borough.

Second, I took exception to many things said by the fuel companies present, but did not want to step out and take a strong adversarial position with them in light of the fact that we still have yet to go out for this years annual fuel bid.

The important points regarding this bill are as follows:

#1 We are not writing new law, we are only attempting to clarify existing law.

#2 In our area, Crowley DOES have a monopoly, and they are not the nice guys they portray themselves to be. They make a

huge profit on our region, and that profit is at the expense of all fuel consumers in our Borough. If Crowley was doing such

a great job, and their margins were so slim, we wouldn't be looking for another business model to lower the cost of fuels.

The reason that Yukon, and Delta Western do not routinely compete with Crowley in our region IS because Crowley has a

monopoly with regard to logistics and infrastructure.

Crowley recently attempted to ensure and strengthened its monopoly

in its attempted merger with Yukon Fuel. Fortunately for us, this merger did not take place.

#3 The passage of HB 157 will NOT cause electric coops all across the state to go into the fuel business, as the fuel

companies suggest. It will only happen on a limited basis, where cooperative boards see a need and financial viability.

There is absolutely no need for any of us to have to explain where the capital financing for this business expansion will

come from. If the financing is available and legal, and the boards of coops are willing, then fuel coops will emerge; if not,

they won't. Fuel companies are frightened because they are about to lose their "gravy."

#4 Cooperatives are NOT against the law, or un-American; they are another viable business model, and the market may well

determine that they will eventually displace "for Profit" fuel enterprises in some areas of rural Alaska

#5 In our case in Northwest Arctic, it is our desire to create a cooperative whose members will be bulk fuel operators including

municipal city governments, electric coops (AVEC), the school district, tribal governments, and independent operators.

The Coop would supply the lowest cost wholesale fuels to those entities, who would either consume it, or retail it to the

public. Village level enterprise would continue unchanged, except that fuels would cost less. We would not have

individual residents as members. Kotzebue Electric, an existing electric Coop in Kotzebue, has the capacity to form a

subsidiary that would be this "Fuel Coop."

#6 Passage of HB 157 would dissuade fuel companies from aggressively challenging the creation of such enterprises in order

to protect their profits. A Northwest Arctic Bulk Fuel working group approached Crowley with an offer to purchase their

Kotzebue Tank Farm several years ago. It was our perception that an international maritime company which owned only

three tank farms in the world might be willing to sell, since tank farms

comprised such a minor part of its corporate activity. Crowley responded by cutting off discussions and then began building a brand new tank farm in Bethel. So much for slim margins.

The Northwest Arctic Borough urges passage of HB 157, as it will be an important tool for us in our battle to lower the cost of living for residents in our region of rural Alaska. Thank you for the opportunity to comment on this important issue.

Tom Bolen  
Public Services Director  
Acting Mayor  
Northwest Arctic Borough  
(907) 442 2500 ext 112  
Fax (907) 442 2930

**Bristol Alliance Fuels, LLC**

4141 B Street, Suite 207  
P.O. Box 112105, Anchorage, AK 99511  
Phone: (907) 222-2828  
Fax: (907) 222-1418

April 7, 2005

Representative Anderson  
House Labor and Commerce Committee  
State Capitol, Room 408  
Juneau, AK 99801-1182

Via: Facsimile (907) 465-2418

Re: Alaska House Bill 157 (HB 157)

Dear Representative Anderson:

I would like to go on the record as opposed to Alaska House Bill 157. There is a tremendous infrastructure that has been invested in and assembled by many private entities throughout the State of Alaska for the purpose of providing fuel products to the residents of Alaska. Your bill provides an unfair advantage to electric utilities, including publicly funded or subsidized electric utilities to provide this service in competition with private industry.

There are currently 117 Motor Fuel Qualified Dealers licensed by the State of Alaska, some of which are operators with multiple tank farm sites. Bristol Alliance Fuels is just one dealer with a single site located in Dillingham. Dillingham also has another local dealer, Delta Western, Inc. While I cannot speak for Delta or any other dealer in the state, I can say that our operation alone requires invested and operating capital of over \$10 million. After investing 20 years building our enterprise, I resent the effort to thwart the free market system that encourages such initiative. There must be other ways to address the high costs of energy delivery in the State of Alaska.

This bill will result in an even greater imbalance in the price of energy products especially in rural areas. Not everyone will be able to take advantage of this service and those that are left to be supplied by private industry will be called upon to support an infrastructure requiring even higher margins to carry the related costs of such investments. In many communities, your bill will result in higher fuel costs for those who can least afford it.

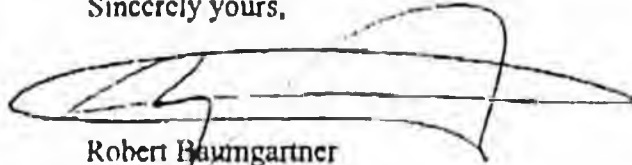
The Institute of Social and Economic Research previously investigated this particular idea for the onetime Western Alaska Fuel Cooperative, located in Dillingham, Alaska. The ultimate end of years of efforts and the explicit assistance of the City government as well as the investigation by the local electric utility, Nushagak Electric Cooperative, found the effort was not practical. Why? Fundamentally, because there were already two

fuel companies in Dillingham. A fuel cooperative would not be economically feasible if required to stand on its own merits in a divided and small marketplace. There may be communities so small with no fuel delivery system in place where a waiver of current restrictions placed on electric utilities might apply, but a blanket approach that encourages subsidies and movement away from entrepreneurial effort is not the way.

While I appreciate that fuel is an essential commodity and fuel prices are a significant factor in the costs of living and doing business in Alaska, especially rural areas, HB 157 does not address the underlying problems that impact the costs of energy in today's global economy.

Again, Bristol Alliance Fuels is opposed to this legislation as it is written. Publicly funded or subsidized electric utilities should not compete with private industry and have no business doing so. I would be happy to help explore what other methods might be employed to address the high costs of energy delivery especially in rural Alaska.

Sincerely yours,



Robert Baumgartner  
President,  
Bristol Alliance Fuels, LLC

Cc: Representative Kott  
Representative LeDoux  
Representative Lynn  
Representative Rokeberg  
Representative Crawford  
Representative Guttenberg



April 7, 2005

Subject: House Bill 157

Dear Representative Harris:

Service Oil & Gas, Inc. has been privileged to do business in Alaska since 1975. Over the years, we have grown our business to include branch offices in Glennallen, Valdez, Delta Junction, Fairbanks, Talkeetna, Wasilla, Palmer and Anchorage. We provide work for 120 Alaskans in jobs that provide good compensation and benefits for them and their families. We are writing to express our concerns about the referenced bill now before the House Labor & Commerce Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Service Oil & Gas, Inc., along with other private companies in the fuel distribution and sales business in Alaska, are opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

We respectfully request that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Sincerely,

**Yukon Fuel Company**

April 7, 2005

**Subject: Alaska House Bill 157 (HB 157)**

Dear Representative Tom Anderson:

Yukon Fuel Company has been privileged to do business in Alaska throughout the years. We are writing to express our concerns about the referenced bill now before the House Labor & Commerce Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. HB 157 would enable competition between the electric cooperatives and local fuel retailers, many of which are local corporations and private individuals, directly impacting the economy in rural Alaska. Yukon Fuel Company, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation.

HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Yukon Fuel Company respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly,

Mark Smith  
President  
907.777.5505  
msmith@yukonfuel.com

# CROWLEY

April 7, 2005

The Honorable Tom Anderson  
Chair, House Labor & Commerce Committee  
State Capitol, Room 408  
Juneau, AK 99801-1182  
Fax: 907-465-2418

**Subject: Alaska House Bill 157 (HB 157)**

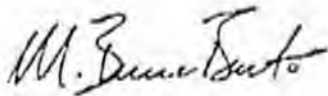
Dear Representative Anderson:

Crowley Marine Services, Inc. has been privileged to do business in Alaska since 1953. We are writing to express our concerns about the referenced bill now before the House Labor & Commerce Committee.

Among other changes, this bill would amend existing law to allow electric cooperatives, including publicly funded or subsidized non-profit electric cooperatives, to commercially sell fuel to consumers, businesses and other entities. Crowley, along with other private companies in the fuel distribution and sales business in Alaska, is opposed to this legislation. HB 157 as written would permit publicly funded or subsidized non-profit electric cooperatives to compete with the essential services now being provided throughout Alaska by private enterprise. We fully appreciate that fuel prices have recently reached historically high levels. We also recognize the direct impact this has on the cost of living and the cost of doing business, particularly in many rural Alaska communities. HB 157 would not change these dynamics nor does it address the fundamental fact that fuel is a basic commodity driven by global, regional and local free market forces.

Crowley respectfully requests that you thoroughly weigh the public policy implications of this proposed legislation. We trust you will find that the broad legislative relief proposed in HB 157 is inappropriate where viable, sustainable private enterprise fuel suppliers are providing valuable and needed services to the general public.

Yours very truly,



M. Bruce Barto  
Vice President & General Manager  
Petroleum Services  
206.332.8081  
[bruce.barto@crowley.com](mailto:bruce.barto@crowley.com)



CROWLEY MARINE SERVICES, INC.  
1102 SW MASSACHUSETTS • SEATTLE • WASHINGTON • 98134 • 206.332.8000  
[www.crowley.com](http://www.crowley.com)

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ANDREW L. JOSEPHSON  
OF COUNSELDAN S. BAIR  
OF COUNSELJODY A. HEAUSAW  
OF COUNSEL

April 11, 2005

Honorable Thomas Anderson  
Chair  
Committee on Labor & Commerce  
House of Representatives  
Alaska State Legislature  
Juneau, Alaska

Dear Mr. Chairman:

Re: CSHB 157

For many years, I have represented Mr. Mark Steer, doing business as Twin Cities Fuel, a retail supplier of petroleum products in Lower Kalskag, Alaska.

Mr. Steer spent the bulk of his years as a public school educator teaching in Lower Kalskag. He was active in the community and was, for a time, a member of the Lower Kalskag City Council. In addition, he founded, and still operates, the fuel supply business known as Twin Cities Fuel. Last year, Mr. Steer retired as a public school teacher.

Last week, Mr. Steer, whose primary residence is now in Nebraska, but who retains a home in Lower Kalskag, was made aware by word-of-mouth from his fuel wholesaler of the existence of the pending bill, House Bill 157. On Friday, April 8, Mr. Steer asked me to perform some research about the measure, and I learned later that day of today's scheduled telephonic hearing.

I believe that there is background of which members of the Legislature may not be fully aware.

For example, in Lower Kalskag and its adjacent community, Upper Kalskag, a significant federally-funded investment of approximately \$4,800,000 in the infrastructure for rural bulk fuel storage and delivery has been made through the Denali Commission.

We understand that the Alaska Village Electric Cooperative, Inc. ("AVEC") contributed approximately \$200,000 to the total

## JOSEPHSON &amp; ASSOCIATES, P.C.

ATTORNEYS AT LAW

Honorable Thomas Anderson, Chair

Page 2

project, and AVEC obtained fuel tanks, ostensibly as part of its program for upgrading the rural electrical power system.

Twin Cities Fuel and its local competitor, Morgan Fuels of Upper Kalskag, were invited to lease storage and ancillary facilities in the consolidated campus so funded and located in Upper Kalskag. There is no subsidy in the lease arrangements, the terms of which were carefully constructed to meet anticipated operation, maintenance and replacement expenses for the prudent management of the leased premises.

When the Denali Commission's participation first became a topic of public discussion, a very sensitive issue for Mr. Steer and other private sector small businessmen and small businesswomen was whether federal money would be used to upset the existing market share balance among fuel suppliers.

The Denali Commission's Investment Policy promulgated in March 2003, of which a copy is attached, contained explicit assurances that no retail supplier would be adversely affected, without his or her consent, as a result of Denali Commission funding. The language of the policy could hardly be more clear:

"The existing market share balance among retail fuel suppliers within a community may be significantly altered as a result of a Denali Commission funding only if all of the affected retail fuel suppliers currently operating in the community agree to it or if such alteration is deemed necessary to facilitate competitive conditions in the community."

Attachment, page 3.

Furthermore, I received a letter dated June 7, 2004, from AVEC counsel in Anchorage which, in pertinent part, assured my client:

". . . AVEC has no interest in absorbing Twin Cities Fuel. AVEC is not in the retail or wholesale fuel business. AVEC purchases and stores fuel for use in generating electricity, not for resale to others."

Mr. Chairman, Twin Cities Fuel and its owner are deeply

## JOSEPHSON &amp; ASSOCIATES, P.C.

ATTORNEYS AT LAW

Honorable Thomas Anderson, Chair

Page 3

concerned lest legislation which would allow AVEC to provide fuel on a retail basis in Upper Kalskag and Lower Kalskag (as well as elsewhere) would not only significantly alter the competitive balance but would likely destroy the existing local retailers who now compete. It could well be that retailers in other communities are presently unaware of this impending threat and, were they to be aware, would express their own, similar, concerns.

In this regard, I express the hope that the Legislature will go to great lengths to notify all existing fuel suppliers, both retailers and wholesalers, of the pendency of CSHB 157 and solicit any comments they may have.

These are individuals who, like Mr. Steer, have invested their own resources, time and labor as venturing small business operators, without public subsidy, in the time-honored American free enterprise way. My client believes that the proposition that state law might now, for the first time, permit cooperatives, heretofore barred from retail sales, to compete with local, private sector, retailers presents a very grave prospect for these small businesses. The cooperatives, of course, would enjoy certain tax advantages denied to the private sector retailers. In contexts such as the villages of Lower Kalskag and Upper Kalskag, a cooperative's retail activity would upset the competitive balance in a way that is wholly at odds with the written policy of the Denali Commission, the principal funding source for bulk fuel storage upgrades. Moreover, AVEC's exercise of the authority contemplated in CSHB 157, at least in Lower Kalskag and Upper Kalskag, would be contrary to the assurances Mr. Steer received from AVEC counsel last June.

Furthermore, even if AVEC were not to exercise the authority to conduct retail sales in Lower Kalskag and Upper Kalskag, so as to adhere to its past assurance, Twin Cities Fuel would still have profound effect upon the company's ability to purchase fuel from wholesale sources now serving rural Alaska. This is a concern that I cannot address in a few hours of available consideration, but I would ask that the Legislature explore how and whether the passage of CSHB 157 might affect the availability of fuel to the retailers who now serve rural Alaska.

Thank you, Mr. Chairman, on behalf of Mr. Steer, for your study of these concerns as the Committee on Labor and Commerce considers CSHB 157. I am sending a copy of this correspondence to your committee colleagues as well, for their ready reference.

JOSEPHSON & ASSOCIATES, P.C.

ATTORNEYS AT LAW

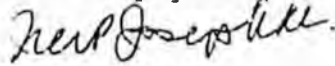
Honorable Thomas Anderson, Chair

Page 4

I would appreciate having this letter incorporated into the committee's records as written testimony with regard to CSHB 157, since I am unable to be present personally at this afternoon's hearing. If and when the hearing is carried over to another day, I would appreciate notification so that I could plan to be present.

With best wishes to you and your colleagues for a successful conclusion to the current legislative session, I am

Sincerely yours,



Joe P. Josephson  
Attorney for Twin Cities Fuels.

cc: Honorable Gabrielle LeDoux  
Honorable Pete Kott  
Honorable Norm Rokeberg  
Honorable Harry Crawford  
Honorable David Guttenberg  
The Denali Commission  
Mr. Mark Steer  
John Andrew Leman, Esquire

Attachment: Copy of Denali Commission Investment Policy



Denali Commission  
510 L Street, Suite 410  
Anchorage, AK 99501

907.271.1414 tel  
907.271.1415 fax  
888.480.4321 toll free

## Private Enterprise Policy April 30, 2003

### 1. Objective

The purpose of this policy is to establish guidelines for infrastructure projects where private enterprise is involved.

### 2. General Policy

Economic development is a part of the mission of the Denali Commission. However, economic development is primarily a function of private enterprise. A fundamental prerequisite of economic development is basic sustainable public infrastructure such as transportation, sanitation facilities, energy and healthcare. Another important consideration is that for private enterprise to function efficiently a market large enough to support competition is necessary. When the necessary prerequisites are in place for the market to function efficiently, private enterprise tends to drive costs down and quality of service up.

However, in the small/isolated communities of Alaska, the market does not function efficiently or does not function at all. Frequently the needed public infrastructure is not in place and the market size is insufficient to support the competition necessary to encourage efficient market dynamics. This fact does not lessen the need for basic services like health care, lights, heat and sanitation. The challenge is to harness the forces of private enterprise where they exist to provide needed services at an affordable price. Where private enterprise is inadequate or non-existent to achieve this purpose, consideration must be given to providing these services through other means.

### 3. General Provisions

The Denali Commission will embrace and support, in appropriate ways, private enterprise where it is functioning or can function efficiently and adequately to meet the needs of all members of the local community. The Commission will not support the replacement of or new structures for a publicly funded service to compete with services delivered by private enterprise as long as those services are:

1. Accessible to all members of a community including temporary members;
2. Reasonably priced when compared to comparable communities;
3. Predictably available and sustainable for the long term.

Denali Commission Investment Policy March 2003  
Infrastructure Subcommittee Meeting

2

All proposals for new or upgraded infrastructure facilities to be funded with Denali Commission funds shall be evaluated on the basis of public benefits resulting from the project. A proposal for funding may be approved where the facility is or will be owned, operated, and/or maintained by private entities only if there is found to be a direct and substantial public benefit from the project.

Facilities funded in whole or in part by the Denali Commission may not be sold, leased, sub-leased, or interest otherwise assigned without the express approval of the Denali Commission or its successor agency. In any event, the facility shall continue to provide the originally intended public benefit until such time as that public need no longer exists or until the serviceable life of the facility has expired.

Funding decisions must take into account existing private enterprise in the community. Funding should not generally be used to create new or additional competition with existing private enterprise in the community. However in cases where an unregulated monopolistic or other wise inefficient condition exist in which current services are not available at fair and reasonable rates the Commission, after appropriate consultation, may consider funding projects that would contribute to more competitive rates.

**4. Provisions Specific to Health Care**

The Denali Commission seeks to support health care facilities in a manner which improves access to quality, affordable health services, be it by a private entity or a publicly funded one. The Denali Commission does not seek to create or enhance competition in an inefficient market. In this scenario, an inefficient market is one that cannot support two mutually exclusive health care providers. Given the economic fragility of rural health care systems, Denali Commission funding for health care facilities will be deployed in a manner which encourages a cooperative and collaborative arrangement for the health benefit of the community in question, and improves the sustainability of the overall care delivery system for that population. Denali Commission health facility funding supports systems that ensure access to care for everyone regardless of ability to pay. It is expected that a system that is exclusively private in rural Alaska will not be able to meet that criteria. Thus, some integration of public and private provider entities will likely be required in areas where any private provider system currently exists.

**5. Provisions Specific to Bulk Fuel Storage**

The developer of any bulk fuel storage consolidation project funded in whole or in part by Denali Commission funds will consult with all retail fuel suppliers within a community in the course of developing the project's conceptual design to ensure that their interests are understood and, to the extent feasible, dealt with in the course of conceptual design.

Denali Commission Investment Policy March 2003  
Infrastructure Subcommittee Meeting

3

The existing market share balance among retail fuel suppliers within a community may be significantly altered as a result of a Denali Commission funding only if all of the affected retail fuel suppliers currently operating in the community agree to it or if such alteration is deemed necessary to facilitate competitive conditions in the community. For each type of fuel, the existing market share for a retail fuel supplier is defined as that supplier's existing in-service storage capacity as a percentage of the total gallons of existing in-service storage capacity for all retail fuel suppliers in the community.

Where multiple retail fuel suppliers are involved in a project, comparable levels of investment in project costs (based on market share) will be sought from each participating retail fuel supplier in the community, whether public or private.

Denali Commission funds may be used to upgrade or replace fuel storage facilities owned by private sector retail fuel suppliers if there is determined to be significant public benefit. However, to ensure that long term project benefits flow through to the public, such new or improved fuel storage and dispensing facilities will generally be owned by a local government entity which may lease the facilities to the private sector fuel supplier at a nominal cost or contract with the private sector fuel supplier for facility operation. The term of such lease or contract will be for the life of the assets, and is not transferable as an asset of the leaseholder without express written approval of the Denali Commission or its successor agency.

**5. Implementation**

Denali Commission partners will have full responsibility for implementing this policy. The Denali Commission will monitor to ensure satisfactory implementation. This policy may be modified or waived only by agreement of the Denali Commission Chief of Staff if it is determined that modification or waiver is in the public interest.

**6. Appeals Process**

Any decisions of the Chief of Staff may be appealed to first to the Federal Co-chair and if deemed necessary to the full Commission.

Issued by



Date

May 29, 2003

**JOSEPHSON & ASSOCIATES**

ATTORNEYS AT LAW  
912 West Sixth Avenue  
ANCHORAGE, ALASKA 99501

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Andrew L. Josephson  
of Counsel

Marc A. Jakubovic

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1-800-478-3508  
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Jody Reausaw  
of Counsel

**FAX COVER PAGE**

TO: TOM ANDERSON

FAX NO.: 907-465-4939

FROM: JOE P JOSEPHSON

DATE: 4/11/05

RE: ERRATUM

No. of Pages Following: 1 SENT VIA: X FAX ONLY      FAX & MAIL

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The pages following contain information intended for the addressee(s) named above, and the information is confidential. In the event that any of the pages following are not received, or are distorted or unreadable for any reason in the transmittal process, please notify the office of Josephson & Associates at (907) 276-0151.

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JOE P. JOSEPHSON

MARCA JAKUBOVIC

ANDREW L. JOSEPHSON  
OF COUNSEL

DAN S. BAIR  
OF COUNSEL

JODY A. REAUSAW  
OF COUNSEL

ERRATUM

April 11, 2005

To: Members of the House Committee on Labor & Commerce  
House of Representatives  
Juneau, Alaska

Re: CSHB 157

Dear Members:

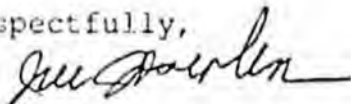
On page 3, in the fourth paragraph on the page, a sentence clause erroneously read in part: ". . .Twin Cities Fuel would have profound effect upon the company's ability to purchase fuel from wholesale sources now serving rural Alaska."

The sentence clause should have read as follows, and I apologize for the error:

". . .Twin Cities Fuel would foresee (HAVE) profound effect upon the company's ability to purchase fuel from wholesale sources now serving rural Alaska."

With best wishes, I am

Respectfully,



Joe P. Josephson

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSSHB 157(CRA)  
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title: Electric/Telephone Co-ops RDU: Regulatory Commission of Alaska (399)  
and Other Entities Component: Regulatory Commission of Alaska  
Sponsor: Anderson  
Requester: House Community & Regional Affairs Component No.: 2417

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

This bill adds "limited liability company" to the list of entities of which an electric or telephone cooperative can become a member; the other two entities on the list are cooperatives and corporations. This legislation has no fiscal impact on the operations of the agency.

Prepared by: Kato Giard, Chairman Phone 907.276.6222  
Division: Regulatory Commission of Alaska Date/Time: 3/21/05 4:00 PM  
Approved by: Edgar Blatchford, Commissioner Date: 3/21/2005  
Agency: Commerce, Community, and Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSSHB 157(L&C)  
(H) Publish Date: 4/26/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue 04  
Title Elec/Phone Coop & Other Entities RDU Tax and Treasury  
Component Tax  
Sponsor Rep. Anderson, Thomas  
Requester (H) CRA Component No. 2476

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	.	.	.	.	.	.
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

\* See page 2

Prepared by: Chuck Harlbert Phone 465-2320  
Division Tax Division Date/Time 4/5/05 4:34 PM  
Approved by: Tom Boutin, Deputy Commissioner Date 4/5/2005  
Agency Revenue

FISCAL NOTE # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 157(L&C)

**ANALYSIS CONTINUATION.**

We are unable to estimate the revenue impact, if any, of the bill.

AS 10.25.540(b) exempts telephone and electric cooperatives from all state taxes other than the cooperative tax under AS 10.25.550 or .555. We do not believe that this exclusion is intended to avoid requirements for collection or remittance of taxes on their members or other customers.

New section AS 10.25.020(8) specifies that cooperatives may own, in whole or in part, LLCs or corporations organized for any lawful purpose. Revenue does not have the expertise to opine whether the bill clarifies existing law or establishes new rights for the cooperatives. To the extent that the activities of these LLCs or corporations are attributed to the cooperative and not taxed as a separate entity, the cooperatives' tax exemption will shelter the LLC/Corporate activity from state taxation. The activity thus sheltered from tax would be limited to the portion of the LLC/Corporation's activity that is attributed to a cooperative.

Excise, ad valorem, and property taxes are imposed at the entity level and are not attributed to the owners of the entity. The LLC or corporation will pay any applicable motor fuel tax, property tax, local sales tax, or other non-income taxes. Therefore, the arrangement allowed under the bill will not avoid these taxes.

In contrast, income taxes are commonly attributed to the owner of the operating entity instead of the entity itself. An LLC that is either a single member LLC (owned wholly by the cooperative) or a multi-member LLC that elects to be treated as a partnership for tax purposes, the income of the LLC will be attributed to the owners. The LLC's activity will not be subject to corporate income taxes to the extent that the income is allocated to a cooperative. Thus, the income of a single member LLC owned by a cooperative, and the cooperatives' share of the income of a multi-member LLC electing partnership treatment, will be sheltered from state corporate net income tax.

This same "loophole", that of sheltering income through attribution to an exempt entity, is used by the majority of businesses operating in the state. Every S-corporation and every partnership or LLC electing partnership treatment and having individual partners/members achieves the same result under Alaska law.

New section AS 10.25.020(9) authorizes cooperatives to sell fuel that is not needed to generate electric energy. We believe that the state tax exemption for cooperatives does not extend to excuse cooperatives from collection and reporting requirements applicable to dealers of motor fuel. Cooperatives could experience financial hardship if they fail to collect tax on sales of taxable fuel and are later forced to pay the uncollected tax along with any interest owing. We recommend that the committee consider adding language to clarify the cooperatives' obligation to collect and remit motor fuel tax as a dealer under AS 43.40.010.

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### SPONSOR STATEMENT FOR HB 157 BY: Representative Tom Anderson

**TITLE:** "An Act clarifying the powers of electric or telephone cooperatives to become members of or own stock in other entities."

As it currently exists, the Alaska Electric and Telephone Cooperative Act (AS 10.25) grants electric and telephone cooperatives broad powers to conduct various activities. Those powers include the ability to become a member of other cooperatives or corporations or own stock in them and to do and perform any other act and thing, and have and exercise any other power which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

These powers allow the formation of subsidiary corporations or cooperatives in which a cooperative can own all or a portion of another legal entity that conducts activities separate from the cooperative's utility operations. For example, some cooperatives provide internet or cable television services.

Recent court decisions in Georgia, Mississippi and Texas have called into question a cooperative's ability to own subsidiary corporations. While the statutes in those states are different from those here in Alaska, there is a concern that those cases could be used in the future to help interpret Alaska's laws.

HB 157 proposes to clarify AS 10.25.010(a)(9) to make clear that a cooperative utility may own an interest in another entity that does not provide electric or telephone utility services. This amendment simply preserves and clarifies the current statutes which allow cooperatives to provide added benefits to their members.

For example, in some rural areas, cost-effective and environmentally sound bulk fuel storage, facilities maintenance and delivery are lacking. This is an activity in which rural electric utilities have useful expertise. Through membership or ownership in interests in subsidiary entities, electric cooperatives may be able to provide those types of services more safely and at a lower cost than would otherwise occur.

The second change made in HB 157 is the addition of "limited liability company" to the list of entities a cooperative may become a member of or own stock in. Limited liability companies (LLCs) are a relatively new type of member-owned legal entity. They were first recognized in

Alaska in 1994 and did not exist when AS 10.25.010(a)(9) was enacted. LLCs are increasingly becoming preferred over corporations and cooperatives for many non-profit and for-profit organizations, including subsidiaries. Although LLCs are not specifically prohibited in the statutes, the addition made by HB 157 clarifies this by expressly including LLCs as an acceptable legal entity a cooperative may become a member or own stock in.

This bill is necessary and important to preserve the intent of existing statutes. I urge your support for this legislation.

**HB**

**158**

HFIN

FILE



# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB158  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Development  
Title "An Act relating to the public school account and RDU K-12 Support  
renaming the public school account as the public education ..." Component Foundation  
Sponsor House Finance  
Requester House Finance Component No. 141

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill will rename the public school account to the public education fund. Monies deposited in the fund would be allocated to support the foundation and pupil transportation programs. Money appropriated to this fund would not lapse.

Prepared by: Eddy Joans, Director  
Division: School Finance  
Approved by: Karen Rohfeld, Deputy Commissioner  
Agency: Education & Early Development

Phone 465-8679  
Date/Time 2/18/05 3:00 PM  
Date 2/18/2005

24-LS0529\Y  
Utermohle  
2/22/05

*NOT adopted  
or addressed —*

CS FOR HOUSE BILL NO. 158(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the public school account and renaming the public school account as  
2 the public education fund; and providing for an effective date."

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

4 \* Section 1. AS 14.17.300 is amended to read:

5 Sec. 14.17.300. Public education fund [SCHOOL ACCOUNT]. (a) The  
6 public education fund [SCHOOL ACCOUNT] is established. The fund  
7 [ACCOUNT] consists of appropriations for

8 (1) distribution to school districts and to [,] the state boarding school [,]  
9 AND FOR CENTRALIZED CORRESPONDENCE STUDY] under this chapter: and

10 (2) transportation of pupils under AS 14.09.010.

11 (b) Money appropriated to the fund may be expended without further  
12 appropriation. Money appropriated to the fund does not lapse. The money in the  
13 fund [ACCOUNT] may be expended [USED] only in aid of public schools [,]  
14 INCLUDING COMMUNITY SCHOOL PROGRAMS, AND FOR CENTRALIZED

1 CORRESPONDENCE STUDY PROGRAMS] under this chapter and for  
2 transportation of pupils under AS 14.09.010. Interest earned on money held in  
3 the fund before expenditure may be appropriated to the fund by the legislature.

4 \* Sec. 2. AS 14.17.400(b) is amended to read:

5 (b) If the amount appropriated to [IN] the public education fund [SCHOOL  
6 ACCOUNT] for purposes of this chapter is insufficient to meet the amounts  
7 authorized under (a) of this section for a fiscal year, the department shall reduce pro  
8 rata each district's basic need by the necessary percentage as determined by the  
9 department. If the basic need of each district is reduced under this subsection, the  
10 department shall also reduce state funding for [CENTRALIZED  
11 CORRESPONDENCE STUDY AND] the state boarding school by the same  
12 percentage.

13 \* Sec. 3. AS 14.17.430 is amended to read:

14 Sec. 14.17.430. State funding for correspondence study. Except as  
15 provided in AS 14.17.400(b), funding for [THE STATE CENTRALIZED  
16 CORRESPONDENCE STUDY PROGRAM OR] a district correspondence program,  
17 including a district that offers a statewide correspondence study program, includes an  
18 allocation from the public education fund [SCHOOL ACCOUNT] in an amount  
19 calculated by multiplying the ADM of the correspondence program by 80 percent.

20 \* Sec. 4. AS 14.17.440(a) is amended to read:

21 (a) Except as provided in AS 14.17.400(b), funding for state boarding schools  
22 established under AS 14.16.010 includes an allocation from the public education  
23 fund [SCHOOL ACCOUNT] in an amount calculated by

24 (1) determining the ADM of state boarding schools by applying the  
25 school size factor to the student count as described in AS 14.17.450;

26 (2) multiplying the number obtained under (1) of this subsection by the  
27 special needs factor in AS 14.17.420(a)(1) and multiplying that product by the base  
28 student allocation; and

29 (3) multiplying the product determined under (2) of this subsection by  
30 the district cost factor that is applicable to calculation of the state aid for the adjacent  
31 school district under AS 14.17.460.

1 \* Sec. 5. AS 14.17.600(a) is amended to read:

2 (a) Within two weeks after the end of the 20-school-day period ending the  
3 fourth Friday in October, each district shall transmit a report to the department that,  
4 under regulations adopted by the department, reports its ADM for that counting period  
5 and other student count information that will aid the department in making a  
6 determination of its state aid under the public school funding program. [FOR  
7 CENTRALIZED CORRESPONDENCE STUDY, THE OCTOBER REPORT  
8 SHALL BE BASED ON THE PERIOD FROM JULY 1 THROUGH THE FOURTH  
9 FRIDAY IN OCTOBER.] The department may make necessary corrections in the  
10 report submitted and shall notify the district of changes made. The commissioner shall  
11 notify the governor of additional appropriations the commissioner estimates to be  
12 necessary to fully finance the public school funding program for the current fiscal  
13 year.

14 \* Sec. 6. AS 14.17.610(b) is amended to read:

15 (b) Distribution of state aid under (a) of this section shall be made as required  
16 under AS 14.17.410. If a district receives more state aid than it is entitled to receive  
17 under this chapter, the district shall immediately remit the amount of overpayment to  
18 the commissioner, to be returned to the public education fund [SCHOOL  
19 ACCOUNT]. The department may make adjustments to a district's state aid to correct  
20 underpayments made in previous fiscal years.

21 \* Sec. 7. AS 14.17.900(b) is amended to read:

22 (b) Money to carry out the provisions of this chapter may be appropriated  
23 annually by the legislature into the public education fund [SCHOOL ACCOUNT]. If  
24 the amount appropriated to the fund for the purposes of this chapter [IN THE  
25 ACCOUNT] is insufficient to meet the allocations authorized under AS 14.17.400 -  
26 14.17.470 for a fiscal year, state aid shall be reduced according to AS 14.17.400(b).

27 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

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## SPONSOR STATEMENT

HB 158, "An Act relating to the public school account and renaming the public school account as the public education fund; and providing for an effective date."

House Bill 158 proposes changing the public school account and renaming it the public education fund. In addition, HB 158 clarifies that money appropriated from the public education fund may be expended without further appropriation and that money left over in the fund does not lapse.

Further, HB 158 adds that appropriations for pupil transportation can be made from the public education fund. Also, interest earned on the fund may be appropriated back to the fund.

Currently, if the legislature appropriates too much money for K-12 or if there is a decline in students, the left over money lapses into the general fund. The main purpose of this legislation is to keep dollars appropriated for K-12 in the education fund where they will be used for educating our students.

I urge your support of this important piece of legislation.