

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

8672

11278 SENATE LABOR & COMMERCE

**HB**

**478**

## SENATE COMMITTEE REPORT

DATE: 3/24/04

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered HOUSE BILL NO. 478

### HB 478 COMMERCIAL FISHING INTERIM USE PERMITS

"An Act relating to the issuance of commercial fishing interim-use permits; and providing for an effective date."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**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#

APPROPRIATION - no fiscal note

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

# ALASKA STATE LEGISLATURE



*Interim:*  
P.O. Box 109  
Wrangell, AK 99929  
Phone: (907) 874-3088  
Fax: (907) 874-3055

*Session:*  
State Capitol, Room 104  
Juneau, AK 99801-1182  
Phone: (907) 465-3824  
Fax: (907) 465-3175

**REPRESENTATIVE PEGGY WILSON  
HOUSE DISTRICT 2**

## **SPONSOR STATEMENT HB 478**

### **An Act relating to the issuance of commercial fishing interim-use permits.**

House Bill 478 is a housekeeping measure designed to affirm and clarify that the Commercial Fisheries Entry Commission (CFEC) has the authority to issue interim-use permits in each fishery that is not subject to a maximum number (limited entry). This clarification is consistent with the intent of the original statute. The clarification is necessary, however, because the Court of Appeals recently held that the CFEC does not have the authority to issue interim-use permits to fishermen who catch halibut, or sablefish, beyond the three-mile limit of state waters, and then bring the halibut, or sablefish, into state waters for delivery and sale.

Current statutes require that fishermen in those circumstances have a state permit, AS 16.05.675. The permit requirement promotes enforcement, promotes resource data collection, and facilitates revenue collection. However, three fishermen who lacked a permit have recently prevailed in the Court of Appeals by arguing that the only permit available to them was an interim-use permit, and that the Commercial Fisheries Entry Commission lacks the authority to issue interim-use permits in fisheries that it cannot limit to a maximum number of participants. *State v. Dupier*, 74 P.2d 933 (Alaska App. 2003). The court of Appeals decision is currently under review by the Alaska Supreme Court. Regardless of the outcome in that case, clarification of the statute is desirable.

House Bill 478 amends the law, so that it clearly authorizes the CFEC to issue interim-use permits in fisheries that have not been the subject of a maximum number (limited entry). This clarification is consistent with the original intent and purpose of the current statute, and it will more clearly authorize the issuance of permits in all Alaska fisheries despite the recent Court of Appeals decision.

The changes contained within this bill are not intended to alter the purpose, or effect, of the law. These changes are intended to clarify the law, and affirm the practices of the CFEC relating to interim-use permit issuance, which have been on going in good faith for thirty years.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 478(FSH)  
 (H) Publish Date: 3/3/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title An Act relating to the issuance of commercial RDU Comm. Fish Entry Commission  
fishing interim-use permits Component Commercial Fisheries Entry  
 Sponsor Rep. Wilson Commission  
 Requester Rep. Wilson Component No. 471

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

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

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

Prepared by: Shirley Penrose, Administrative Officer Phone 907-790-6960  
 Division Commercial Fisheries Entry Commission Date/Time 2/19/04 9:43 AM  
 Approved by: Mary McDowell, Commissioner Date 2/19/2004  
 Agency Commercial Fisheries Entry Commission

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



# UNITED FISHERMEN OF ALASKA

March 8, 2004

211 Fourth Street, Suite 110  
 Juneau, Alaska 99801-1172  
 (907) 586-2820  
 (907) 463-2545 Fax  
 E-Mail: ufa@ufa-fish.org  
 www.ufa-fish.org

Representative Nancy Dahlstrom, Co-Chair  
 Representative Beverly Masek, Co-Chair  
 House Resource Committee  
 Alaska State Legislature  
 State Capitol (Mail Stop 3100)  
 Juneau, AK 99801-1182

MAR 08 2004

Dear Madam Chair,

United Fishermen of Alaska supports HB 478. This bill is a housekeeping measure that will clarify the legislature's intent of allowing the Commercial Fisheries Entry Commission to be able to issue interim-use permits for any fishery, even in fisheries where entry is not limited.

United Fishermen of Alaska represents 33 Alaska Commercial fishing organizations and hundreds of individual fishermen and fishing related businesses, altogether representing over 10,000 Alaska fishermen. We support HB 478 and thank you for your consideration on this matter.

Sincerely,

Mark Vinsel  
 Executive Director

CC: Representative Peggy Wilson

#### MEMBER ORGANIZATIONS

- ALASKA CRAB COALITION • Alaska Druggists Association • Alaska Longline Fishermen's Association • Alaska Trailers Association • Armstrong Keys • At-sea Processors Association
- Rustol Bay Reserve • Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cordova District Fishermen United
- Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundline Fishermen • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
- Kodiak Seiners Association • North Pacific Fisheries Association • Northern Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association
- Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Pursa Barge Vessel Owners Association
- Sealoud Producers Cooperative • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
- United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

**HB**

**490**

# SENATE COMMITTEE REPORT

DATE: 5/2/04

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 490(JUD) am

## HB 490 EMPLOYMENT SECURITY ACT AMENDMENTS

"An Act relating to the release of employment security records, to the binding effect of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

and recommends:

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

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	No REC	AMEND
<i>Ralph...</i>	✓			
<i>Bettye Davis</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>	/			
<b>CHAIR:</b> <i>[Signature]</i>	✓			

FRANK H. MURKOWSKI  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
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February 13, 2004

The Honorable Pete Kott  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the: (1) the release of employment security records for law enforcement purposes; (2) administrative hearing decisions on unemployment benefits; and (3) federal compliance and other technical corrections to the Alaska Employment Security Act.

This bill would allow the Department of Labor (DOL) to release employment security records to a state district attorney, a municipal attorney, a United States attorney, and the Federal Bureau of Investigation for use in criminal investigations and prosecutions. Under current law, employment security records are confidential for criminal investigation and prosecution purposes.

This bill would codify the Alaska Supreme Court's decision in Manning v. Alaska Railroad Corporation, 853 P.2d 1120 (Alaska 1993). In that case, the court held that the commissioner of DOL's decision granting the plaintiff unemployment benefits did not automatically require a finding of wrongful termination in a later court case. Unemployment claims rarely provide an incentive for the employer to participate, much less spend a significant amount of time and money investigating the facts and bringing those facts to the attention of the hearing officer. Employers have little incentive to participate in an unemployment benefits claim hearing since their bottom line is only marginally affected by the outcome. This gives an employee the opportunity to receive a favorable decision in an uncontested unemployment benefits claim and unfairly leverage that decision against the employer in a later court case.

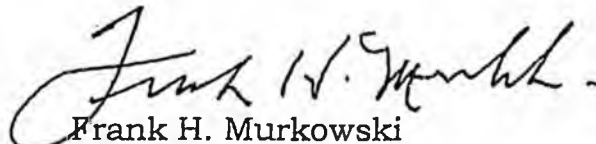
Finally, the bill makes a number of changes to bring Alaska law into compliance with federal law, resolves conflicts in Alaska statutes and makes other technical amendments. Other changes include provisions dealing with payment and collection of unemployment taxes by DOL from employers, expanding the ability of DOL to collect overpayments of unemployment

The Honorable Pete Kott  
February 13, 2004  
Page 2

compensation benefits on behalf of other states, clarifying which health professionals are excluded from the Alaska Employment Security Act, and clarifying that the definition of "wages" does not include education assistance. Of these, the principal change would remove the requirement that unemployment compensation be deposited into the unclaimed property fund. Federal law requires such funds to be deposited into the unemployment insurance trust fund.

I urge your prompt and favorable action on this measure.

Sincerely yours,

  
Frank H. Murkowski  
Governor

Enclosure

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 490  
 (H) Publish Date: 2/16/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
 Title: "An Act relating to... the Alaska Employment Security Act..." RDU: Employment Security  
 Component: Unemployment Insurance  
 Sponsor: \_\_\_\_\_ Component Number: 2276  
 Requester: \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (FY2004) cost: None  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

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

This technical legislation will have no fiscal impact on the department.

Prepared by: Thomas W. Nelson, Director Phone 465-5933  
 Division: Employment Security Division Date/Time 12/29/03 3:34 PM  
 Approved by: Greg O'Claray, Commissioner Date 12/29/2003  
 Agency: Department of Labor and Workforce Development

CSHB 490(JUD) am

**"AN ACT RELATING TO THE RELEASE OF EMPLOYMENT SECURITY RECORDS, TO THE ADMISSIBILITY OF DETERMINATIONS AND DECISIONS REGARDING UNEMPLOYMENT COMPENSATION BENEFITS, AND TO CONTRIBUTIONS, INTEREST, PENALTIES, AND PAYMENTS UNDER THE ALASKA EMPLOYMENT SECURITY ACT; PROVIDING THAT PROPERTY UNDER THE ALASKA EMPLOYMENT SECURITY ACT IS NOT SUBJECT TO THE UNIFORM UNCLAIMED PROPERTY ACT; AND PROVIDING FOR AN EFFECTIVE DATE."**

**SECTIONAL ANALYSIS**

- Section 1:** Currently under AS 23.20.110(g), when the Employment Security Division ("ESD") provides employment security records to officers and employees of another state agency or a federal agency, the officers and employees must keep employment security records confidential. This section would amend AS 23.20.110(g) to add that when ESD provides employment security records to officers or employees of a municipal agency, the municipal officers and employees must also keep the records confidential. This amendment is necessary because under section 2 of the bill, ESD will be providing employment security records to municipal attorneys when they need them for criminal investigations and prosecutions.
- Section 2:** This new subsection to AS 23.20.110 will allow ESD to release employment security records for criminal investigations and prosecutions. ESD periodically receives requests for employment security records from the U.S. Attorney's Office, the District Attorney's Office, municipalities, and the FBI for purposes related to criminal investigations and prosecutions. Under AS 23.20.110, employment security records are confidential and does not allow the release of these records for criminal investigations or prosecutions purposes, except for employment security fraud cases. The U.S. Department of Labor has approved the amendment to allow ESD to release confidential employment security records for criminal investigation and prosecution purposes. Other states have allowed the release of these records for criminal investigation and prosecution purposes.

- Section 3:** This section would amend AS 23.20.115. AS 23.20.115 provides that it is a class B misdemeanor for an officer or employee of the state or a federal agency to make an unauthorized disclosure of employment security records. The amendment to AS 23.20.115 adds that it is a class B misdemeanor for an officer or employee of a municipality to make an unauthorized disclosure of employment security records.
- Section 4:** This section amends AS 23.20.225(e) to remove reference to the provisions of Department of Revenue law regarding disposal of abandoned property and authorizes the Department of Labor and Workforce Development to adopt regulations providing for the distribution of unclaimed excess contributions. Federal law requires that unclaimed excess contributions be deposited back to the UI Trust Fund rather than the state's general fund. Consequently, unclaimed excess contributions do not fall under the provisions of AS 34.45.110 – AS 34.45.430.
- Section 5:** Under the Employment Security Act, officers and employees of a corporation may be liable for employment security taxes if the corporation fails to pay the taxes. This section will add that members, managers and employees of a limited liability company ("LLC") may be liable for employment security taxes if the LLC fails to pay the taxes.
- Section 6:** This section will allow a member, manager, or employee of an LLC to appeal a determination of tax liability.
- Section 7:** Currently under AS 23.20.390(c), ESD can only recover, on behalf of another state, unemployment compensation benefits that a person fraudulently obtained. This bill would amend AS 23.20.390(e) to allow ESD to collect, on behalf of another state, any benefits to which a person was not entitled, even those that were not fraudulently obtained. This bill would bring Alaska into conformity with the Interstate Reciprocal Overpayment Recovery Arrangement.
- Section 8:** AS 23.20.497 currently provides that unemployment compensation decisions are not admissible in another action or proceeding. This amendment will clarify that under AS 23.20.497 unemployment compensation decisions are not admissible in an arbitration proceeding.

- Section 9:** This section defines "municipal agency."
- Section 10:** This section will bring the Employment Security Act into alignment with the Federal Unemployment Tax Act ("FUTA") by clarifying which health professionals are excluded from the definition of employment. Under FUTA, employed student nurses and medical interns are exempt from FUTA. This section would amend AS 23.20.526(a)(16) to similarly provide that student nurses and medical interns are exempt from the Employment Security Act. Therefore employers will not have to pay employment security taxes for these employees and these employees will not be able to collect unemployment benefits.
- Section 11:** This section would amend AS 23.20.530(b) by adding a new paragraph that provides an exclusion from the definition of "wages" for the payments or benefits provided by an employer under a plan to provide educational assistance to its employees. FUTA already provides for this exclusion from its definition of "wages" so this section brings the Employment Security Act into alignment with FUTA.
- Section 12:** This section provides a conforming amendment to section 4. The proposed amendment to AS 34.45.760(14) provides that for purposes of the Uniform Unclaimed Property Act, "property" does not include unclaimed excess contributions under the Employment Security Act.
- Section 13:** The Act would take effect immediately under AS 01.10.070(c).

## Journal Text



02-16-2004

House Journal

2613

HB 490

HOUSE BILL NO. 490 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the release of employment security records, to the admissibility of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Labor & Workforce Development

The Governor's transmittal letter dated February 13, 2004, follows:

"Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the: (1) the release of employment security records for law enforcement purposes; (2) administrative hearing decisions on unemployment benefit; and (3) federal compliance and other technical corrections to the Alaska Employment Security Act.

This bill would allow the Department of Labor (DOL) to release employment security records to a state district attorney, a municipal attorney, a United States attorney, and the Federal Bureau of Investigation for use in criminal investigations and prosecutions. Under current law, employment security records are confidential for criminal investigation and prosecution purposes.

This bill would codify the Alaska Supreme Court's decision in *Manning v. Alaska Railroad Corporation*, 853 P.2d 1120 (Alaska 1993). In that case, the court held that the commissioner of DOL's

02-16-2004

House Journal

2614

decision granting the plaintiff unemployment benefits did not automatically require a finding of wrongful termination in a later court case. Unemployment claims rarely provide an incentive for the employer to participate, much less spend a significant amount of time and money investigating the facts and bringing those facts to the attention of the hearing officer. Employers have little incentive to participate in an unemployment benefits claim hearing since their bottom line is only marginally affected by the outcome. This gives an employee the opportunity to receive a favorable decision in an uncontested unemployment benefits claim and unfairly leverage that decision against the employer in a later court case.

Finally, the bill makes a number of changes to bring Alaska law into compliance with federal law, resolves conflicts in Alaska statutes and

makes other technical amendments. Other changes include provisions dealing with payment and collection of unemployment taxes by DOL from employers, expanding the ability of DOL to collect overpayments of unemployment compensation benefits on behalf of other states, clarifying which health professionals are excluded from the Alaska Employment Security Act, and clarifying that the definition of "wages" does not include education assistance. Of these, the principal change would remove the requirement that unemployment compensation be deposited into the unclaimed property fund. Federal law requires such funds to be deposited into the unemployment insurance trust fund.

I urge your prompt and favorable action on this measure.

Sincerely yours,  
/s/  
Frank H. Murkowski  
Governor"

---

Bill Root:  Display Bill Root Next Bill

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**HB**

**512**

# SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 512(FIN)

## HB 512 HYDROGEN ENERGY RESEARCH PROGRAM

"An Act establishing the Hydrogen Energy Partnership in the Department of Community and Economic Development; requiring the commissioner of community and economic development to seek public and private funding for the partnership; providing for the contingent repeal of an effective date; and providing for an effective date."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**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#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>		✓		
<i>[Signature]</i>			✓	
<b>CHAIR:</b> <i>[Signature]</i>			✓	

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 512  
(H) Publish Date: 3/3/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: University of Alaska  
Title HYDROGEN ENERGY RESEARCH PROGRAM RDU \_\_\_\_\_  
Sponsor Representative(s) Crawford, Berkowitz, Gara, Morgan Component \_\_\_\_\_  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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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>	<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 (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This is the estimated cost of participating in the Hydrogen Energy Partnership.

Prepared by: Paul Jenny Phone 907-474-7958  
Division: University of Alaska Date/Time 2/23/04 4:19 PM  
Approved by: Paul Jenny Date 2/23/2004  
Agency: University of Alaska

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 512(FIN)  
(H) Publish Date: 4/23/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Hydrogen Energy Research RDU Executive Admin & Dev (119)  
Component Office of Economic Development  
Sponsor Representatives Crawford, et al  
Requester House Finance Component No. 2743

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	65.0					
Travel	4.0					
Contractual						
Supplies	1.0					
Equipment	5.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>75.0</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	35.0					
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutory Designated Program Rcpts	40.0					
<b>TOTAL</b>	<b>75.0</b>	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	1	*	*	*	*	*
Part-time						
Temporary						

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

This legislation creates the Hydrogen Energy Partnership to facilitate the development of a hydrogen fuel industry in Alaska. The partnership would consist of nine members and be housed in the department. The department is charged with securing federal and private funding sources to cover the costs of establishing and operating the partnership. If funding is secured, the department would appoint partnership members and continue to provide staff support.

DCED estimates needing a Development Specialist II to secure the federal or private funding sources and begin organizational work for the partnership. Because responsibilities could not be absorbed by existing staff, one new FTE would be required along with funds for a computer and supplies. Travel funds are included for partnership members to meet up to three times annually. After FY05, federal and/or private funding sources would fund partnership operations and staff.

Prepared by: Albert H. Clough, Deputy Commissioner  
Division: Office of Economic Development  
Approved by: Edgar Blatchford, Commissioner  
Agency: Department of Community & Economic Development

Phone: (907) 465-2500  
Date/Time: 4/22/04 8:04 AM  
Date: 4/22/2004

**Alaska State Legislature**  
House of Representatives

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Representative Harry Crawford  
District 21

**SPONSOR STATEMENT FOR HB 512**

House Bill 512 establishes a hydrogen energy partnership within the Department of Community and Economic Development. The partnership is tasked with facilitating the development of a hydrogen fuel industry in Alaska.

Hawaii has already established a similar commission in preparation for potentially using their geothermal energy resource for producing hydrogen for dispersal throughout the Pacific Rim. If Alaska is going to remain competitive in the field of energy in the United States and throughout the world, we must prepare for the possibility that hydrogen will become a viable fuel.

House Bill 512 addresses this eventuality and establishes the structure necessary for the State of Alaska to accept funding for a hydrogen project in the state.

## Fuel Cells Provide Reliable Power to U.S. Postal Service Facility in Anchorage, Alaska

*Combined heat and power project provides reliable power at reduced cost*

### Overview

Working together, the U.S. Postal Service (USPS) and Chugach Electric Association, partnering with the Department of Defense (DOD), Department of Energy (DOE), US Army Corps of Engineers Construction Engineering Research Laboratories (USA CERL), Electric Power Research Institute (EPRI), and National Rural Electric Cooperative Association (NRECA), developed and installed one of the largest fuel cell installations in the world.

The one-megawatt fuel cell combined heat and power plant sits behind the Anchorage U.S. Postal Service Mail Processing and Distribution Facility. Chugach Electric owns, operates, and maintains the fuel cell power plant, which provides clean, reliable power to the USPS facility. In addition, heat recovered from the fuel cells, in the form of hot water, is used to heat the USPS Mail Processing and Distribution Facility. By taking a leadership role, the USPS will save over \$800,000 in electricity and natural gas costs over the 5½-year contract term with Chugach Electric.

**"Fuel cells solved a handful of problems."**

*—Cathy Groschandler, Alaska District Environmental Coordinator, U.S. Postal Service*

### Background

The U.S. Postal Service Mail Processing and Distribution Facility, adjacent to the Anchorage International Airport, serves as the postal hub for all of Alaska. The facility processes, on average, over one million pieces of mail every day,

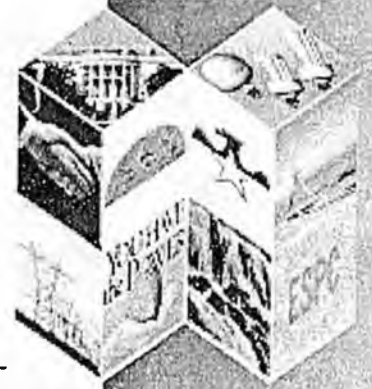
operating 24 hours per day, 365 days per year. Annual energy costs for the 270,000-square-foot facility exceeded \$300,000 for electricity and \$35,000 for natural gas.

The facility faced a series of issues that needed to be addressed. To meet new environmental codes, the facility needed to upgrade an existing underground fuel oil tank serving the facility's 600-kW emergency generator. As a result of an expansion to the facility and adding new optical mail processing equipment, the facility's peak electric demand had grown larger than the existing emergency generator could support. Upgrades were also needed to the UPS (uninterruptible power supply). In addition, the two 80-horsepower boilers (2,700,000 Btu/h), which heat the facility, also needed some improvements.



*The Mail Processing and Distribution Facility, adjacent to the Anchorage International Airport, is key to the Alaska mail system.*

Rather than solving each issue separately, the District Environmental Coordinator wanted a comprehensive solution. The answer seemed to lie in a highly reliable, highly efficient combined heat and power plant.



**Combined Heat and Power**

**Case Study**



## Project Summary

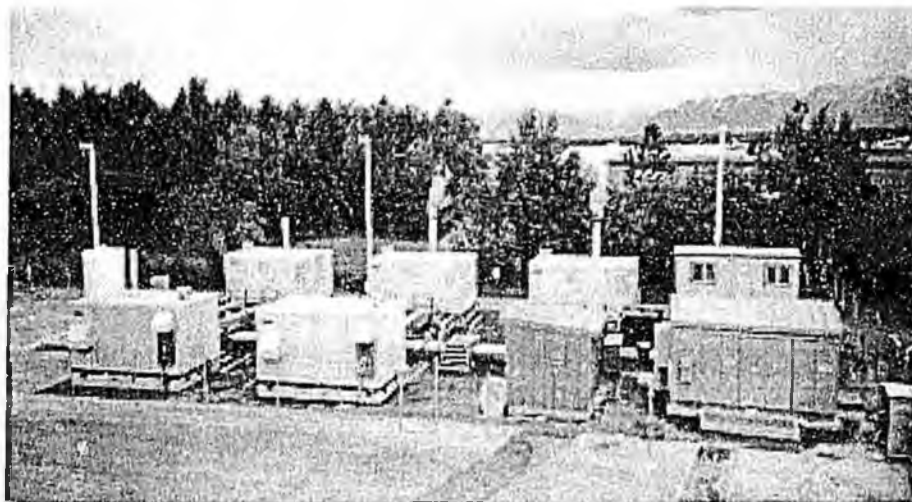
Initially, a combined heat and power plant using natural gas engine generators was proposed. However, after attending a local energy technology show, the USPS began to consider fuel cells. By coincidence Chugach Electric Association, the serving electric utility, was developing expertise in fuel cell technology and supported the USPS interest in the emerging technology.

Fuel cells produce electricity through an electrochemical reaction rather than combustion. While more expensive than conventional power generating equipment, fuel cells provide efficient, reliable power with minimal emissions. (For more information on fuel cells, see FEMP's Federal Technology Alert, "Natural Gas Fuel Cells," at [http://www.eren.doe.gov/femp/prodtech/fed\\_techalert.html](http://www.eren.doe.gov/femp/prodtech/fed_techalert.html).)

To increase overall reliability, the combined heat and power plant consists of five fuel cells with room for a future sixth unit. Thus, the system can meet the facility's peak 800-kW demand even when one fuel cell is off-line. The resulting one-megawatt (1,000-kW) combined heat and power plant consists of five fuel cells, a nitrogen tank, heat recovery equipment, a pump house, and the site management system (SMS).

The fuel cells, manufactured by International Fuel Cells, Inc. (formerly ONSI), are rated at 200 kW each and are fueled by natural gas. Nitrogen is used to purge the fuel cells during startup and shutdown cycles. The pump house is used to move the heat generated by the fuel cells to either the facility for space heating or to the cooling modules, where the excess heat is rejected.

What makes the system a success is the site management system. The SMS



*Set against the Chugach Mountains, five fuel cells supply reliable and clean power to the USPS facility.*

includes fuel cell load control, grid interconnection, and a high-speed switching system. The SMS allows the multiple fuel cell system to transfer between grid-parallel and grid-independent in under 4 milliseconds ( $\frac{1}{4}$  cycle in a 60-Hz system), fast enough that the highly sensitive computer systems in the USPS facility are not interrupted by the transfer. Normally, the fuel cells operate in parallel with the Chugach electric grid. Excess power generated by the fuel cells flows out into the Chugach grid. However, in the case of a grid outage, the SMS identifies the outage, isolates the USPS facility from the grid and allows the fuel cells to transfer to grid-independent mode seamlessly. The SMS was developed under this project but is now commercially available and being specified for use in other fuel cell power systems.

The entire project cost \$5.5 million, including the research and development for the SMS. Funding for the project came from the many partners involved in the effort. What made the project work economically for the U.S. Postal Service is a special contract between the USPS and Chugach

Electric. Chugach Electric owns, operates, and maintains the fuel cell power plant, which is located on the USPS property. The plant is remotely operated by Chugach Electric. The only cost to the USPS was the \$1 million up-front cost as part of a 5 $\frac{1}{2}$ -year contract for baseline electrical service. In return, Chugach Electric provides electricity to the mail processing facility for the 5 $\frac{1}{2}$ -year term. If electricity requirements at the USPS facility grow above the set baseline, which the USPS believes is unlikely, additional electricity is purchased at standard rates.

In addition, the USPS facility owns the use of the heat recovered from the fuel cells. Heat energy from the fuel cells is available in the form of hot water at two temperatures: 240°F and 140°F. At this time, the higher temperature water is used for heating the facility. The lower temperature heat is rejected through the cooling modules.

## Benefits

The fuel cell CHP plant provides a number of benefits to the USPS. The most significant benefit has been the increased reliability of electric service.

Restarting the mail processing equipment after a power outage requires a significant level of effort. The increased reliability results in fewer power outages, thereby avoiding unscheduled shutdowns and restarts. The fuel cell and SMS have worked flawlessly since commissioned. In fact, the week before Christmas, on one of the busiest days of the year, construction at the airport caused a local power outage. The entire area was without power for over 4 hours. All, except the U.S. Postal Service, that is. The SMS system automatically switched the facility to operate grid-independent with no interruption. The USPS facility went on to set records, processing over 1.4 million letters and parcels that day, while the neighbors were sitting in the dark.

While the combined heat and power project does not reduce electricity consumption at the USPS facility, it does significantly reduce USPS energy costs. The contract between the USPS

and Chugach Electric provides baseline electrical service to the USPS facility for 5½ years at a cost of \$1 million. Previously, electricity for the USPS facility averaged over \$300,000 per year.

Heat recovered from the fuel cells is being used for space heating in the mail processing facility, thereby displacing the load on the original boiler heating system. In fact, savings have exceeded the original estimate. Initially, it was determined that the fuel cell heat energy could meet around 50% of the total facility space heating needs. During the first year of operation, the heat recovered has satisfied all the space heating needs. Although the winter of 2000-2001 was milder than average, heat recovered from the fuel cells has exceeded expectations.

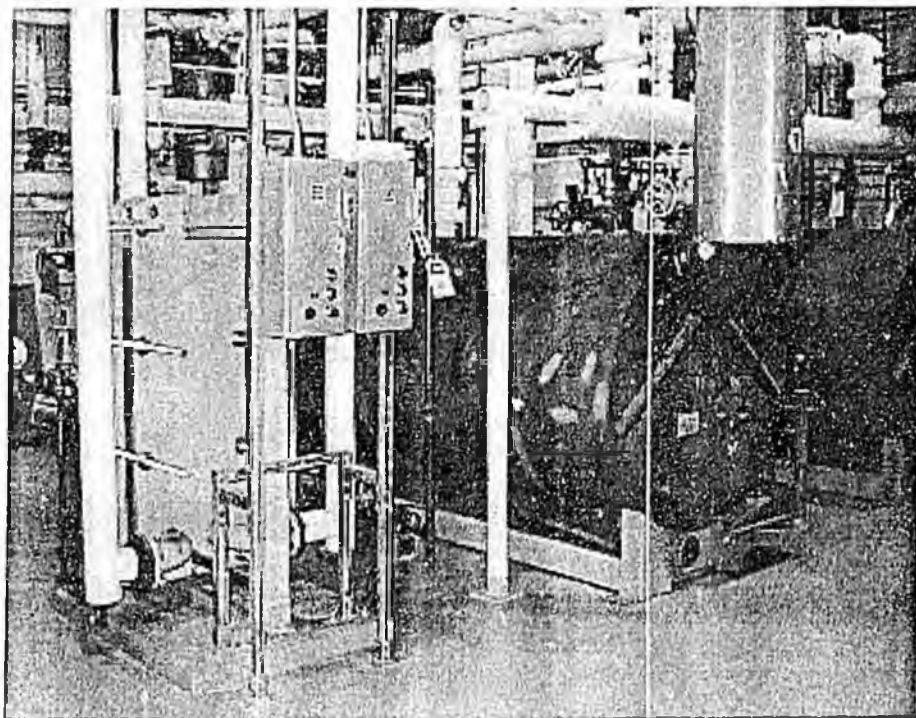
Some capital cost reductions were also achieved. The demonstrated reliability of the fuel cell and site management system has eliminated the need to upgrade

the existing emergency generator. However, the old 1000-gallon, single-wall, below-grade fuel oil tank still needed to be replaced. A new dual-wall, 500-gallon, above-ground fuel oil tank was determined to be sufficient because of the increased reliability of the new power supply system. In addition to the cost reduction from the less expensive, smaller tank, the environmental code features were also less expensive for the smaller tank size. Avoiding the need to upgrade the emergency generator and installing a smaller fuel oil tank saved the USPS an estimated \$500,000 in capital costs.

### Lessons Learned

The USPS recommends that any site thinking about a similar project should consider the following:

- Projects of this nature require "champions." Each of the parties involved in the project recognized the value of local champions who could think outside the box, overcome barriers, and push the project through.
- Consult with the local utility, DOE regional office, and other organizations to investigate potential partnerships. Both the USPS and Chugach Electric Association believe a more effective solution was achieved as a result of the partnership.
- Take a holistic approach to solving facility needs. The USPS had to address a series of issues. Although each facility need could have been solved individually, the fuel cell combined heat and power plant solved several of the needs simultaneously and at a lower cost.



*Heat recovered from the fuel cells offsets heat supplied by the boiler system. The boilers were not needed during the winter of 2000-2001.*

Being the largest fuel cell installation of its time made this a distinctive installation. However, it will not remain unique. The development of the SMS will lead to more multi-unit fuel cell power plants with high-speed reliability.

### Looking Ahead

The USPS facility is looking for additional uses for the heat recovered from the fuel cells. While the high temperature heat recovered is perfect for space heating, there is still significant heat energy available at 140°F, which has yet to be utilized. The USPS is still investigating several potential uses for this valuable heat energy.

The SMS has additional capabilities that the USPS may use in the future. In addition to controlling fuel cell operation, the SMS is also capable of controlling peak electrical demand through load shedding. This feature could be used to prevent overloading the power plant when the electric grid is down and the fuel cells are operating independent of the electric grid. The ability to load shed while operating grid-independent could prevent a shutdown of the fuel cell power plant as a result of an overload condition.

At the end of the contract period, the USPS and Chugach Electric will renegotiate the future of the fuel cell combined heat and power plant. No one knows what the future may bring, but all agree the project has been a success.

### For More Information

#### FEMP Help Desk

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*[HNEI](#) > [R&D](#) > [Hydrogen](#) > [Hydrogen Partnerships](#)*

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## Hawaii Hydrogen Partnerships

In 2000 the Hawaii Legislature passed a joint House-Senate resolution tasking the Department of Business, Economic Development & Tourism (DBEDT) to conduct a feasibility study to assess the potential for large-scale use of hydrogen, fuel cells, and renewable energy in Hawaii. HNEI, in collaboration with Sentech Inc., presented preliminary results to the Legislature in January 2001. The final report, "Nurturing a Clean Energy Future in Hawaii: Assessing the Feasibility of the Large-Scale Utilization of Hydrogen and Fuel Cells in Hawaii," was completed in June 2001. In addition to identifying areas where hydrogen and fuel cells have the potential to contribute to Hawaii's energy mix, the study recommended the development of public-private partnerships to develop the necessary hydrogen infrastructure. The means to move forward with these partnerships was benefited by the passage of Act 283 by the 2001 Legislature, providing initial funding for the development of hydrogen partnerships in Hawaii.

HNEI, in collaboration with our state energy office (DBEDT) and other government and industrial partners, has made significant progress in identifying projects and partnerships to move forward with the development of hydrogen infrastructure in Hawaii. Partnerships will involve relationships with UTC Fuel Cells, Stuart Energy Systems, Hawaiian Electric Company, Hawaii Electric Light Company, Sentech, Inc., The Gas Company, Sunline Services Group, the California Energy Commission, and National Renewable Energy Laboratory. Initial successes include the selection of the [Hydrogen Power Park](#) proposal by the U.S. DOE for funding under the State Energy Partnership program. Another partnering project under development is the [Photovoltaic Energy Park](#). In August 2002, a Hydrogen Partnering Meeting, attended by DOD, DOE, industry, and local utilities, was held on the Big Island to provide additional focus and coordination. The partners are actively seeking several multimillion-dollar systems application projects in the areas of hydrogen, fuel cells, and renewable energy. These projects are designed to take advantage of Hawaii's unique energy situation, including a vast array of potential renewable energy resources and high costs for conventional energy. Generous State of Hawaii research and development tax incentives contribute to the positive climate for developing new energy technologies and products.

## Hydrogen Power Park

The Hydrogen Power Park is an effort to bring hydrogen systems into the marketplace by establishing a hydrogen infrastructure and concurrently advancing the goals of the U.S. Department of Energy's (DOE's) hydrogen program. Project plans call for deployment and demonstration of an integrated system comprising electrolysis for hydrogen production, hydrogen storage, and a 50 to 75kW grid-connected fuel cell. Phase 1A has already been funded for \$150,000 and will involve design of the hydrogen production and storage infrastructure. Phase 1B will focus on installation of the hydrogen production and storage systems, and the second phase will combine a fuel cell with these systems.

The project is slated to be located on one of the Hawaiian Islands, where a renewable energy source would be used for hydrogen production. The entire system will be portable, so it can be tested in various sites on the original island or transported to other islands. Later phases will consist of experiments for system optimization, market development activities, and expansion of the state's hydrogen outreach and education efforts.

Participants include local and national industry and government partners, including the California Energy Commission, Stuart Energy Systems, Sentech, Inc., SunLine Services Group, UTC Fuel Cells, The Gas Company, Hawaiian Electric Company, and Hawaiian Electric Light Company. Funded by DOE under the State Energy Partnership Program, the Hawaii Department of Business, Economic Development & Tourism serves as the lead agency with HNEI serving as the implementing partner and providing technical coordination and support.

Contact: [Richard E. Rocheleau](#), HNEI Director

## Photovoltaic Energy Park

HNEI is joining the Hawaiian Electric Company, the Office of Naval Research, and Navy Hawaii to develop a photovoltaic (PV) energy park. Initial plans call for development of a 200-kilowatt solar-powered generation system. The Navy selected a 34.5-acre plot in the Ewa plains as the potential site, one large enough to accommodate a 2-3 megawatt, utility-scale PV facility. Future efforts will seek to develop related hydrogen and fuel cell projects.

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Key text

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## Which way ahead for hydrogen cars?

Commonwealth Bank  
Foundation KEY TEXT  
FURTHER

*Rising petrol prices and diminishing oil supplies may drive motorists to demand alternative forms of fuel – such as hydrogen.*

BACK TO



You will get more from this topic if you have mastered the basics of [energy](#) – this link will take you to an annotated list of sites with helpful background information.



[Printer-friendly version of complete topic](#)

Competitors in the men's and women's marathons at the 2000 Sydney Olympics had an exciting glimpse of the future. The pace vehicle that led them round the 42-kilometre circuit looked like a typical family wagon, but looks were deceptive. Under the bonnet was a stack of [fuel cells](#), not an internal combustion engine. And as the car glided silently forward it emitted no smelly fumes or greenhouse gases – just a little water vapour.

The car was powered by hydrogen, the simplest and most abundant of all chemical [elements](#). The fuel cells under the bonnet converted the hydrogen directly into electricity.

Many experts think hydrogen will replace petrol, diesel and natural gas as the main fuel for cars, buses and trucks over the next few decades. Already car manufacturers around the world have invested billions of dollars in research and development.

The advantages of hydrogen are enormous: no more smog-forming exhaust gases, no more carbon dioxide emissions that contribute to global warming, no more worries about diminishing oil supplies and rising prices.

But some tricky questions need to be answered before mass-produced hydrogen cars start appearing on the streets:

- Where will the hydrogen come from?
- How will motorists fill up?

- How will cars store the fuel?

And there's also the question of how best to tap the energy in the fuel for good on-road performance.

### **The choice – combustion or fuel cells?**

Two kinds of engines can use hydrogen as a fuel – those that have an internal combustion engine converted to use hydrogen and those that are made up of a stack of fuel cells.

#### *Internal combustion engines*

Internal combustion engines have powered cars since they first began to replace horse-drawn carriages more than 100 years ago. These engines can be converted to run on a variety of fuels, including hydrogen. When hydrogen burns, the only by-product is water – not the polluting cocktail given off by burning petrol and other fossil fuels.

BMW successfully demonstrated this technology in a fleet of 15 sedans used to ferry people to and from EXPO 2000, the world fair in Hanover, Germany. The fact that no major changes need to be made to the basic internal combustion engine design is a major attraction.

#### *Fuel cell engines*

However, most car makers think that fuel cells powering an electric motor offer a better alternative. Electric cars are hardly a new idea, but the need to recharge heavy stacks of batteries after relatively short journeys has stopped them becoming popular. Now fuel cells have made electric cars practical.

Unlike batteries, which store electricity, fuel cells make electricity as they go. Recent developments in technology have greatly increased the amount of power that a stack of cells – small enough to fit under a car's bonnet – can provide. This has opened up the prospect of non-polluting electric cars with the levels of performance we expect from conventional vehicles.

Fuel cell technology sounds simple. The hydrogen fuel reacts with oxygen from the air to produce water and electricity – the reverse of the familiar electrolysis process that releases oxygen and hydrogen from water. In reality it's much more complicated. [Box 1](#) outlines how fuel cells will power our cars.

The big advantage of a fuel cell engine over an internal combustion engine running on hydrogen is its greater efficiency. The same amount of hydrogen will take a fuel cell car

at least twice as far as one with a converted internal combustion engine.

Fill 'er up please

Hydrogen has many advantages as a fuel for vehicles, but a big disadvantage is that it is difficult to store. This is because at normal temperatures hydrogen is a gas. The hydrogen must be packed tightly into a car's tank, otherwise a filling stop will be needed every few kilometres.

The obvious solution is to strongly compress the hydrogen, or liquefy it. However, large amounts of energy are needed for this -- an estimated 20–40 per cent of the energy content of the fuel. Also, tanks designed to hold hydrogen at extremely high pressures, or at temperatures approaching absolute zero, are heavy and expensive.

A futuristic filling station kept EXPO 2000's fleet of converted BMWs running. Drivers pulled up at the pump, pressed a button on their dashboard, and watched from inside the car as a laser-guided robotic arm connected the store of liquid hydrogen to their tank. Filling took about 3 minutes. It was wise to keep well out of the way – at minus 253°C, liquid hydrogen is unimaginably cold.

The special insulated tanks in the BMWs held 140 litres of hydrogen, enough to drive at least 300 kilometres. (That's a reasonable range, although a 95 litre tank of petrol would take the same cars twice as far.) The hydrogen-powered marathon car at the Sydney Olympics also ran on liquid hydrogen. Its much smaller tank (75 litres) gave it a range of about 400 kilometres, a sign of the greater efficiency of fuel cell cars.

High cost and the large amount of energy needed to liquefy the fuel are likely to be the main problems with refuelling with liquid hydrogen. Filling up with compressed hydrogen gas will probably prove more practical, even though it may reduce the distance between fills. Cars could store the hydrogen in high pressure tanks similar to those used for compressed natural gas. Or, if current research proves successful, some high-tech alternatives could be employed.

Scientists have found that various metals can absorb up to a thousand times their own volume of hydrogen gas. Specially treated carbon may also hold large amounts. These discoveries could shape the fuel tanks of the future ([Box 2](#)).

But where will the hydrogen come from?

There's no risk that we'll ever run out of hydrogen, it's by far the most plentiful element in the universe. On Earth, however, it exists naturally only in chemical compounds, not

as hydrogen gas. Water and the main components of coal, oil and natural gas are prime examples of these compounds.

Natural gas currently provides most of the hydrogen used in industry. The relatively simple technology employed – **steam reforming** – could also produce hydrogen gas for cars at central plants or filling stations. Alternatively fuel tanks could be filled with petrol or methanol, with the cars using on-board ‘reformers’ to generate hydrogen for their fuel cells. This shows promise as a transitional measure while research proceeds on the problems of storing hydrogen.

In steam reforming the hydrocarbon fuel reacts with water at high temperatures to produce hydrogen gas. A major drawback is that carbon dioxide and smog-causing gases such as nitrogen oxides are given off too, although emissions per kilometre of car travel would be less than from petrol-burning vehicles.

An alternative approach now under development, **autoreforming**, should increase the attractiveness of on-board hydrogen production. Use of a catalyst will allow the reforming to occur at much lower temperatures – too low for the production of nitrogen oxides.

Water is the only potentially pollution-free source of hydrogen. Researchers are looking at new ways of producing hydrogen – using algae, bacteria or photovoltaic cells to absorb sunlight and split water into hydrogen and oxygen. But the technology most likely to be adopted on a large scale is electrolysis, which uses an electric current to split water into oxygen and hydrogen.

Is it safe?

‘Remember the Hindenburg’ – that’s a phrase often heard when hydrogen is discussed. This German passenger airship, kept aloft by hydrogen, crashed in flames as it came in to land at Lakehurst, New Jersey, USA in May 1937. Thirty-five people died. Nowadays helium, which can’t burn, is the gas of choice for lighter-than-air craft.

Hydrogen is highly flammable, but recent research has indicated that the airship’s fabric, not hydrogen, was the culprit in the Hindenburg disaster. Properly handled, there’s no reason to think hydrogen is any more dangerous as a fuel than petrol, the explosive liquid now carried safely in the tanks of untold millions of motor vehicles.

Looking forward

Recent technological advances, particularly in fuel cell design, have made

hydrogen-powered cars a practical proposition, and car makers expect to start mass-producing them within the next decade or so. Their power and acceleration should match those of today's petrol-powered vehicles, but they may have to be refuelled more often.

The best ways to produce, distribute and store the hydrogen still have to be sorted out. In the short term fossil fuels may remain in demand as a hydrogen source. However, the idea that in the not too distant future most of us will be driving non-polluting cars fuelled by hydrogen from a clean, renewable source is no longer a flight of fantasy.

### Boxes

1. [Plenty of power from fuel cells](#)
2. [Alternative hydrogen storage systems](#)

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# Hydrogen Cars May Hit Showrooms by 2005

Janet Ginsburg  
for National Geographic Today  
January 29, 2003 (Originally published on October 16, 2001)

Viewers of National Geographic Today in the United States can watch an update on hydrogen-car technology in tonight's broadcast, which follows yesterday's announcement by President Bush that he proposes U.S. \$1.2 billion in funding for this research over the next few years.

In the clean, "green" future envisioned by energy expert Amory Lovins, cars not only get 99 miles per gallon emissions-free, but they may also play a key role in providing electricity to a power-hungry world.

The solution, according to Lovins, is a "hypercar"—a lightweight vehicle powered by a hydrogen fuel cell, with enough style and space to compete with luxury sport utility vehicles (SUVs). Lovins is with the Rocky Mountain Institute, a think tank in Colorado, and chairman of its corporate spin-off



### Future Trans

The Revolution, a lightweig powered by a hydrogen fuel is as much as eight tin efficient as most sta models, according desii

Photograph by Clasen/Hypercar Inc.

### National Geographic T

This story airs on our U.S. television daily news National Geographic Toda details of how to get the broadcast weekdays at 7 ET/PT, please visit the Ct Web si

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venture Hypercar, Inc.,

Some of the giant car companies are also designing hydrogen-powered cars. Hypercar Inc. hopes to have its first model ready to roll off the production line by 2005.

Today, an estimated 210 million vehicles are stuck in traffic on America's roadways. Collectively they spew nearly a billion and a half tons of greenhouse gases into the atmosphere each year. According to a recent EPA report, the latest conventional models average a little more than 20 miles per gallon—the worst showing since 1980.

While some blame America's love affair with the fuel-hungry SUVs, Lovins says the problem comes down to design.

A decade ago, Lovins was asked to address a National Academy of Sciences meeting about how to build cars with greater fuel efficiency. The general thinking was that fuel efficiency could be increased by only 10 percent because otherwise the car would become too expensive, says Lovins.

He was unconvinced of that assertion, however, and set up an informal team to rethink the automobile from the tires up. "I'm not a car guy, which actually was a bit of an advantage because I didn't know too much about how it ought to be done," said Lovins.

The result is a car that is as much as eight times as efficient as most standard models.

### Lightweight Parts, Heavy Results

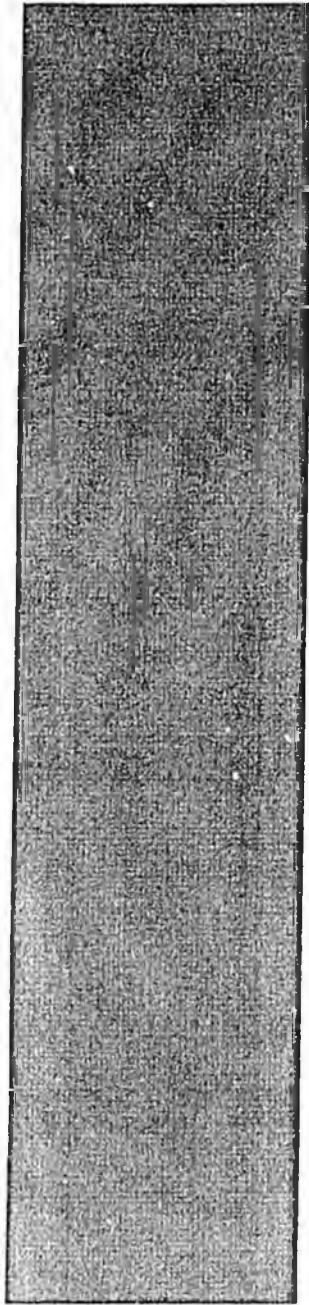
**Map**

[Map](#)

[Machine:](#)

[North](#)

[America >>](#)



How did the Lovins team do it? They began by "light-weighting" the car.

They started with the body, which is made from a composite of carbon fibers set in a plastic matrix. It's a stronger version of the material used in skis and tennis rackets—and, per pound, five times as strong as steel.

Although carbon composites are a lot more expensive than steel, a smaller quantity is needed. Even more important, Lovins pointed out, "it's cheaper to manufacture."

While the Hypercar weighs less than 2,000 pounds (907 kilograms), it is still tough enough to meet federal safety standards, based on a computer-simulated 30-miles-per-hour fixed barrier crash. In a cyber smash-up with a Ford Explorer—a vehicle twice the weight—all the damage to the Hypercar occurred in the front end.

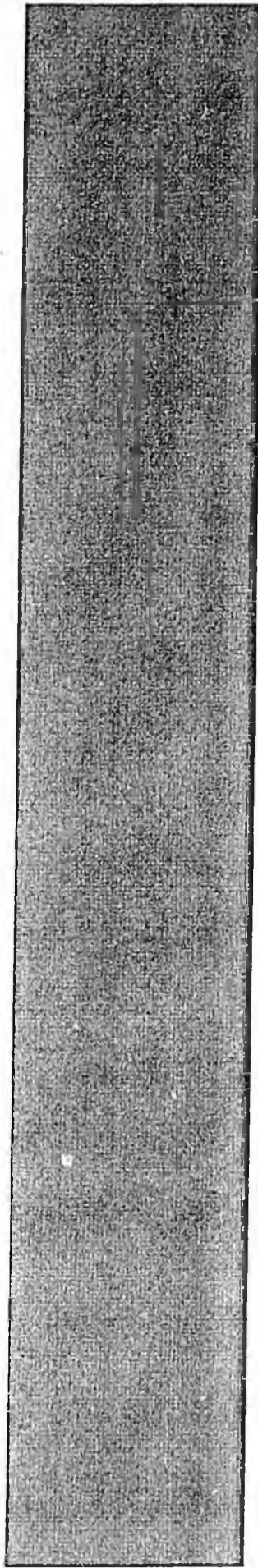
There are other, less obvious, ways to lightweight. Special low-rolling resistance tires developed with Michelin, not only cut down on friction—which can use up to a third of a car's fuel energy—but are also

#### More Information

##### Hydrogen Safety

For many people, the Hindenberg explosion is a classic image of hydrogen as a dangerous gas. But hydrogen is actually safer than gasoline and had to do with the 1937 disaster. Instead, research has shown the outer membrane of the dirigible, which was made of a volatile combination of aluminum and iron oxide, caught fire from a spark—possibly from lightning or even electricity. Because hydrogen is lighter than air, it flowed up and away from harm's way.

Likewise, recent tests have shown that hydrogen gas tanks would be much lighter than a gasoline tank. Hydrogen dissipates quickly and disperses upward, while gas



designed to run flat. If a tire blows, the car can still be driven for another 100 miles, more than enough to get to a gas station. The need to carry a spare is eliminated, further reducing weight.

Soon the savings in weight starts to snowball. A lighter car requires a smaller engine to power it, less braking to stop it, and less suspension to hold it up. And because the Hypercar runs on an electricity-producing fuel cell rather than an internal combustion engine, certain parts, including the starter, alternator, clutch, and transmission, are eliminated.

"The car gets radically simplified. And then it costs less to make," said Lovins.

David Cole, president of the Center for Automotive Research in Ann Arbor, Michigan, said it's important to be cautious about expectations. "The potential on paper looks awfully good," he said. "But getting it into production—things don't necessarily turn out as you might expect."

"If you think of this as a ten-step program, the first step is showing technical feasibility," said Cole. "They still need to do this. Then it's nine more steps to commercial feasibility."

### "Brains," Not Bulk

Brains replace bulk in a Hypercar. "Think of it like a computer with wheels, not a car with chips," Lovins explained.

The car can diagnose, upgrade, and, to a certain extent, fix itself. It can also be programmed for a variety of new features, such as recording everything that happened at the time of a crash, like an airplane's

tends to pool—re  
for an explosion.

#### More Information

#### RELATED LESSON

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"black box."

Two years ago, Hypercar, Inc., was spun off from the Rocky Mountain Institute. The nine-person start-up team, based in Basalt, Colorado, intends to "create the DNA of the next generation of vehicles," according to Hypercar's Michael Brylawski.

To do that, they're trying to sell not only the Hypercar itself, but also the ideas that make it run so efficiently—the "intellectual property." By working with automakers and suppliers, the company hopes to get the technologies on the road faster.

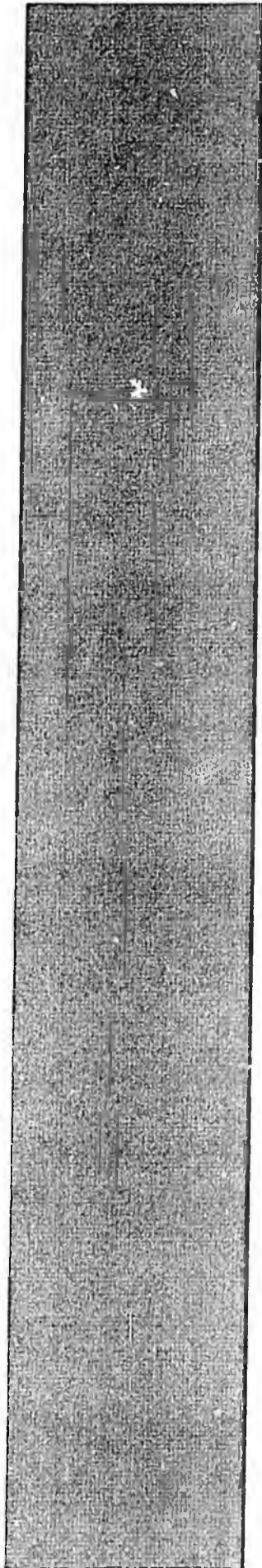
While none of its fuel-efficient, smart features are unique to Hypercar, what's special is how they're combined and optimized.

For example, at least half a dozen automakers, including Ford, Daimler-Chrysler, and BMW, are developing fuel cell-powered cars. But because those vehicles are still fairly heavy, they need fuel cells, which are about three times bigger and heavier—and three times more expensive—as that used by the Hypercar.

Cole thinks the Hypercar is "a huge step" in the right direction. "My guess is where they [Hypercar Inc.] would make the most contribution is in a few of the ideas," said Cole. "The real role of the Hypercar is unleashing the imagination—that's one of the real values of it."

### **Double Duty**

Perhaps the biggest hurdle to overcome with fuel cell-powered cars is setting up a distribution network to supply the hydrogen gas that runs them.



A fuel cell works by combining hydrogen with oxygen from the air in a chemical process to generate electricity. The only by-products are heat and pure water. Hydrogen can be extracted from natural gas, using a device called a reformer, or through a process called "electrolysis," which splits water into hydrogen and oxygen atoms.

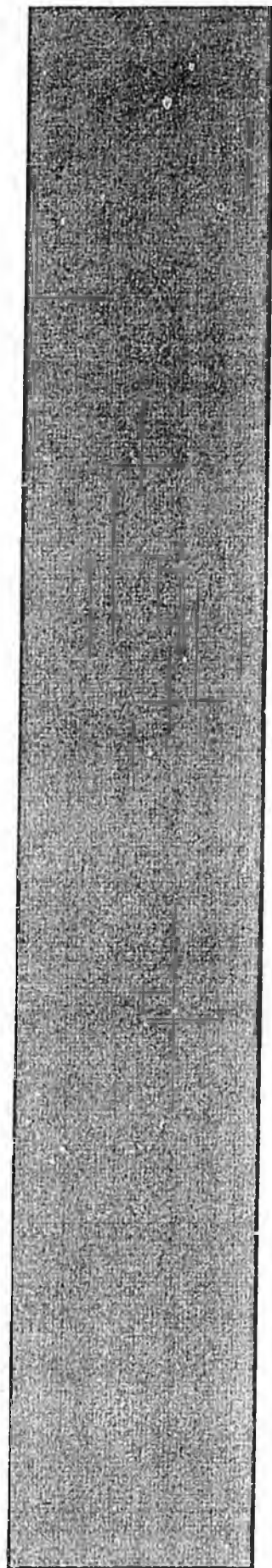
While there are only a handful of hydrogen gas stations in the world, Lovins has a plan for making it easy to fill up. "Many people assume that before you can sell the first hydrogen car, you have to put in \$100 billion worth of hydrogen generating and delivery stations and pipelines," said Lovins. "That's not correct."

He says the first Hypercars should be leased to people who work in buildings where fuel cells have already been installed. The Hypercars could tap into the buildings' supply of hydrogen to refuel. But they could also be hooked up to the grid.

As "portable power plants on wheels," the cars' fuel cells could be put to work during the day when they're parked, generating—and selling—electricity.

"It doesn't take many people wanting to be paid to park, rather than the other way around...to put the coal and nuclear people out of business," said Lovins. And of course, using fuel cells would dramatically decrease the need for oil.

Cole disagrees with Lovins' conclusions, arguing that the hydrogen infrastructure would take billions of dollars to establish. But he does support the direction of the project. "I say, 'More power to them.' My only reservation is to be careful about generating



unrealistic expectations," he said.

"It does get people to think out of the box," said Cole. "You don't want to clamp down on these people who are dreaming at the edge."

Eventually, the Hypercar could change ideas about what people come to expect from automobiles. Fittingly, the first model to come off the drawing boards is called the Revolution.

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HB

517

## SENATE COMMITTEE REPORT

DATE: 04/26/04

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered HOUSE BILL NO. 517(title am)

### HB 517 SECURITY ACCOUNT BENEFICIARY DESIGNATION

"An Act relating to the definition of certain security accounts, including certain reinvestment, investment management, and custody accounts."

and recommends:

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

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

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

**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Betty Davis</i>			X	
<i>[Signature]</i>			X	
CHAIR: <i>A B [Signature]</i>	✓			

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### SPONSOR STATEMENT FOR HB 517 BY: Representative Tom Anderson

**TITLE:** "An Act relating to registration in beneficiary form of certain security accounts, including certain reinvestment, investment management, and custody accounts."

HB 517 will permit an investment management, custody account with a trust company or a trust division of a bank with trust powers to have a beneficiary designation take effect upon death of the owner.

Under current law, securities and brokerage accounts may have beneficiary designations take effect upon the death of the owner pursuant to the Uniform Transfer on Death [TOD] Security Registration Act. However, the current definition in Alaska statute of Security Account in the Uniform Act is not broad enough to include investment management or custody accounts, which are generally used by trust departments. The legislation will now allow all of these products to avoid probate by providing a statutory authorization to use a beneficiary designation. It will also put bank trust departments on an equal footing with brokerage firms.

The problem cannot be solved other than by statute. Several states, including California, Idaho, Iowa, Minnesota, and Washington, have enacted similar legislation in the last three years.

HB 517 will allow investment management or custody accounts, generally offered by trust departments in the banking industry, to compete on equal footing with brokerage accounts offered by brokerage companies. Further, the legislation will allow bank customers another opportunity for probate avoidance.

I urge your support for this legislation.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 517  
 (H) Publish Date: 3/3/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Security Account Beneficiary Designation RDU Banking, Securities & Corp (115)  
 Component Banking, Securities & Corp  
 Sponsor House Labor & Commerce  
 Requester House Labor & Commerce Component No. 1233

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ( )</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>	<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 (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would require owners and sellers of securities to register certain security accounts including certain reinvestment, investment management and custody accounts. It would also provide for an account to be opened before death that will be funded after death.

This legislation has no impact on the operations of the division.

Prepared by: Mark Davis, Director Phone (907) 465-2521  
 Division Banking, Securities & Corporations Date/Time 2/27/04 5:49 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/27/2004  
 Agency Department of Community & Economic Development



March 1, 2004

Honorable Tom Anderson, Chairman  
House Labor and Commerce Committee  
State Capitol (MS 3100)  
Juneau, AK 99801

Dear Representative Anderson:

I am writing in support of HB 517. This is a technical amendment to current law that evens the playing field by allowing an investment management or custody account with a trust company or a trust division of a bank with trust powers to have a beneficiary designation that will take effect upon death of an owner.

From my perspective, I feel that this legislation is very consumer friendly and will avoid the drawn out procedures of probate. Many states around the country have recognized the need for this type of legislation and have amended their laws in the past year or two.

I would urge your committee's expedited review and urge the bill's passage. Should you have any questions or would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Cloud".

James L. Cloud  
Senior Vice President

**Alaska Bankers Association**

P.O. Box 100720 • Anchorage, Alaska 99510-0720 • 907-777-3011 • Fax 907-777-3029

March 24, 2004

Representative Tom Anderson  
State Capital, Room 432  
Juneau, AK 99801-1182

*By Facsimile: 907-465-2418*

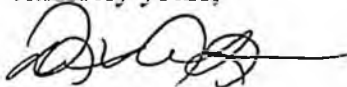
Re: House Bill No. 517

Dear Representative Anderson:

The Alaska Bankers Association supports enactment of HB 517, "[a]n Act relating to registration in beneficiary form of certain security accounts, including certain reinvestment, investment management, and custody accounts." Our member view is that this is only a logical extension of existing law relating to non-probate transfers. Indeed, enactment of HB 517 will simply make express that which can already be fairly implied from existing law on the subject.

I will be pleased to respond on behalf of the Association to any questions that may be posed about our support of HB 517

Sincerely yours,



David A. Lawer  
Secretary/Treasurer

**HB**

**540**

# SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 540(L&C)

HB 540 WORKERS' COMPENSATION INSURANCE RATES

"An Act relating to workers' compensation insurance rates; and providing for an effective date."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**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#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Joseph J. ...</i>			✓	
<i>Bettye Davis</i>			x	
<i>[Signature]</i>	x		x	
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>	✓			

# Alaska State Legislature

## House of Representatives



Official Business

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Juneau, AK 99801-1182

### SPONSOR STATEMENT FOR CS HB 540(L&C) BY: Representative Tom Anderson

**TITLE:** "An Act relating to workers' compensation insurance rates; and providing for an effective date."

The current crisis in workers' compensation has been caused by a number of factors, but it is accepted that "Loss Costs", as filed by NCCI and approved by the Division, have been inadequate for quite a number of years. This has meant employers have generally been paying less than the actual costs of the benefit system and in turn have under-priced their products and services. Therefore, when the true costs are passed through to employers (there was an average increase of 21.2% at January 1, 2004, which still may be inadequate for the industry as a whole) the impact on their business models is serious.

Until the early 1990's, premium rates were submitted by NCCI to a Classification and Rating (C&R) Committee prior to filing with the Division. In accordance with standard actuarial practice, NCCI generally submitted a range of reasonable rate changes for consideration by the C&R Committee. This Committee, made up of insurers, employers and brokers, was then able to apply their local knowledge to select the most appropriate rate change for submission to the Division.

Unfortunately, due to heightened fears of anti-trust accusations, the C&R Committee was disassembled and the NCCI has since filed premium rates, and subsequently "Loss Costs", directly with the Division with no active participation from the Alaska workers' compensation stakeholders.

Adequate "Loss Costs" are critical to maintaining a stable supply of insurance capacity, as insurers will not put their capital at risk if there is no confidence in "Loss Costs". The current system, which allows little or no input from industry participants, must be changed to avert future crises in the industry. CS HB 540(L&C) provides not only for this needed input, but will raise the awareness of the actual system costs and will help all stakeholders monitor the equity in this critical Alaskan system.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 540(L&C)  
 (H) Publish Date: 4/23/2004

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Workers' Compensation BRU Insurance (116)  
Insurance Rates Component Insurance  
 Sponsor House Labor & Commerce  
 Requester House Labor & Commerce Component No. 354

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1027 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 (FY:2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The costs of this bill fall within normal budget operating variances, and presents no significant fiscal impact on the department.

Prepared by: Rep. Tom Anderson Phone \_\_\_\_\_  
 Division: House Labor & Commerce Committee Date/Time 4/23/04 10:12 AM  
 Approved by: Rep. Tom Anderson Date 4/23/2004  
 Agency: House Labor & Commerce Committee

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Carolyn Pearl, CPCU, ARC  
State Relations Executive

April 9, 2004

The Honorable Tom Anderson  
Chair, House Labor & Commerce Committee  
House of Representatives  
Juneau, Alaska 99801-1182

RE: Workers Compensation Ratemaking

Dear Representative Anderson:

As Alaska's representative for the National Council on Compensation Insurance (NCCI), I listened with great interest to the testimony offered in the Friday, April 2 hearing on HB 540. I would like, for informational purposes, to provide some additional information to you and your committee on how the workers compensation ratemaking process operates.

Ratemaking in workers compensation is accomplished in three stages, with different bodies responsible for the process at each of those stages:

- 1) **NCCI**  
develops loss costs and presents its proposal to the Alaska regulator. These loss costs constitute only a portion of the final rate charged to employers - the portion that covers the cost of claims.
- 2) **The State of Alaska Insurance Division**  
reviews the proposal in-depth, approving as filed, approving with some modification or disapproving the proposed loss costs.
- 3) **Each individual insurance carrier**  
either adopts approved loss costs or files a deviation to loss costs based on its experience. Carriers apply a factor to the loss costs that includes provision for its expenses, profit and contingencies. This results in the final manual rate. The insurance carrier can further modify the employer's premium through different pricing programs such as dividend plans and discretionary pricing tools.

Each stage of this process is very technically complex, and this document provides a condensed view of the essential elements, to help the committee understand how the current process works. If you see merit to a deeper discussion of ratemaking, I am prepared to provide such a briefing upon your request.

**Stage 1: NCCI develops the appropriate loss cost level for the coming year.**

In determining the appropriate loss cost level for Alaska, NCCI is predicting how much money will be needed to pay claims that will occur from policies effective during the coming year, even though some of these claims will require payments continuing over the course of many years.

NCCI's preparation for a loss cost filing begins in late March/early April with the collection of financial data from insurance carriers writing workers compensation coverage in Alaska.

We place considerable effort into validating this data - making sure it is accurate. We accomplish this by comparing the data with data from other sources, such as carrier annual statements and exhibits that are submitted to the Alaska regulator.

- Page 2

We examine the data from several different perspectives: Calendar Year, Calendar-Accident Year and Policy Year. There is a lengthy technical explanation for each of these terms, but for now I will keep it brief.

Calendar Year data groups financial transactions by the date they took place, from January 1 through December 31 of a given year. This is the most current data available, but does not fully realize the ultimate claim impact. The Alaska Department of Labor's data is reported on a Calendar Year basis.

Calendar-Accident Year data refers to premiums organized by transaction date while claim costs are based on the date the accident occurred. This offers a somewhat better match of premiums to losses and remains fairly current.

Policy Year data matches the premium collected for a year to the losses that will be paid from that premium. Because the last policy in a given year is effective on December 31, policy year data is not complete until the following December 31, when the last policy written for the year will have expired. This requires a lag in reporting that causes the data to appear "old", however Policy Year is the best match of premiums and losses for ratemaking purposes.

Workers compensation claims may take many years to reach final resolution, so the ultimate cost of the claims has to be projected. To accomplish this, NCCI examines the components of the claim – the indemnity (lost wages) benefits and the medical benefits – and factors in changes in benefit levels. We examine changes in payroll, duration of claims, frequency of claims, and the inflation rate. All of this information helps us to develop losses to what they will ultimately cost, and to determine the trend of claims over time.

We are engaged in ongoing dialogue with the carriers that are writing business in Alaska – particularly the workers compensation claims staff living and working in the state. We are also in frequent contact with the Alaska Department of Labor. Through these contacts and our own monitoring efforts, we are able to identify changes in the Alaska workers compensation system, such as court decisions, shifts in the economy or changes in claim handling, that could drive costs upwards or reduce them, but are not yet reflected in the data.

In addition, NCCI conducts annual Alaska State Advisory Forums. Insurance carrier representatives, agents, employers, regulators and legislators are participants in these forums each year. This provides NCCI with a venue to share information regarding the state of the workers compensation system in Alaska with a broad spectrum of stakeholders. We do not discuss rates, but we do gather information on issues that affect loss development and experience. This anecdotal input from Alaska workers compensation stakeholders is invaluable in framing the analytical process. (This year's forum will be held at the Sheraton Anchorage on July 21, from 8:30 through 11:30 AM. I hope to see you there.)

Once we have completed our actuarial analysis and reached a conclusion regarding the appropriate loss cost level for the coming year, we subject this analysis to an intensive internal peer review process. After the internal review, we file the final loss cost level recommendation and the supporting information with the Alaska Division of Insurance.

This filing is made on behalf of the insurance carriers that are NCCI affiliates in Alaska, and as soon as the Division of Insurance receives the filing, we make it available to those affiliates.

- Page 3

**Stage 2: State of Alaska Division of Insurance Regulatory review**

Upon receipt of the loss cost filing, the Division of Insurance begins a rigorous regulatory and actuarial analysis of the recommendation. This involves questions to NCCI probing our calculations, assumptions and conclusions. There are several rounds of questions (called interrogatories) on a single loss cost filing.

Upon completion of its analysis, the Division may conclude that NCCI's loss cost recommendation is appropriate, or it may approve an amended loss cost level, or disapprove the filing completely.

Once the loss cost level is finalized, it is available for use by the insurance carriers.

**Stage 3: Insurance carriers develop the final rate**

An insurance carrier may use the approved loss cost or it may file to deviate, if it believes that it is too high or too low for their particular book of business. Any such deviation must be accompanied by actuarial support, and is subject to regulatory scrutiny and approval before it may be used.

The insurance carrier also must file a loss cost multiplier, which is a factor applied to the loss cost to cover expenses and contingencies, plus a margin for profit. Each insurance carrier must file its own loss cost multiplier, complete with supporting documentation, for regulatory approval.

Applying this loss cost multiplier to the loss cost results in a final manual rate charged to the employer. The insurance carrier may further modify a particular employer's premium through the use of dividend programs or other pricing tools.

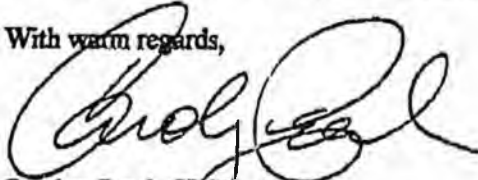
As you can tell, even from this brief overview, the process of making rates for workers compensation insurance is a lengthy and complex one. There is much information involved, with discussion and analysis throughout the process. Few, if any, other industries are subject to such scrutiny of the pricing of their services.

The process is not conducted in a vacuum. I am aware of nothing in current Alaska law or regulation that has, or would keep an insurance carrier, or any other stakeholder, from individually providing input. Comment is welcome and, as outlined above, encouraged.

On our website, at [www.ncci.com](http://www.ncci.com), we provide the public with a detailed explanation of the ratemaking process in our e-Learning Center. I would also welcome the opportunity to present a presentation on some of the finer points of the process to you, your staff or the Labor Committee, at your request.

Thank you for your time and consideration. If you have any questions, please do not hesitate to call me at 1-800-411-6224, option 2. My email address is [Carolyn.Pearl@ncci.com](mailto:Carolyn.Pearl@ncci.com).

With warm regards,

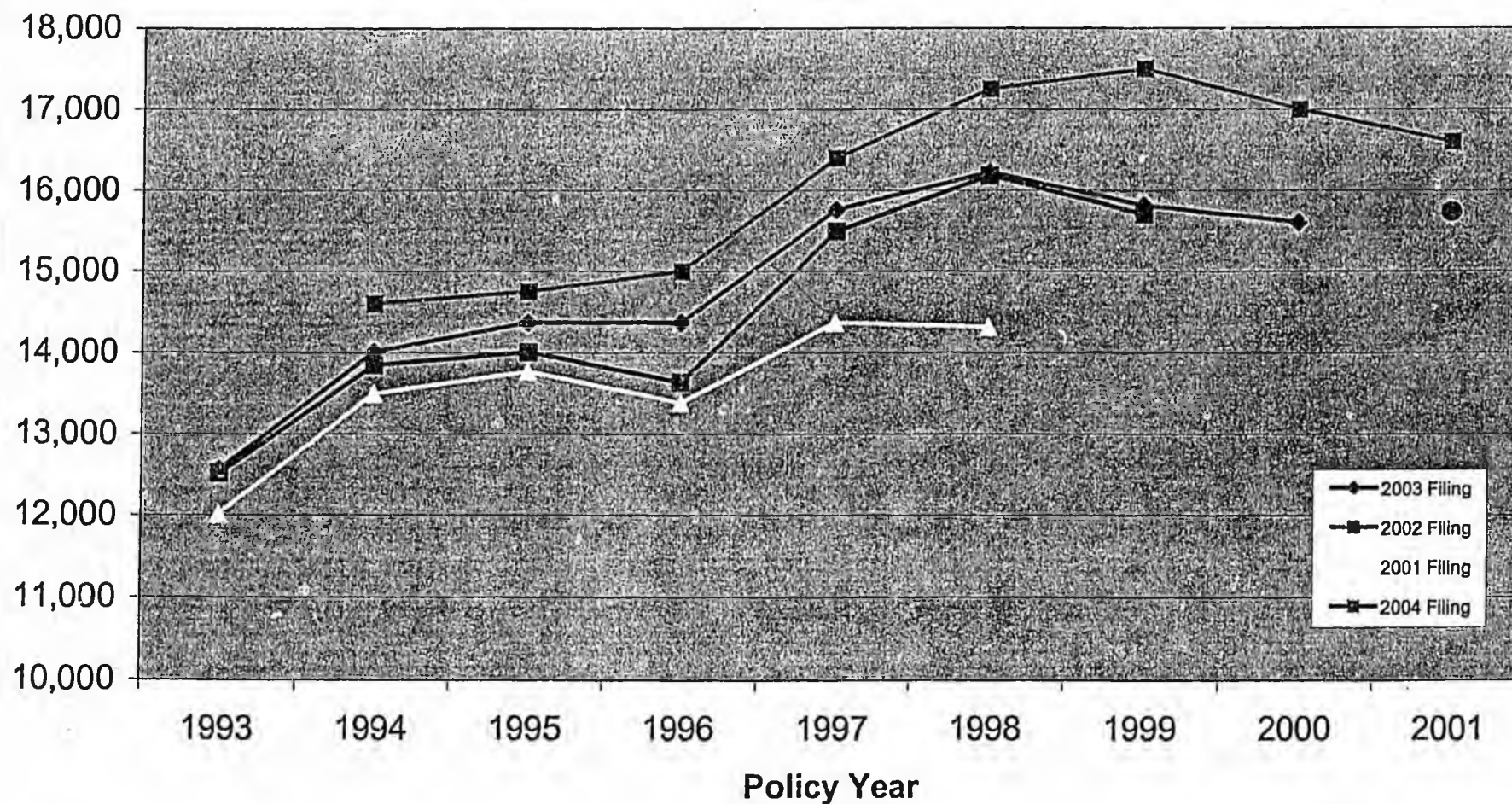


Carolyn Pearl, CPCU, ARC  
State Relations Executive

## COMPARISON OF ULTIMATE AVERAGE INDEMNITY PER TIME LOSS CLAIM BETWEEN 2001, 2002, 2003 AND 2004 NCCI FILINGS

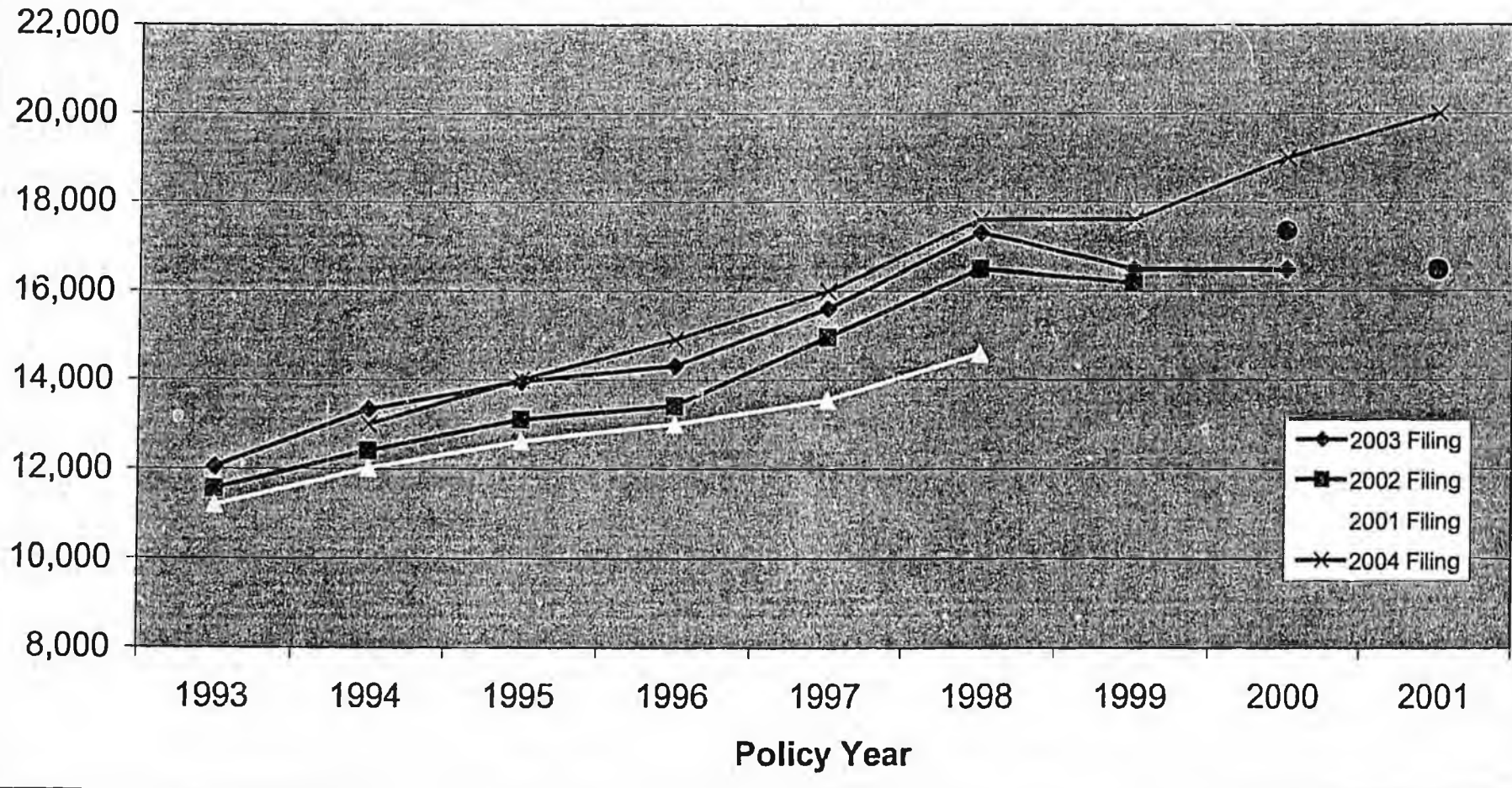
3% Wage Adjustment

Note: Circular data-point is on Accident Year basis



### COMPARISON OF ULTIMATE AVERAGE MEDICAL COST PER TIME LOSS CLAIM EXCESS OF WAGE GROWTH 2001, 2002, 2003 AND 2004 NCCI FILINGS

3% Wage Adjustment between Filings  
Note: Circular data-point is on Accident Year basis





## Alaska Timber Insurance Exchange

2417 Tongass Avenue, Suite 214  
Ketchikan, Alaska 99901  
FAX (907) 225-9454  
(907) 225-9451

To: Members of the Alaska House of Representatives  
Labor and Commerce Committee

From: Michael Hinchey, General Manager  
Alaska Timber Insurance Exchange

Date: April 1, 2004

Re: House Bill Number 540

The Alaska Timber Insurance Exchange (ATIE) is an insurance company located in Ketchikan that specializes in writing workers' compensation insurance. ATIE is somewhat unique because it is owned by its policyholders and is operated exclusively for the benefit of its policyholders, Alaskan employers.

ATIE has been successful in providing its policyholders with low cost workers' compensation insurance coverage through its workplace safety driven dividend program. This has occurred in spite of most ATIE members being involved in a hazardous industry, logging.

ATIE supports passage of House Bill 540. It is felt that HB 540 will bring needed openness and review to the workers' compensation insurance rate making process so that all stakeholders in the system will be able to participate in the process and gain a better understanding of the true cost drivers influencing rates.

The establishment of adequate workers' compensation insurance rates is essential. Without adequate rates insurance companies are not able to generate an adequate return on the capital they are required to put at risk to write workers' compensation insurance policies. This is the situation that we are currently experiencing; a number of insurance companies have stopped writing policies forcing many employers to obtain coverage through the Alaska Assigned Risk Pool.

Per the National Council on Compensation Insurance's (NCCI) "Residual Market Annual 2003 Status Report for Alaska", the percentage of workers' compensation insurance premium placed in the Alaska Assigned Risk Pool has grown from

7.4% of total premiums in 1999 to 18.4% of total premiums in 2003. On a policy count basis, the percentage of policies in the Alaska Assigned Risk Pool versus the total market has gone from 35.2% of total policies in 1999 to 62.5% of total policies in 2003. Alaska is one of the leaders in the size of its risk pool relative to the total workers' compensation insurance market in the states that NCCI is involved with.

Again, the passage of HB 540 is encouraged so that the Alaska workers' compensation insurance market can become competitive and healthy once again.

Thank you for the opportunity to express our support for HB 540.

HB

542

THE  
FOLLOWING  
DOCUMENT(S)  
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# SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 542(RLS)

## HB 542 CONSTRUCTION CONTRACTORS

An Act reducing to \$5,000 the ceiling for a contract price allowed under one construction contractor exemption and expanding the work that a specialty contractor may perform to include, in addition to work requiring not more than three trades, work under that construction contractor exemption; and changing the definition of specialty contractor to refer to the work that a specialty contractor may perform."

and recommends:

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

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

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

**NEW FISCAL NOTE(S):**

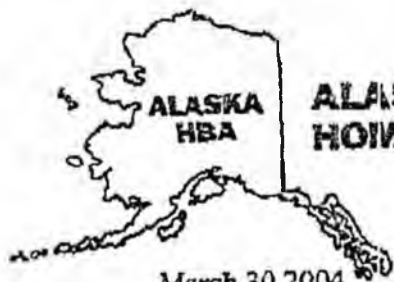
**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Salah Veetam</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Betty Oanis</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Joel</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



**ALASKA STATE  
HOMEBUILDERS ASSOCIATION**

March 30, 2004

Representative Tom Anderson, Chairman  
House Labor & Commerce Committee  
State Capital Building  
Juneau, Alaska

Subject: HE542 - comments by ASHBA

Dear Representative Anderson:

Thank you for this opportunity to offer comments regarding HB542, an Act relating specialty construction contractor and construction contractor exemptions.

The Alaska State Home Building Association (ASHBA) has made it a top priority to support legislation that addresses the growing problem of unregistered contractors providing services beyond the limitations allowed by state law. HB542 helps to address this problem by lowering the threshold cost of a construction project that can be performed by an unregistered contractor from \$10,000 down to \$5,000.

ASHBA supports the intent of HB542, but our members feel that additional provisions should be included in this legislation that can further strengthen our laws in a way that helps protect consumers.

There is a growing problem in the residential construction industry with individuals who offer construction services without meeting any of the registration requirements under state law. Records at the Division of Occupational Licensing show over 1,600 business licenses in Alaska for "Construction-related EXEMPT from contractor registration." These businesses are not required to carry any insurance for general liability, and often are sole-proprietors without worker's compensation insurance. While they are limited by law in the amount and scope of work they can do, enforcement of these laws is minimal and difficult to prosecute.

As insurance rates have skyrocketed over the past year, registered construction contractors around the state are seeing more and more violations of unregistered contractors performing work beyond the limitations imposed by state law. In many instances, we are finding out that the consumer is either unaware that the contractor is not registered with the state, or they are willingly contracting for work that is in violation of the law.



8301 SCHOON ST • SUITE 200 • ANCHORAGE, ALASKA • 99518  
(907) 522-3931 • FAX (907) 522-3757

*Following Responder  
5:30 AM  
- Letter cancelled*

While lowering the threshold project amount down to \$5,000 will help, our belief is that there already exists a big problem of unregistered contractors performing on projects that exceed the current limitations. In addition to lowering the contract amount, ASHBA believes that enforcement tools should be included in the bill to help allow the state to crack down on contractors that disregard the law.

Attached is bill language that would allow enforcement officials within the Division of Occupational Licensing to issue citations and prosecute fines for initial violations. Hearing officers within the Department would oversee this process. We believe this type of enforcement for initial violations will go further to crack down on unregistered contractors violating state law. Under current law, these types of violations must be prosecuted by the District Attorney's office, and often are given a very low priority when compared to the many other duties of our state prosecutors.

ASHBA also believes that the threshold should be even lower than \$5,000. We have discussed and are willing to support lowering the amount to \$2,500.

Again, ASHBA supports HB542. We ask that you consider including the provisions we have suggested, and what you know that we are prepared to speak to them if they are included in this bill.

Thank you for your time and consideration of these provisions.

Sincerely,



Rita Hamilton, President  
Alaska State Home Building Association

attachment

\* **Section 1. LEGISLATIVE INTENT.** It is the intent of the Alaska Legislature that this Act provide a cost effective method of enforcing the construction contractor licensing provisions of existing law by creating administrative civil penalties that can be imposed on individuals who fail to register as construction contractors as required by law.

\* **Sec. 2.** AS 08.18.118 is repealed and reenacted to read:

**Sec. 08.18.118. Citation imposing civil penalty and procedure.**

(a) In addition to and notwithstanding the citation authority established under AS 08.01.102 and 08.01.103, the department may issue a written citation imposing a civil penalty to a person who violates AS 08.18.011 or 08.18.025. Following issuance of a citation imposing a civil penalty, the department shall provide the person an opportunity for a hearing before a department hearing officer. A decision of a hearing officer under this subsection may be appealed to the appropriate court.

—(b) The time specified in the notice to appear on a citation issued under this section must be at least 10 days, not including weekends and holidays, after the issuance of the citation, unless the person cited requests an earlier hearing.

—(c) The Department of Community and Economic Development and the Department of Labor and Workforce Development are responsible for the issuance of books containing appropriate citations, and each shall maintain a record of each book issued and each citation contained in it. Each department shall require and retain a receipt for every book issued to an employee of that department.

\* **Sec. 3.** AS 08.18.119 is amended to read:

**Sec. 08.18.119. Failure to obey citation.** Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear before a department hearing officer or in court to answer a citation issued under this chapter, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

\* **Sec. 4.** AS 08.18.141(a) is amended to read:

(a) A contractor, home inspector, or person acting in the capacity of a contractor or home inspector who knowingly violates AS 08.18.011 or 08.18.025 and who has (1) not previously committed a violation shall pay a civil penalty of \$100; (2) one prior violation shall pay a civil penalty of \$300; (3) two or more prior violations is guilty of a class B misdemeanor. A person who violates another provision of this chapter is guilty of a violation punishable under AS 12.

\* **Sec. 5.** AS 08.18.161(8) is amended to read:

(8) work on one project under one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$10,000; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or when the work is divided into

FROM : AKRENOVATEGRS INC  
Mar 30 04 03:59p

FAX NO. : 907 780 4327

Apr. 01 2004 02:29AM P4  
P. 4

contracts of amounts less than \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person who advertises or puts out a sign or card or other device that might indicate to the public that the person is a contractor, or that the person is qualified to engage in the contracting business; a contractor who performs work priced at \$1,000 [~~\$2,500~~] or more, under this exemption, shall nevertheless keep in force public liability and property damage insurance with coverage in at least the amounts set out in AS 08.18.101;

## **Home Builders Protect Consumers From Illegal Contractors**

Prepared by John Bitney, ASHBA lobbyist

April 13, 2004

During a meeting of the Board of Directors, the Alaska State Home Building Association (ASHBA) voted in early March to pursue solutions to the growing issue of unregistered contractors providing construction services illegally under the guise of a "handyman license".

### **Background**

A handyman is a person providing construction services without a state registration as a contractor or subcontractor. Instead of meeting qualification standards and insurance requirements, the Division of Occupational Licensing currently has sold 1,678 business licenses in Alaska for "Construction-related EXEMPT from contractor registration" (code 2360).

Under current state law (AS.08.18) there are minimum requirements for persons who represent themselves as either contractors or specialty contractors. For example, contractors and specialty contractor must have a bond, general liability insurance, education/qualifications standards, and may not offer more than three trade services.

There is also an exemption from registering for work on a project where labor and materials and all other items is less than \$10,000. This exemption does not apply when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of the law, but enforcement can sometimes be difficult. For work priced at \$2,500 or more, some public liability and property damage insurance is required.

These exemption areas in state law have allowed the establishment and growth of over 1,600 unregistered contractor businesses in Alaska. Numerous reports have been made about these unregistered businesses offering construction services in violation of these laws, but enforcement efforts have proven to be difficult. The problem is that many consumers are unaware that their contractor may not be qualified to provide construction services, and even worse, have little or no insurance and warranty protections.

## **So What Are The Solutions?**

### **HB542**

Following the State Board meeting in Juneau where the handyman issue was discussed, the House Labor & Commerce Committee introduced HB 542 on March 24<sup>th</sup>. A web link to the bill is shown below:

<http://www.legis.state.ak.us/PDF/23/Bills/HB0542A.PDF>

HB 542 lowers the project cost exemption from \$10,000 down to \$5,000, and expands the work that can be done by a specialty contractor. HB 542 moved out of Labor & Commerce on April 6<sup>th</sup> and is scheduled for calendaring onto the House Floor for next week.

ASHBA is supporting HB542, and will work to secure its passage in these final days of the Legislative Session.

### **Elimination of Business License Exemption Code**

After hearing from ASHBA and other contractors, the Division of Occupational Licensing has just announced the elimination of the business license code for "Construction-related EXEMPT from contractor registration" and created the handyman code (8101) and moved it to a different business lines category.

[http://www.dced.state.ak.us/occ/pub/Lines\\_of\\_Business.pdf](http://www.dced.state.ak.us/occ/pub/Lines_of_Business.pdf)

Occupational Licensing confirmed what ASHBA has been saying – there was beginning to be too much abuse of the system of allowing business licenses for exempt contractors. By using the word "contractor" in the business license, consumers could be easily confused about the types of construction services that are allowed.

This new business line will hopefully help clear up any confusion about whether a business should or shouldn't be offering construction services.

### **Enforcement**

Under the current system, the State of Alaska is suppose to investigate and enforce violations of these laws. Both the Departments of Labor and the Department of Community & Economic Development have authority to pursue violations of the law. For the most part, they rely upon the public to complain, and then they investigate.

ASHBA has presented a draft bill to the Legislature that would allow the Department of Community & Economic Development to prosecute small fines for initial violations of the law. Rather than the current system of having the District Attorney prosecute all violations through the Court system, hearing officers within the Department could speed up prosecutions for first-time offenses.

While the current Legislative session is beginning to wind down with less than one month to go, hopefully this bill will be considered for introduction next year.

#### Other Ideas

The following is a short of list of potential ways to address this issue that were brought forward by ASHBA Board members and others:

- Require title insurance agencies to establish a residential endorsement on all new-construction home sales
- Increase contractor licensure fees toward additional enforcement officers and efforts
- Eliminate all construction contractor exemptions

These last few suggestions were discussed by ASHBA's Board, but no actions were taken to pursue them at this time.

#### Conclusion

Based upon these discussions and efforts, ASHBA is helping protect consumers from unscrupulous contractors who provide construction services in violation of state law. These efforts will continue.

The best strategy in the immediate future is to help secure passage of HB542.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 542  
 (H) Publish Date: 4/13/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Construction Contractors RDU Occupational Licensing (117)  
 Component Occupational Licensing  
 Sponsor House Labor and Commerce  
 Requester House Labor and Commerce Component No. 2360

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ( )</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 1156 - Receipt Supported Services						
<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 (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 542 makes amendments to the specialty contractors license requirements and contractor exemptions. New funds are not required to implement these amendments.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 3/29/04 1:40 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2004  
 Agency Department of Community and Economic Development

# Alaska State Legislature

Rep. Tom Anderson, Chair  
Rep. Carl Gatto, Vice - Chair  
Rep. Norman Rokeberg, Member  
Rep. Nancy Dahlstrom, Member  
Rep. Bob Lynn, Member  
Rep. Harry Crawford, Member  
Rep. David Guttentberg, Member



State Capitol  
Juneau, Ak 99801-1182  
(907) 465-4954  
Fax. (907) 465-2418

## House Labor & Commerce Committee

### SPONSOR STATEMENT

#### HB 542

**"An Act relating to specialty construction contractors and to construction contractor exemptions."**

HB 542 lowers the limit of a project cost from \$10,000 to \$5,000, and expands the work that can be done by a specialty contractor.

Under current state law (AS.08.18) there are minimum requirements for persons who represent themselves as either contractors or specialty contractors. For example, contractors and specialty contractor must have a bond, general liability insurance, education/qualifications standards, and may not offer more than three trade services.

There is also an exemption from registering for work on a project where labor and materials and all other items is less than \$10,000. This exemption does not apply when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of the law, but enforcement can sometimes be difficult. For work priced at \$2,500 or more, some public liability and property damage insurance is required.

These exemption areas in state law have allowed the establishment and growth of over 1,600 unregistered contractor businesses in Alaska. Numerous reports have been made about these unregistered businesses offering construction services in violation of these laws, but enforcement efforts have proven to be difficult. The problem is that many consumers are unaware that their contractor may not be qualified to provide construction services, and even worse, have little or no insurance and warranty protections.

The changes provided in HB 542 will go a long way toward resolving the issue and provide a greater level of consumer protection.

HB

549

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# SENATE COMMITTEE REPORT

DATE: 04/22/04

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 549(JUD) am

HB 549 UNSOLICITED COMMUNICATION: AIRCRAFT CRASH

Act relating to unsolicited communications following an aircraft accident."

Committee recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

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

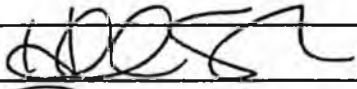
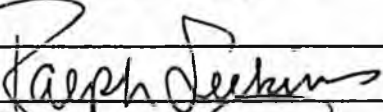

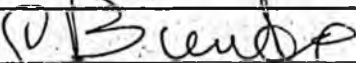
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
		X		
			✓	
			✓	
CHAIR: 			✓	

23-LS1860V  
Bullock  
4/27/04

**SENATE CS FOR CS FOR HOUSE BILL NO. 549( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE JUDICIARY COMMITTEE**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to unsolicited communications following an aircraft accident."**

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

3 **\* Section 1.** AS 02.40 is amended by adding a new section to read:

4           **Sec. 02.40.030. Unsolicited communication prohibited.** (a) Except as  
5 provided in (c) of this section, in the event of an accident involving an air carrier  
6 providing intrastate transportation of passengers, an attorney may not initiate a contact  
7 with an individual injured in the accident or a relative of an individual injured or killed  
8 in the accident for the purpose of offering or discussing potential representation in an  
9 action based on the accident for personal injury or wrongful death within 45 days  
10 following the accident. In this subsection, "attorney" includes an attorney for an air  
11 carrier and an associate, agent, employee, or other representative of an attorney.

12           (b) During the 45-day period described in (a) of this section, an agent or  
13 representative of an air carrier or its insurer may not initiate contact with an individual  
14 injured in the accident or a relative of an individual injured or killed in the accident for  
15 the purpose of offering a final settlement of a claim.

1 (c) The prohibitions in (a) and (b) of this section do not apply to the activities  
2 that an air carrier or its insurers may undertake, or the obligations that an air carrier or  
3 its insurers may have to

4 (1) provide a passenger or the family of a passenger injured or killed in  
5 an aircraft accident with short-term physical or financial assistance; or

6 (2) meet the obligations of the air carrier under 49 U.S.C. 4113  
7 (Aviation Disaster Family Assistance Act of 1996).

8 (d) A person who violates this section is guilty of a class A misdemeanor and,  
9 upon conviction, shall be sentenced to pay a fine equal to the greater of \$100,000 or  
10 the amount of the legal fee the attorney receives for representing a party whose  
11 representation was acquired through a contact in violation of this section. The court  
12 may not impose a term of imprisonment for a violation of this section.

13 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
14 read:

15 APPLICABILITY. This Act applies to an accident involving an air carrier that occurs  
16 on or after the effective date of this Act.

(e) In this section, "contact" means written, recorded,  
in-person or live telephone communication with a person  
whom the attorney has no family or prior professional  
relationship.

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### MEMORANDUM

To: Senate Labor & Commerce Committee Members

From: Representative Lesil McGuire

Date: April 27, 2004

Re: Blank Committee Substitute for HB 549

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Attached to this memo is a blank committee substitute for CSHB 549(JUD) am. I respectfully request that the committee consider adopting this committee substitute in lieu of the version that passed the House.

They key changes encompassed in the blank committee substitute are as follows:

1. Subsection (b), page 1, lines 12-15, was added to the bill as a result of an amendment on the House floor. This subsection clarifies that "during the 45-day period following an aircraft accident, an agent or representative of an air carrier or its insurer may not initiate contact with an individual injured in the accident or a relative of an individual injured or killed in the accident *for the purpose of offering a final settlement of a claim.*"

As a result, the blank committee substitute amends subsection (c), page 2, lines 1-7, to clarify that the prohibitions (relating to initiating contact with individuals injured or killed in an aircraft accident) established in (a) *and* (b) do not apply to the activities undertaken or the legal obligations that an air carrier or its insurers may have to provide a passenger or his or her family with short-term assistance *or to meet the obligations of the Aviation Disaster Family Assistance Act of 1996.*

2. Subsection (d), page 2, lines 8-12, which establishes a penalty for a violation, was amended on the House floor by the deletion of the language "and upon conviction, is punishable only by a fine of \$10,000 (and \$100,000 for a second offense)." The language as amended would have the effect of allowing a sentencing judge to impose a term of imprisonment for the offender, which is not the intent of the sponsor.

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
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Fax (907) 465-6592

## House Judiciary Committee

2. (cont.) The blank committee substitute retains the penalty of a class A misdemeanor but establishes a fine of the greater of \$100,000 or the amount of the legal fee the attorney receives for representation acquired through a contact in violation of this bill and clarifies that a term of imprisonment may not be imposed. The sponsor feels that this penalty would serve as the best deterrent to such unacceptable conduct.
3. The definition of "contact" was added for clarification purposes and is based on Alaska Rule of Professional Conduct 7.3.

Thank you for your time and consideration of this matter. If you have any questions prior to the committee hearing, feel free to contact me personally, or my staff, Vanessa Tondini, at 4990.

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Dan Ogg  
Rep. Jim Holm  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee Sponsor Statement CSHB 549(JUD) am

### **"An Act relating to unsolicited communications following an aircraft accident."**

Across the nation, there are rules of professional conduct that all attorneys are bound to abide by to keep their license to practice law. Alaska is no exception and its rules are similar to those found across the nation. Alaska's Rules of Professional Conduct state that an attorney "shall not solicit by in-person or live telephone contact professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain." Rule 7.3(a). The lawyer cannot solicit professional employment by written or recorded means, even if allowed under 7.3(a), where the client has made known that they do not desire to be solicited by the lawyer, or the solicitation involves coercion, duress, or harassment. Rule 7.3(b). The reason for this rule is that the "prospective client, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon being retained immediately. The situation is fraught with the possibility of undue influence, intimidation and over-reaching." Comment to Rule 7.3. Even though this rule and rules like it have been in place across the nation for some time, they have not controlled the legal feeding frenzy that takes place in the aftermath of aviation accidents.

The federal government tried to correct this problem when it recognized the vulnerability of aviation accident victims and their families in 1996 and passed the Aviation Disaster Family Assistance Act (Public Law 104-264). This federal law mandated that air carriers provide specific support to the families of those injured or killed and prohibited unsolicited contact by attorneys with these individuals for 30 days. In 2000, this law was amended to expand the scope of unsolicited contact to include "any associated, agent, employee or other representative of an attorney" and expanded the time period from 30 to 45 days. Unfortunately, the enforcement of this law requires action by the Civil Aeronautics Board or the U.S. Attorney General, and the penalty for its violation is a mere \$1,000 fine. There is currently very little enforcement of this law. There is also some legal debate as to whether or not the federal law is enforceable against attorneys who violate it in the context of aviation accidents involving flights entirely within Alaska.

In the aftermath of an aviation accident in Alaska, the injured and the families of the deceased or injured are vulnerable to the external pressures of others. This is particularly true

SPONSOR STATEMENT

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
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## House Judiciary Committee

when the accident happens in rural Alaska due to their initial isolation from all of the necessary support services immediately after the accident. These individuals should not be preyed upon by anyone who is pressing them to decide matters relating to future legal actions until they themselves decide that the time is appropriate to initiate that process.

This bill is based on the federal law, and applies only to flights that take place entirely within Alaska (intrastate transportation). Like the federal law, this bill does not interfere with the performance of the family support functions provided for in the Family Assistance Act by the air carrier and its insurer. This bill is different from the federal counterpart in that a reference to "the air carrier's attorney" has been added to make it clear that all attorneys are to refrain from having contact with the injured passengers or their families.

Regarding sanctions against attorneys who violate this statute, the Sponsor believes that a civil financial penalty only would be inadequate because the financial incentive of representing aircraft accident victims on contingency fee arrangements is so great. A criminal sanction would serve as the greatest deterrent to this type of predatory conduct, since the Alaska Bar Association will take notice of an attorney's criminal conviction and be in a position to take licensing actions that will more directly impact the attorney's future earning capacity. Under this bill, a first offense is a Class A misdemeanor, and a second or greater offense within ten years of the prior offense is a Class B felony.

Under this bill, an Alaskan affected by an aviation accident may initiate contact with an attorney immediately, without any restrictions. This bill only prevents lawyers and their agents from initiating the contact. This will allow Alaskans to take time to reflect on their potential claims, and research their options for the best legal representation to meet their needs. This may or may not be the attorney who was well positioned to rush to the hospital and drive them home.