

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11368 SENATE STATE AFFAIRS

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 351(L&C)
 (H) Publish Date: 1/26/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: HESS
 Title Carbon Monoxide Detection Devices BRU _____
 Component _____
 Sponsor Gatto
 Requester House L & C Committee 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 bill has no fiscal impact.

Prepared by: Josh Applebee Phone _____
 Division: Committee Aide Date/Time 1/26/04 11:35 AM
 Approved by: Representative Anderson, Chair Date 1/26/2004
 Agency: House Labor and Commerce Committee

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 351(STA)
 (H) Publish Date: 3/1/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to carbon monoxide detection devices..." RDU: Civil
 Sponsor: Representatives Gatto & Gruenberg Component: Commercial & Fair Business
 Requester: House Labor & Commerce 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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 bill amends AS 18.70 by requiring that carbon monoxide detection devices be installed and maintained in all qualifying dwelling units in the state.

Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division: Administrative Services Date/Time 1/20/04 5:03 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/20/2004
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 351(STA)
 (H) Publish Date: 3/1/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Carbon Monoxide Detection Devices RDU Fire Prevention
 Component Fire Prev. Operations
 Sponsor Rep. Gatto
 Requester House Labor & Commerce Component No. 494

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The bill requires carbon monoxide detectors to be installed in all "qualifying" dwelling units in the state.

 HB 351 will have minimal fiscal impact to the Fire Prevention program. There will be a slight increase in responsibilities for building plan review for compliance in 4-plex and larger dwelling units.

Prepared by: Gary Powell, Director Phone 269-5491
 Division Fire Prevention Date/Time 1/20/04 10:05 AM
 Approved by: Commissioner William Tandeske Date 1/20/2004
 Agency Department of Public Safety

Alaska State Legislature

House of Representatives



Representative Max Gruenberg

Representative Carl Gatto

SPONSOR STATEMENT

CSHB 351 (JUD) Carbon Monoxide Detection Devices

The recent deaths of all five members of an Anchorage family from carbon monoxide (CO) poisoning in their home prompted introduction of House Bill 351, which will require CO detectors to be installed and maintained in most Alaskan homes. The need for the bill was tragically reinforced by the CO poisoning death in another Anchorage family in February. HB 351 adds CO detection devices to the requirement in state law that homeowners install and maintain smoke detectors, and requires that landlords will install the devices and tenants will maintain them.

According to the Journal of the American Medical Association, CO poisoning is the leading cause of accidental poisoning in America, annually, claiming the lives of 1,500-2,000 people and hospitalizing an additional 10,000. Also, continuous exposure to low levels of carbon monoxide can compromise the efficiency of young children's brains in processing information.

CO detectors are essential because CO is invisible to the human senses. It is odorless, tasteless, colorless, and non-irritating. Without a CO detector, one doesn't know they're being poisoned.

The Judiciary CS makes two changes to the State Affairs CS. First, it narrows the title to cover CO detection devices only. Second, it provides that a failure to install and maintain a CO detector is not a class "B" misdemeanor, but only a "violation" under AS 18.81.900, which makes it a non-criminal offense punishable by a fine up to \$500, the lowest penalty under Title 12.

Representatives Carl Gatto and Max Gruenberg have co-introduced this bill in order to help save lives and to prevent CO injuries.

Alaska CO Incidents

March 27, 2003

Evacuations, Rescues, CPR, 911; Citizens Honored for Lifesaving Acts
"Jean Schulte and Ron Harper, who evacuated 3 people suffering from serious carbon monoxide poisoning from an Anchorage house in December 2002."
-Anchorage Daily News

December 17, 2002

Headlines – Anchorage - Carbon monoxide injures 3
"Three people were rushed to the hospital Monday afternoon for carbon monoxide poisoning, the second such incident in Anchorage in less than a week. The three people were discovered inside 9203 Campbell Terrace Drive around noon by an employer who had gone to the home because one of the people had not shown up to work, said Anchorage Fire Department spokesman, Tom Kempton. All 3 individuals were incoherent and disoriented, he said. A cracked heat exchanger in a furnace is believed to be the cause of the carbon monoxide leak."
-Anchorage Daily News

December 13, 2002

6 Saved From Gas Poisoning
"Six people, including 3 children, were rescued early Thursday morning after a 911 dispatcher realized a caller and her family were suffering carbon monoxide poisoning during the call, fire officials said." -Anchorage Daily News

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Consumer Product Safety Commission

Carbon Monoxide Questions and Answers

CPSC Document #466

1. What is carbon monoxide (CO) and how is it produced in the home?

Carbon monoxide (CO) is a colorless, odorless, poisonous gas. It is produced by the incomplete burning of solid, liquid, and gaseous fuels. Appliances fueled with natural gas, liquified petroleum (LP gas), oil, kerosene, coal, or wood may produce CO. Burning charcoal produces CO. Running cars produce CO.

2. How many people are unintentionally poisoned by CO?

Every year, over 200 people in the United States die from CO produced by fuel-burning appliances (furnaces, ranges, water heaters, room heaters). Others die from CO produced while burning charcoal inside a home, garage, vehicle or tent. Still others die from CO produced by cars left running in attached garages. Several thousand people go to hospital emergency rooms for treatment for CO poisoning.

3. What are the symptoms of CO poisoning?

The initial symptoms of CO poisoning are similar to the flu (but without the fever). They include:

- Headache
- Fatigue
- Shortness of breath
- Nausea
- Dizziness

Many people with CO poisoning mistake their symptoms for the flu or are misdiagnosed by physicians, which sometimes results in tragic deaths.

4. What should you do to prevent CO poisoning?

- Make sure appliances are installed according to manufacturer's instructions and local building codes. Most appliances should be installed by professionals. Have the heating system (including chimneys and vents) inspected and serviced annually. The inspector should also check chimneys and flues for blockages, corrosion, partial and complete disconnections, and loose connections.
- Install a CO detector/alarm that meets the requirements of the current UL standard 2034 or the requirements of the IAS 6-96 standard. A carbon monoxide detector/alarm can provide added protection, but is no substitute for proper use and upkeep of appliances that can produce CO. Install a CO detector/alarm in the hallway near every separate sleeping area of the home. Make sure the detector cannot be covered up by furniture or draperies.
- Never burn charcoal inside a home, garage, vehicle, or tent.
- Never use portable fuel-burning camping equipment inside a home, garage, vehicle, or tent.
- Never leave a car running in an attached garage, even with the garage door open.
- Never service fuel-burning appliances without proper knowledge, skills, and tools. Always refer to the owner's manual when performing minor adjustments or servicing fuel-burning appliances.
- Never use gas appliances such as ranges, ovens, or clothes dryers for heating your home.
- Never operate unvented fuel-burning appliances in any room with closed doors or windows or in any

room where people are sleeping.

- Do not use gasoline-powered tools and engines indoors. If use is unavoidable, ensure that adequate ventilation is available and whenever possible place engine unit to exhaust outdoors.

5. What CO level is dangerous to your health?

The health effects of CO depend on the level of CO and length of exposure, as well as each individual's health condition. The concentration of CO is measured in parts per million (ppm). Health effects from exposure to CO levels of approximately 1 to 70 ppm are uncertain, but most people will not experience any symptoms. Some heart patients might experience an increase in chest pain. As CO levels increase and remain above 70 ppm, symptoms may become more noticeable (headache, fatigue, nausea). As CO levels increase above 150 to 200 ppm, disorientation, unconsciousness, and death are possible.

6. What should you do if you are experiencing symptoms of CO poisoning?

If you think you are experiencing any of the symptoms of CO poisoning, get fresh air immediately. Open windows and doors for more ventilation, turn off any combustion appliances, and leave the house. Call your fire department and report your symptoms. You could lose consciousness and die if you do nothing. It is also important to contact a doctor immediately for a proper diagnosis. Tell your doctor that you suspect CO poisoning is causing your problems. Prompt medical attention is important if you are experiencing any symptoms of CO poisoning when you are operating fuel-burning appliances. Before turning your fuel-burning appliances back on, make sure a qualified serviceperson checks them for malfunction.

7. What has changed in CO detectors/alarms recently?

CO detectors/alarms always have been and still are designed to alarm before potentially life-threatening levels of CO are reached. The UL standard 2034 (1998 revision) has stricter requirements that the detector/alarm must meet before it can sound. As a result, the possibility of nuisance alarms is decreased.

8. What should you do when the CO detector/alarm sounds?

Never ignore an alarming CO detector/alarm. If the detector/alarm sounds: Operate the reset button. Call your emergency services (fire department or 911). Immediately move to fresh air -- outdoors or by an open door/window.

9. How should a consumer test a CO detector/alarm to make sure it is working?

Consumers should follow the manufacturer's instructions. Using a test button, some detectors/alarms test whether the circuitry as well as the sensor which senses CO is working, while the test button on other detectors only tests whether the circuitry is working. For those units which test the circuitry only, some manufacturers sell separate test kits to help the consumer test the CO sensor inside the alarm.

10. What is the role of the U.S. Consumer Product Safety Commission (CPSC) in preventing CO poisoning?

CPSC worked closely with Underwriters Laboratories (UL) to help develop the safety standard (UL 2034) for CO detectors/alarms. CPSC helps promote carbon monoxide safety awareness to raise awareness of CO hazards and the need for regular maintenance of fuel-burning appliances. CPSC recommends that every home have a CO detector/alarm that meets the requirements of the most recent UL standard 2034 or the IAS 6-96 standard in the hallway near every separate sleeping area. CPSC also works with industry to develop voluntary and mandatory standards for fuel-burning appliances.

11. Do some cities require that CO detectors/alarms be installed?

On September 15, 1993, Chicago, Illinois became one of the first cities in the nation to adopt an

ordinance requiring, effective October 1, 1994, the installation of CO detectors/alarms in all new single-family homes and in existing single-family residences that have new oil or gas furnaces. Several other cities also require CO detectors/alarms in apartment buildings and single-family dwellings.

12. Should CO detectors/alarms be used in motor homes and other recreational vehicles?

CO detectors/alarms are available for boats and recreational vehicles and should be used. The Recreation Vehicle Industry Association requires CO detectors/alarms in motor homes and in towable recreational vehicles that have a generator or are prepped for a generator.

Send the link for this page to a friend! Consumers can obtain this publication and additional publication information from the Publications section of CPSC's web site or by sending your publication request to info@cpsc.gov.

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The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Deaths, injuries and property damage from consumer product incidents cost the nation more than \$700 billion annually. The CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard or can injure children. The CPSC's work to ensure the safety of consumer products - such as toys, cribs, power tools, cigarette lighters, and household chemicals - contributed significantly to the 30 percent decline in the rate of deaths and injuries associated with consumer products over the past 30 years.

To report a dangerous product or a product-related injury, call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270, or visit CPSC's web site at www.cpsc.gov/talk.html. Consumers can obtain this release and recall information at CPSC's Web site at www.cpsc.gov.

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CARBON MONOXIDE (CO): THE SILENT KILLER

HISTORY OF CO LEGISLATION

1992: The first U.S. city to adopt a law requiring CO alarms was Kingston, New York. The law was adopted November 10, 1992.

1994: In March of 1994, the City of Chicago became the second and largest U.S. municipality to enact a CO alarm law.

1998: In 1998, West Virginia became the first state to adopt a statewide CO alarm law.

2002: Rhode Island enacted a statewide CO law in the year 2002.

2003: New York and New Jersey enacted statewide carbon monoxide laws in the spring of 2003.

Present: Current states working to pass statewide CO legislation include Massachusetts and Pennsylvania.

CO FACTS

- Carbon monoxide is the leading cause of accidental poisoning deaths in America, claiming more than 2,100 lives per year, according to a study published in the Journal of the American Medical Association.
- CO accounts for 40,000 emergency room visits and 20,000 health-related injuries annually, according to the American Association of Poison Control Centers. Yet according to safety industry estimates, 88 percent of homes remain unprotected because they do not have at least one CO alarm.
- CO is known as the "Silent Killer" since it is invisible to the human senses. It is odorless, tasteless, colorless and non-irritating, so without a CO alarm's warning there is no way to know that you are being poisoned. CO mimics the flu or food poisoning and symptoms include headache, nausea, fatigue and dizziness.
- In fact, studies performed at the University of Illinois Hospital at Chicago found that five to ten percent of patients presented to the emergency room with flu-like symptoms actually had CO poisoning.
- CO is a by-product of combustion produced by common household appliances such as gas or oil furnaces, water heaters, space heaters and clothes dryers. Other potential sources include barbecue grills, fireplaces, wood-burning stoves, gas ovens and fumes entering a home from an attached garage.
- Once in the bloodstream, CO suffocates the body from the inside out, preventing life-sustaining oxygen from reaching vital organs in the body such as the brain and heart.
- The level of exposure to carbon monoxide and the amount of damage done is greater in children than adults. For example an adult breathes 12 times within a minute, while a child will take 20-30 breaths during that same time. If carbon monoxide is present, the child is metabolizing more of the deadly gas at a faster pace, resulting in a more severe poisoning.

- Children, infants and the unborn cannot articulate pain or other symptoms associated with carbon monoxide poisoning, which often prolongs their exposure and increases their risk for serious injuries and death. Effects of exposure can include brain damage, heart defects, cerebral palsy and death.

EXPERT TESTIMONIALS

Bill Webb

Executive Director, Congressional Fire Services Institute

"There's a mantra in the fire service that saving lives starts with prevention. We have seen that with smoke detectors. By installing smoke detectors we have saved thousands of lives. We can do the same if we install carbon monoxide detectors."

Assemblyman Joseph Morelle (D)

Irondequoit, New York – Sponsored a statewide CO law that went into effect in March of 2003.

"We have evidence from other places including the cities of Chicago and St. Louis, that CO laws have helped reduce fatalities in those communities. We have a great example here, as smoke alarm laws were enacted, more of these life safety devices went into homes and death rates from fire have declined. It's time now to look at carbon monoxide alarms the same way."

Steve Gladstone,

President-elect, American Society of Home Inspectors (ASHI)

"If people don't have a carbon monoxide detector in their house, at almost any point in the life of their equipment, it can fail and it can become a lethal environment. So if they don't have a carbon monoxide detector, they won't know and they could die in that environment. We're talking about a small investment, and god forbid something terrible happens, you'll never forgive yourself for the rest of your life."

Dr. Jerrold B. Leikin

Director of Medical Toxicology, Evanston Northwestern Healthcare-OMEGA

"Carbon monoxide has no odor, and is not irritating at all, and targets the brain for its poisoning capabilities, so that you can be overcome by carbon monoxide and not even know it...carbon monoxide detectors are just like seat belts and motorcycle helmets in that they save lives. And especially they save lives from traumatic accidents that can occur all of a sudden with nobody in the household knowing they've been exposed to these deadly gases."

Hal and Kathy Ketofsky

Carbon Monoxide Survivor Family, New Jersey

"I used to feel the same way most people feel about carbon monoxide – unconcerned. But I have a different opinion now. It's clear that the difference between life and death is as simple as having an alarm and not having one."

PREVENTION

The Consumer Product Safety Commission and the International Association of Fire Chiefs recommend every home have at least one carbon monoxide alarm with an audible warning signal installed near sleep areas.

For more information about carbon monoxide, contact the Our Children at Risk Task Force at 1-877-COFACTS.



Medical & Other News

To print: Select File and then Print from your browser's menu

Title: **Children Are at Greater Risk of Injury or Death From Carbon Monoxide Poisoning**

URL: <http://www.pslgroup.com/dg/CF62.htm>

Doctor's Guide

October 14, 1996

CHICAGO, Oct. 14, 1996 – Children, infants and unborn babies are more vulnerable to carbon monoxide (CO) poisoning than healthy adults, according to toxicologists and medical professionals. Younger family members are particularly susceptible due to their higher metabolic rates – meaning they require more oxygen and use it faster than adults. Carbon monoxide even in small amounts works to restrict oxygen in the bloodstream, thus starving a child's tissues and organs of what is needed to function and develop properly.

"Carbon monoxide poisoning can cause neurological problems, learning disabilities, memory loss and personality changes in children and can lead to miscarriage or stillbirth for women exposed during pregnancy," said Dr. Marc Bayer, medical director, Connecticut Poison Control Center. "Because of the higher oxygen requirements of smaller bodies, carbon monoxide's interference with oxygen delivery can lead to permanent damage to a child's developing nervous system," he said.

Young children are also vulnerable to misdiagnosis because they cannot fully explain the onset, progression and severity of their symptoms. Additionally, because children spend most of their time in the home, they are more likely to be exposed to carbon monoxide produced by gas, oil, wood or propane burning appliances and heating systems.

"Because this toxin is invisible to human senses and the early poisoning symptoms look like other common problems such as the flu, the best way to know if a leak is present is to equip the home with carbon monoxide detectors that have an audible alarm," said Bayer.

To provide an early warning of carbon monoxide dangers, First Alert(R), the nation's leading brand of carbon monoxide detectors, has developed a UL listed, extra-sensitive battery-powered detector that will sense carbon monoxide at lower concentrations than plug-in models are designed to detect. The detector will continue to operate in the event of a power outage, a time when alternative heat sources are commonly used and can be mounted out of reach of little fingers – important to children with families.

Families with children, pregnant women, elderly people or anyone with heart or lung disorders may want the added protection of the First Alert bio-sensor technology. The elderly and people with heart and lung disorders are at greater risk of injury or death from carbon monoxide because CO can aggravate a pre-existing condition of restricted oxygen flow in the

bloodstream.

The Consumer Product Safety Commission (CPSC) recommends that every home in America install at least one carbon monoxide detector with an audible alarm, located near the sleeping area. Additional detectors on every level provide an extra measure of safety.

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Municipality of
Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4431
Fax: (907) 343-4499
Email : www.muni.org
Mark Begich, Mayor

FOR IMMEDIATE RELEASE
March 17, 2004
2004-18

Contact: Julie Hasquet
343-7103

CO DETECTOR ORDINANCE TAKES EFFECT IN ANCHORAGE
New law designed to reduce risk of accidental poisoning

Joined by members of the Anchorage Homebuilders Association and the Anchorage Fire Department, Mayor Mark Begich and Assembly Chairman Dick Traini today signed a new ordinance requiring carbon monoxide detectors in all Anchorage homes.

The new law, passed unanimously by the Assembly last night, impacts all existing and new construction. It requires one carbon monoxide detector outside of the sleeping rooms, on each level of a home.

In a ceremony at the city's Building Permit Center, Mayor Begich said the new ordinance was prompted by the deaths of the five-member Arts family in December, and by the fatal carbon monoxide poisoning of an Anchorage man in his Hillside home last month. The man's wife survived, but also suffered serious impacts from CO poisoning.

"The recent deaths in our city have prompted many to ask what we can all do to address this problem," said Begich. "This regulation requiring the installation of CO detectors on each floor, outside of any sleeping area is part of the answer. I applaud the Assembly, the Fire Department, members of the Homebuilders Association and our city building staff in working together to get this legislation passed quickly."

Carbon monoxide (CO) poisoning is the leading cause of accidental poisoning deaths in America, according to the Centers for Disease Control. An estimated 2,100 lives are lost each year to the odorless, tasteless, invisible gas. But experts say with proper education and installation of carbon monoxide alarms, families could greatly reduce their risk.

After the deaths of the Arts family in December, the Mayor's office raised \$31,000 in corporate donations and purchased hundreds of CO detectors which were given away free to low and moderate income families.

###

children
RISK

See me

July 10, 2003

Dear NCSL attendee:

Several years ago, I lost two of my three sons, Zachary and Nicholas (16 months and four years of age) to carbon monoxide poisoning from a furnace malfunction that nearly wiped out our entire family. Since the death of my sons, I have become an advocate for the use of carbon monoxide alarms in *all* homes.

Carbon monoxide is known as the "Silent Killer" for a very good reason – you don't know it is there. CO attacks without warning – you can't see it, smell it or taste it and symptoms mimic the flu. CO is the #1 cause of accidental poisoning deaths in the U.S. and accounts for 40,000 emergency room visits, 20,000 health-related injuries and 2,000 deaths annually.

I can assure you that my family was no different than yours or families in your district. We simply didn't know what CO was or that we were at risk. As someone who survived a deadly carbon monoxide incident, I can tell you that you don't know what's happening to you – until it's too late. Only an alarm can alert you to the presence of carbon monoxide before it becomes life threatening.

Carbon monoxide is a natural by-product of combustion in fuel burning appliances. A toxic spill can happen at any time due to a faulty furnace, blocked chimney, cracked vent pipe or clothes dryer with a blocked vent. Electric-only homes are just as susceptible to this household threat because a car left idling in an attached garage, a gas-powered generator used during a power outage or a charcoal grill brought indoors or operated too close to the home can cause hazardous consequences.

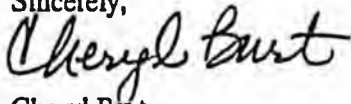
Smoke alarm legislation has been successful in reducing the number of fire-related deaths in our communities. Now, it is time to look at carbon monoxide alarms in the same way – as a critical piece of home safety equipment that belongs in every household, rental property and lodging facility.

New York, New Jersey and Rhode Island are three states with laws requiring carbon monoxide alarms in homes, lodging facilities and rental properties. Many other cities and towns have similar requirements. By sponsoring carbon monoxide legislation, you can help your state and its constituents save lives and prevent injuries, especially among younger family members who are at greater risk to carbon monoxide exposure.

Your help is urgently needed *today!* I urge you to stop by booth 837 at the National Conference of State Legislators meeting July 23-25 in San Francisco where members of the Our Children at Risk Task Force, including myself, will be available to discuss the importance of passing carbon monoxide legislation in your state. We can provide model legislation and any additional information you may need to aid in this important effort.

If you'd like further information prior to the conference, please don't hesitate to contact us. I look forward to meeting you.

Sincerely,



Cheryl Burt

Chairperson, Our Children at Risk Task Force

Subject: CO Legislation
Date: Tue, 20 Jan 2004 08:49:35 -0900
From: mhayashi <mhayashi@gci.net>
To: Representative_Carl_Gatto@legis.state.ak.us

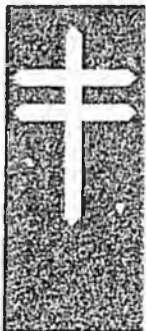
Representative Gatto:
or "Carl", as I used to call you in the Providence Emergency Department.
Alaska SAFE KIDS supports your effort to introduce CO Detector
legislation in Alaska.

After working in emergency nursing for nearly 38 years and
being the statewide Alaska SAFE KIDS State Coalition Coordinator for 15
years,
it is evident that CO poisoning is a preventable injury/death for
Alaska citizens.
It is also evident that the general population knows little about how
to protect themselves.

The recent terrible tragedy in Anchorage brought needed attention to
this issue.
SAFE KIDS, volunteered time, along with the Alaska Injury Prevention
Center, and First Alert, giving out information on
detectors and CO poisoning at the Home Depot. We spoke with over 150++
individuals about the issues.
So little was generally known. Nearly everyone who needed detectors,
bought one, two, or three.
Still, some didn't, saying they would eventually get to it.

Moving to legislation really does bring the same deserved attention to
CO as we now have with smoke detectors.
Thank you, Carl, for your work.

Peggy Hayashi, RN
State Coordinator Alaska SAFE KIDS
Providence Alaska Medical Center
mhayashi@provak.org



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*Kuumba Training & Management
Consulting*

Dave Smith
University of Alaska Anchorage

Jennifer Smith
Seattle Mortgage

(907) 276-LUNG

1-800-LUNGUSA

500 W. Int'l Airport Rd., #A
Anchorage, Alaska 99518-1105

www.aklung.org

Fax: (907) 565-5587

April 16, 2004

Senator Con Bunde
Chairman, Senate Labor and Commerce Committee
State Capitol, Room 506
Juneau, Alaska 99801-1182

Dear Senator Bunde,

The American Lung Association of Alaska enthusiastically supports House Bill 351, requiring carbon monoxide detectors in Alaskan homes. ALAA is the lead agency in Alaska in the fight for lung health and has been active in educating the public about the importance of CO detectors, especially during the winter months.

ALAA views this legislation as an important step for Alaskans to protect their families from carbon monoxide poisoning, the leading cause of accidental poisoning in the United States. Tragically, nearly 300 Americans die every year and thousands more seek medical attention from carbon monoxide exposure in their homes.

However, we can protect ourselves from what can become a deadly problem. Requiring carbon monoxide detectors in our homes is a simple step toward preventing any more tragedies like we've seen this winter in Anchorage and we urge your support.

Sincerely,

Christie Garbe, CEO
American Lung Association of Alaska

Alaska Home Building Association Legislative Talking Points

HB340 by Representative Meyer – “Relating to damages for a defect in the design, construction and remodeling of certain dwellings.”

ASHBA voted to support as Priority #1 on January 9, 2004. HB340 was approved 37-1 by the House of Representatives on February 19th. It is scheduled in the Senate Labor & Commerce Committee for Thursday, March 4th, at 1:30 PM. Committee members are:

Senator Con Bunde (R-Anchorage), Chairman	Senator Ralph Seekins (R-Fairbanks)
Senator Gary Stevens (R-Kodiak)	Senator Bettye Davis (D-Anchorage)
Senator Hollis French (D-Anchorage)	

Please thank these Senators for scheduling a hearing so quickly, and let them know what is happening to your business due to general liability insurance rates.

HB289 by Representative McGuire – “Relating to the bonding and insurance requirements for contractors, general contractors, specialty contractors, and subcontractors.”

ASHBA Board of Directors voted to oppose this bill. To date, it has **not** been scheduled for a hearing in the House Labor & Commerce Committee. This bill would require a 10-fold increase in bonding requirements for contractors and sub-contractors. ASHBA members have expressed concern about raising bonding requirements while general liability and worker’s comp increase rates continue to skyrocket.

“Handyman” Issue

In Alaska, “handyman” is a commonly used term for 1,678 businesses providing construction services without a contractor’s registration – or “Construction-related EXEMPT from contractor registration” business license. Draft legislation is being prepared by ASHBA to change contractor registration/residential endorsement violations to civil penalties subject to prosecution and execution through an administrative hearing officer. Research on the cost of additional enforcement efforts, and increases in registration fees for contractors is being done.

HB351 by Representatives Gatto & Gruenberg – “Relating to devices, including carbon monoxide detection devices required in dwellings.”

ASHBA voted to strongly support this bill (a resolution is being prepared). It has moved through the Labor & Commerce and State Affairs Committees, and was referred to the House Finance Committee.

HB421 by Representative Anderson – “Relating to reconveyances of deeds of trust”.

This bill would allow a title insurance company to reconvey and record a deed of trust through a procedure in the event a beneficiary of the deed did not timely record the conveyance. ASHBA voted to support HB421, which is waiting to be scheduled in House Labor & Commerce.

Cold Climate Housing Research Center funding – approve \$500,000 capital budget request under Alaska Housing Finance Corporation.

Governor Murkowski’s budget requests funding in the capital budget for Energy Efficiency Monitoring Research. By using AHFC Corporate Funds, CCHRC is working with industry groups, local governments, the State, and federal agencies toward solving some of the serious technological challenges of building homes in a northern climate. CCHRC is subject to high performance measures and results, and is providing practical building solutions in the diverse climates across the entire state of Alaska.



COLD CLIMATE HOUSING RESEARCH CENTER

CCHRC

February 6, 2004

Representative Carl Gatto
State Capitol, Room 411

Representative Max Gruenberg
State Capitol, Room 112
Juneau, AK 99801-1182

RE: HB 351 CARBON MONOXIDE DETECTION DEVICES

Dear Representatives Gatto and Gruenberg,

At our last Board Meeting held on February 3, 2004, the Board of the Cold Climate Housing Research Center (CCHRC) discussed your above referenced bill. The Board instructed me to express our support for the idea that every residence in Alaska should have at least one CO detector. The recent deaths of the Arts family in Anchorage serve as a very sad testimony to the importance of this safety issue. CO has been called the "cold weather killer" since it is more likely to be a problem in the winter when our houses are closed up against the cold and our heating systems are working overtime. Obviously, this is of particular concern in Alaska where half the year is winter.

While it is of primary importance that our homes are designed correctly and heating and ventilation systems are installed and maintained correctly, it is crucial to have the back up protection of warning devices like CO and smoke detectors to alert us when something has failed and our families are in danger. We applaud your leadership in assuring that all families in Alaska are aware of the danger of CO poisoning and the importance of CO detectors as the last line of defense against this too often very real threat. I have enclosed some materials that we have assembled to help educate builders and homeowners about this issue. We have co-sponsored one public meeting and one builder training workshop so far this year as our part in addressing the CO threat. If there is anything that we can do to assist you in working on this bill, please let me know.

Sincerely yours,

Jack Hebert, President and CEO
Cold Climate Housing Research Center

CC: Board of Directors
Other co-sponsors of HB 351

HB

353

SENATE COMMITTEE REPORT

DATE: 04/22/04

FURTHER: Health, Education and Social Services

DATE TURNED IN TO OFFICE: 4/30/04

State Affairs Committee considered CS FOR HOUSE BILL NO. 353(JUD)

HB 353 JURY DUTY EXEMPTION FOR CERTAIN TEACHERS

"An Act exempting certain teachers at certain schools from jury service during school terms; and amending Rule 15(k), Alaska Rules of Administration."

and recommends:

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

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<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#
ACS	1/12/04			✓	1
DEED	7/17/04			✓	2

APPROPRIATION - no fiscal note

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

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 353
 (H) Publish Date: 2/18/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Jury Duty For Teachers BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Kapsner
 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)
 The court system does not anticipate any fiscal impact from the passage of HB 353.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 2/12/04 9:54 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/12/2004
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 353
 (H) Publish Date: 2/18/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
 Title "An Act relating to jury duty and amending RDU Education Support Services
Rule 15(k), Alaska Rules of Administration." Component Executive Administration
 Sponsor Representative Kapsner
 Requester _____ Component No. 2736

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	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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 bill allows a teacher to be exempt from serving as a juror if they are a teacher at a school that failed to make AYP.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
 Division Education and Support Services Date/Time 2/17/04 9:21 AM
 Approved by: _____ Date 2/17/2004
 Agency Education & Early Development

Representative Mary Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us

House District 38

Yukon Kuskokwim Delta

Akiachak

Akiak

Atmautluak

Bethel

Chefornak

Eek

Goodnews Bay

Kasigluk

Kipruk

Kongiganak

Kwethluk

Kwigillingok

Lower Kalskag

Mekoryuk

Napakiaak

Napaskiak

Newtok

Nightmute

Nunapitcheuk

Oscarville

Platinum

Quinhagak

Toksook Bay

Tuluksak

Tununak

Tuntutuliak

Upper Kalskag

SPONSOR STATEMENT

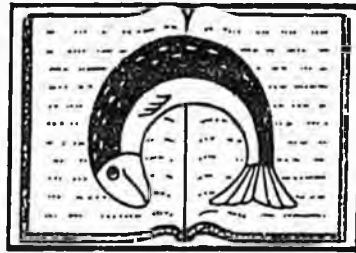
HB 353 provides an exemption from jury duty for teachers in schools that have failed to meet adequate yearly progress under state and federal law.

The role of the classroom teacher has taken on new importance in recent years with the passage of state and federal laws aimed at accountability in education. The ultimate winners or losers of these mandates will be our children. This year high school seniors will be required to pass the high school graduation qualifying exam to receive their diploma. We have added "No Child Left Behind" to our personal vocabulary when we talk about education. NCLB imposes requirements for highly qualified teachers and sanctions on districts that fail to meet "adequate yearly progress."

Jury duty can be lengthy, resulting in a significant impact on classroom learning. When a teacher is absent from the classroom the flow of learning is affected. In many small communities in Alaska, qualified substitute teachers are simply not available, and the person placed in charge of the classroom may be an aide pulled from other responsibilities or an individual who holds a high school diploma. Moreover, ratio of scale in small communities creates an additional burden on the school. For example, five of the eleven certified teachers in one of the schools in my district were called to Bethel for jury duty this year before this school year was half over.

Although jury duty is an important civic responsibility and part of the foundation of our legal system exemptions are appropriate under certain circumstances. HB 353 limits its impact by exempting only those teachers whose school has failed to meet AYP. In a time of so many educational mandates and with a lack of available educational resources in some areas of the state this is a reasonable solution to the problem.

Thank you for your consideration.



Lower Kuskokwim School District

Personnel and Student Services Department
P.O. Box 305 • Bethel, Alaska 99559
907 543-4885/4886/4887
FAX 907 543-4900

1/23/04

Representative Mary Kapsner
State Capitol
Juneau, Alaska 99801

Dear Representative Kapsner,

This letter is in support of HB 353 dealing with jury duty for teachers in schools that have not met the Adequate Yearly Progress requirements of the No Child Left Behind Act. In the Lower Kuskokwim School District we have several schools that are severely impacted by the amount of jury duty that our teachers are required to perform. From September 1 to December 15, 2003, for example, our payroll records show a total of 107.5 days that our teachers were out of the classroom performing jury duty. The negative impact on student learning is further compounded by the fact that certified substitutes are virtually non-existent in our district and in some cases it is not possible to find subs at all.

Quality instruction is the most important component in meeting the high academic standards brought about by legislation at the state and federal levels. The NCLB act recognizes this with its heavy emphasis on "highly qualified" teachers. HB 353 will help ensure that our highly qualified teachers remain in the classroom where they can help our students reach these standards.

Educating our children is the most important responsibility of the State of Alaska. Teachers have the greatest impact on the quality of education, but only when they are in the classroom. Legislators can help to ensure that teachers stay in the classroom by their support of HB 353.

Sincerely,

A handwritten signature in cursive script that reads "Gary Baldwin". The signature is written in black ink and is positioned above the printed name.

Gary Baldwin

Assistant Superintendent of Personnel and Student Services

**HB 353 – Jury duty exemption for certain teachers
Email comment in support (emphasis added)**

I believe all of our teachers need to be in the classroom to get ready for testing, as none of our substitutes are trained teachers. Out of 11 certified teachers, 5 have already been requested for jury duty, which is close to half, and the year is not over.

Marie Wierema
Lower Kuskokwim School District

Many of my school staff have been called for jury duty, and often, more than one each quarter. I, myself, have been called several times for service in Bethel, and more recently for federal service in Anchorage.

My experience with the Bethel jury service is that it is not possible for teachers to make "real" lesson plans for the duration of their service. The system is set so that one cannot know until 4:30 if jury members need to appear in Bethel the following morning. By the time you get notice that you have to go to Bethel in the evening to be present for an 8:30 jury call, there isn't time to alter one's lesson plans for a substitute. Therefore, teachers tend to write plans for easy to follow activities for a non-certified substitute.

Village teachers are faced with two problems. First, airplanes must fly in the daylight, and during much of the school year there isn't a great deal of that after school is dismissed. By the time a teacher calls in to Bethel and discovers that s/he must fly to Bethel, there is barely time to grab a change of clothes and run to the airport to catch the mail plane. The second issue is that we don't have any people with teaching certificates sitting around the village waiting to be called in as a substitute. When a teacher is out, the best we can manage is to bring in a recent high school graduate who isn't otherwise employed. The students are the ones who suffer from interruption of their learning.

I've always felt that a well-educated population is less likely to commit crimes, and that effective teachers in the classroom contribute to a lower crime rate. Let the teachers teach, and the students learn, and we might not have need for so many trials and juries.

Felicia Griffith-Kleven
Lower Kuskokwim School District

I just finished the three month long stint of jury duty service last month. I can assure you that it did have a negative impact on my students and our school. Partly because I missed many of my classes and partly because of the stress it caused. I never knew until the morning if I would have to fly into Bethel for jury duty or not. Several times the jury was cancelled at the last minute, sometimes before I left the village and sometimes after I arrived in Bethel. Sometimes ice or weather conditions made it impossible to go and all the time I worried that ice or weather conditions would prevent me from returning home if I did make it in. In the end I was never selected to be on a jury.

Franklin A. Cook
Nunapitchuk

I would like to voice my support of the Jury Duty Bill. As the site administrator at Eek School I am very concerned about the impact of having teachers, administrators, and other staff members pulled away from their duties at the school for jury duty. This has a negative impact on our instructional program in terms of student academic growth and achievement.

It is almost impossible to find qualified substitute teachers to fill these vacancies. If we are serious about improving student academic growth and achievement we need to seriously consider exempting school staff (teachers, administrators, aides) from jury duty. It is extremely difficult to run an effective educational program with the constant disruption of having our highly qualified staff members pulled away from their duties.

Daniel Walker
Eek

I am the Director of Special Education for LKSD, which includes 21 village schools and four schools in Bethel and have been in this position for 6 years.

Jury duty has a tremendous impact when a special education teacher or district office special education specialist is called to serve. As you know, special education services are mandated by law. There are times when a student must, by law, be served by a certified special education teacher, not a sub or an aide. When a certified special education teacher is gone, we are out of compliance on some of our students' IEP's. This means that the parents can file a complaint against us with EED or file for due process. Both of these options are extremely costly to the district and stressful to the people involved.

We do the best we can to serve the student appropriately within the law and per their IEP's, but if the certified sp ed teacher or district office specialis is absent for any length of time, then it puts the district into situation of potential liability.

Linae Sanger
Special Education Director
Lower Kuskokwim School District

Serving for one month instead of three would be a great improvement for the teacher and his/her students, but would not eliminate the impact, and it would not in itself reduce the total burden of missing staff serving jury duty. The burden would just be spread around to more teachers and classrooms.

Larry Ctibor, Site Administrator
M.E. Primary School
Lower Kuskokwim School District

HB

364

SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER: Resources

DATE TURNED
IN TO OFFICE: 5/5/04

State Affairs Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 364(O&G)

HB 364 NATURAL GAS LEASES ON THE KENAI PENINSULA

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if there is a breach of a term or condition of the lease; 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#
DNR	3/18/04		✓		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Caudrey</i>			✓	
<i>Bert R. Johnson</i>			✓	
CHAIR: <i>[Signature]</i>				

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSSHB 364(O&G)
 (H) Publish Date: 4/5/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Natural Gas Leases on the Kenai Peninsula RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rep. Seaton
 Requester House Oil and Gas Component No. 439

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(**Indeterminate)					
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 364 would impose a moratorium on shallow natural gas leasing around the Homer area. This bill would foreclose future income from shallow natural gas application fees, rentals, and royalties in the Homer area.

Prepared by: Mark D. Myers Phone 269-8800
 Division: Oil and Gas Date/Time 3/8/04
 Approved by: Thomas Irwin, Commissioner Date 3/8/04
 Agency: Natural Resources

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

SSHB 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sponsor Statement

The Sponsor Substitute for HB 364 (SSHB 364) accomplishes three goals. First, it establishes a moratorium on future shallow natural gas leases (as defined by AS 38.05.177) in the Homer area. Second, it precludes the Commissioner of the Department of Natural Resources (DNR) from reissuing the current shallow natural gas leases in the Homer area if the leases do not produce gas in paying quantities within the terms of the lease (three years) or if there is a breach of contract. Third, SSHB 364 gives the Director of the Oil and Gas Division of DNR criteria to judge the merits of using his/her discretion to extend shallow natural gas leases. The Director would now have to consider the likelihood that extension of the lease would "expedite or lead to shallow natural gas development." This bill would in no way complicate future gas leasing in the Homer area through the Area Wide Lease Sale process, or some other leasing program.

The shallow natural gas leases recently let in the Homer area have created two major problems. First, the public is very concerned about the streamlined process under which these leases were let. The current shallow natural gas program provides for over-the-counter type leases; lacking a best-interest-finding, effective public notice, and regulatory provisions, and also decreasing fees and royalties paid to the state, this program has left local residents critical of the gas development in general.



Second, the gas formation underneath Homer follows the same geologic trend currently supporting the conventional natural gas industry on the Kenai Peninsula. To Homer's immediate north, conventional gas projects are underway in Ninilchik and on the North Fork Road. The industry incentives offered under the shallow natural gas lease program are not necessary to coerce the natural gas industry to the region. Homer was left out of the Cook Inlet Area Wide Lease Sale Program, and thus made available for leases under the Shallow Natural Gas Program, because of a political decision made by a previous administration. There is no geologic or economic reason that the gas in the Homer area should be developed differently than the rest of the Kenai Peninsula.

I ask for your support for this extremely important legislation.

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Home:, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

SPONSOR SUBSTITUTE HOUSE BILL 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sectional Analysis

Section 1 amends AS 38.05.177(a) to exclude "land and water within the Kenai Peninsula Borough east of Cook Inlet and south of the north boundary of Township 5 South, Seward Meridian" from shallow natural gas leasing.

Section 2 amends AS 38.05.177(d) to give the Director of the DNR Division of Oil and Gas discretionary guidelines in making the decision to extend shallow natural gas leases that have not yet produced gas. The Director would now be required to consider the likelihood that extension of the lease will "expedite or lead to shallow natural gas development."

Section 3 amends the uncodified law of the State of Alaska to prohibit the issuance or reissuance of a shallow natural gas lease entered into before the effective date of this Act in the area described in Section 1 of this act, if the lease terminates because of failure to produce under AS 38.05.177(d), as modified by Section 2 of this act, or if part of the lease is relinquished or illegally transferred under AS 38.05.177(h).

Section 4 gives this act an immediate effective date.



Introduced by:	Martin, Moss
Date:	12/16/03
Action:	Adopted
Vote:	6 Yes, 3 No
Action:	Notice of Reconsideration given by Mr. Superman
Action:	Notice of Reconsideration Failed
Vote:	4 Yes, 5 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-129**

A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125 AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, REQUESTING ADDITIONAL PUBLIC NOTICE REQUIREMENTS, AND REQUESTING THAT THE STATE BUY BACK SOUTH PENINSULA SHALLOW GAS LEASES

WHEREAS, in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and

WHEREAS, in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and

WHEREAS, while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and

WHEREAS, Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Commissioner of the Department of Natural Resources ("DNR") the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and

WHEREAS, the local planning authority, including planning commissions, councils and assemblies, are best able to understand and implement the needs of the local community respecting land uses; and

WHEREAS, it is in the state's best interest to develop its natural resources utilizing partnerships between the state, mineral lessees, surface owners and the public to ensure public understanding and involvement, as supported by Governor Murkowski in his November 12, 2003 address to the Alaska Municipal League; and

WHEREAS, HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and

WHEREAS, requiring publication in the local media will significantly improve notice to members of local communities with local media; and

WHEREAS, the Homer community was not given adequate notice of the proposed shallow gas leases, and was not sufficiently made aware of the impact of HB 394 on the process used for issuing shallow gas leases; and

WHEREAS, because processing a lease application may take more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year; and

WHEREAS, at a public meeting held November 10, 2003 in Homer, many residents encouraged the state to buy back the South Peninsula Shallow Gas Leases, and Governor Murkowski preliminarily indicated that he may consider this option after further analysis, if it is feasible and desired by the people, recognizing that any buy back would require legislative approval;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. For all of the above reasons, the Kenai Peninsula Borough Assembly respectfully requests Governor Frank Murkowski and the Alaska State Legislature buy back the South Peninsula Shallow Gas Leases particularly within the Homer Bridge Creek Watershed and other environmentally sensitive areas in the Homer area.


SECTION 2. The Kenai Peninsula Borough urges the Alaska State legislature to significantly amend Alaska Statutes 31.05.125 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 3. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

SECTION 4. That copies of this resolution shall be provided to Governor Frank Murkowski, Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianra Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF DECEMBER, 2003.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

**CITY OF HOMER
HOMER, ALASKA**

Mayor. Ladd.

RESOLUTION 03-147(S)

1 **A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA REGARDING**
2 **LOWER PENINSULA SHALLOW NATURAL GAS LEASES AND COAL BED**
3 **METHANE DEVELOPMENT.**

4
5 **WHEREAS, Leases for Coal Bed Methane (CBM) development in the City of Homer and**
6 **surrounding areas have been approved by the State of Alaska, Division of Oil and Gas, and;**

7
8 **WHEREAS, Notification of said leases by the State of Alaska to the City of Homer has not**
9 **occurred since year 2000 and therefore this community was not given current information in which**
10 **to comment to the State concerning these leases and;**

11
12 **WHEREAS, At a Homer Public Information Meeting, November 10, 2003, the Department**
13 **of Natural Resources, Department of Revenue, Department of Environmental Conservation, and the**
14 **Alaska Oil and Gas Conservation Commission heard a preponderance of public testimony**
15 **questioning the State of Alaska's decision to lease Lower Peninsula coal bed methane sub surface**
16 **land without having provided notification to and timely opportunity for citizen input, and;**

17
18 **WHEREAS, The closed decision-making process utilized by the State of Alaska to lease**
19 **Lower Peninsula coal bed methane land is contrary to widely held beliefs of Homer area residents**
20 **and the City of Homer, and;**

21
22 **WHEREAS, CBM development could severely and adversely impact quality of life as well**
23 **as private and public property including:**

- 24
25 • **the City of Homer water supply that serves approximately 1100 homes and businesses in the**
26 **City via water mains and approximately 450 homes and businesses inside and outside the**
27 **City via water trucks;**
28 • **groundwater vitally important for:**
29 **private water wells,**
30 **health of the general ecology and the local area economics that are heavily dependent**
31 **on a healthy ecology (commercial, sport, charter, guided and subsistence fishing,**
32 **visitor and tourism industries;**
33 **home and land values;**
34 **roads and public safety;**

35
36 **NOW, THEREFORE, BE IT RESOLVED, that the City of Council of Homer, Alaska**
37 **declares that CBM development may not be consistent with the goals of the residential, commercial,**
38 **recreational, and tourism growth of this community and that the potential adverse impacts of CBM**
39 **development may far outweigh the potential benefits; and**

40

41

42 Page Two
43 Resolution 03-147(S)
44 City of Homer
45

46 BE IT FURTHER RESOLVED, that the Homer City Council declares that projects such as
47 natural gas leases and coal bed methane development are very sensitive to local planning and quality
48 of life, and waiving shallow natural gas and CBM developer compliance from local ordinances and
49 regulations based upon HB 69 is contrary to principles of representative government, and;
50

51 BE IT FURTHER RESOLVED, that the Homer City Council requests that the Legislature
52 and the Governor agree to legislation providing the Commissioner of the Department of Natural
53 Resources the authority to buy back the leases, or repurchase leases within the Homer Bridge Creek
54 Watershed including other environmentally sensitive areas within the City, and deny all future
55 applications for CBM development in, or near the City of Homer and surrounding area, and;
56

57 BE IT FURTHER RESOLVED, that the Homer City Council asks that the State of Alaska
58 place a moratorium on any further leasing or permitting of shallow gas leases and CBM activity in
59 the area until the short and long term adverse effects of CBM and shallow gas development shall
60 be studied and properly regulated in Alaska State, and;

61 BE IT FURTHER RESOLVED, that the Homer City Council requests legislators to repeal
62 HB69 so that local governments may properly regulate CBM development within their jurisdictions.

63 PASSED AND ADOPTED by the City Council of Homer, Alaska this 1st day of December,
64 2003.

CITY OF HOMER

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72 ATTEST:

Jack Cushing

JACK CUSHING, MAYOR

Mary L. Calhoun

MARY L. CALHOUN, CMC, CITY CLERK

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80
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82 Fiscal Note: NA

Post-It Fax Note 7071		Date 1/16/04	# of pages 2
To <i>Comison</i>	From <i>Mary Calhoun</i>		
Co/Dept. <i>Urbanowski</i>	Co. <i>Calhoun</i>		
Phone # <i>2 11</i>	Phone #		
Fax # <i>465 3472</i>	Fax #		

83

CITY OF KACHEMAK
KACHEMAK, ALASKA

RESOLUTION 2003-12A

A RESOLUTION OF THE CITY OF KACHEMAK, ALASKA
REGARDING LOWER PENINSULA SHALLOW NATURAL GAS
LEASES AND COAL BED METHANE DEVELOPMENT

WHEREAS, leases for shallow gas or coal bed methane (CBM) development in Kachemak City and the surrounding Homer area have been approved by the State of Alaska, Division of Oil and Gas and;

WHEREAS, notification of said leases was never forwarded by the State of Alaska to Kachemak City, the City of Homer, individual property owners, or announced in either of the local papers and therefore this community was not given adequate notice in which to comment to the State concerning these leases;

WHEREAS, shallow gas or CBM development could severely and adversely impact private and public property including home and land values, groundwater, roads and public safety;

THEREFORE BE IT RESOLVED, that the Kachemak City Council declares that shallow gas or CBM development is inconsistent with the goals of this residential, commercial, recreational and tourism-oriented community and that the potential adverse impacts of natural gas or CBM development would far outweigh any potential benefits and;

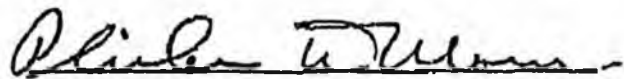
BE IT FURTHER RESOLVED, that Kachemak City requests the Director of the Division of Oil and Gas and all other relevant state agencies to immediately place a moratorium on all permitting activities related to shallow gas or CBM development in, or near, Kachemak City and;

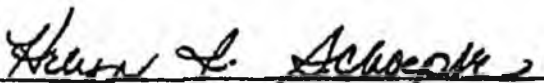
BE IT FURTHER RESOLVED, that Kachemak City requests the Alaska State Legislature to consider buying back the shallow gas leases sold in Kachemak City and the surrounding residential area, and to establish a new shallow gas and CBM program limited to non-residential lands with proper environmental safeguards and citizen participation.

BE IT FURTHER RESOLVED, that Kachemak City directs the Alaska Legislature to repeal HB69 so that local governments may properly regulate shallow gas or CBM development and impacts within their jurisdictions.

ADOPTED BY THE COUNCIL OF THE CITY OF KACHEMAK ON THIS 10th DAY OF December 2003.

CITY OF KACHEMAK


Philemon D. Morris, Mayor


Helyn I. Schoepke, City Clerk



Homer Chamber of Commerce

Post Office Box 541

Homer, Alaska 99603

March 16, 2003

(907) 235-7740

FAX (907) 235-8766

Honorable Paul Seaton
State Capitol
Juneau, AK 99801-1182 via fax 465-3472

Dear Representative Seaton:

The Homer Chamber of Commerce requests your support for legislative reforms to the mineral rights leasing process that would guarantee timely, prior notification of all affected landowners and ensure opportunities for public input. Moreover, we encourage specific legislation to address concerns we have regarding recent Kenai Peninsula coal bed methane lease awards. The Homer Chamber of Commerce supported Governor Murkowski's request for expedited permitting within the Department of Natural Resources. However, we believe there are insufficient safeguards to ensure public participation in the minerals leasing process, generally, and coal bed methane leasing, specifically.


Based on the recent experiences of our members, the Homer Chamber has identified 6 deficiencies within the State's coal bed methane lease procedures that should be addressed:

- **Insufficient Public Notification:** Proposed lease awards were not provided to local municipalities or property owners, nor were lease proposals announced in local media;
- **Insufficient Public Comment:** No mechanism was provided for public input on any proposed leases in advance of their approval;
- **Lack of Governmental Coordination:** No efforts were made to introduce gas development projects to local officials or local government planning bodies;
- **Insufficient Consideration of Local Communities and Values:** No consideration was given to the adverse impacts of gas leases on local property values, groundwater, roads, public safety or natural scenic beauty;
- **Regulatory Confusion:** Conflicting state and local regulation regarding development guidelines; and finally
- **State procedures are not consistent with other industry guidelines that address local concerns.**

As you know, privately held land in Alaska is a scarce commodity. According to the Department of Natural Resources, land in private ownership (other than Native land) comprises less than 1% of Alaska's total landmass. The Homer Chamber of Commerce believes that State officials and State Lawmakers must be more sensitive to local concerns regarding mineral development in these populated areas.

The Homer Chamber of Commerce believes the State must encourage and incorporate local participation on mineral development projects and adopt regulations that adequately address the concerns noted above.

Sincerely,


Julie F. Woodworth, President

cc: Governor Murkowski



Coastal Realty

Annie Whitney
Associate Broker

March 17, 2004

To Whom It May Concern:

I am writing this letter to express my recent professional experience in regards to the local Coal Bed Methane Lease issue. Because of the leases that were activated without public notice or input and the ensuing controversy, the market for raw land, in my opinion, has been compromised.

I have personally experienced a solid buyer (an investor who had purchased property through me in the past) who decided against several purchases when she found out they were in an area where the subsurface rights had been leased. I also have clients who purchased a property through me last summer call me and express grave concern and alarm because they had just found out that the property they had purchased off East End Road was part of the lease. They had anticipated moving their young family to this property to enjoy a quiet and rural lifestyle not available to them in southern Massachusetts. They are now discussing changing their plans and selling their property. However, the threat, now, of not being able to resell and recoup their losses is very real, since more and more buyers are refusing to purchase properties impacted by these leases.

In my opinion this was a VERY ill-advised decision made within the State of Alaska bureaucracy and it is impacting me personally and my personal ability to do business, as well as impacting property values and the ability of owners to sell their property.

Thank you for your attention to this matter.

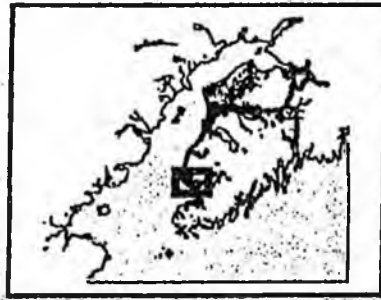
Sincerely,

Anne C. Whitney
Associate Broker

anniew@xyz.net
203 W. Pioneer Avenue #1
Homer, Alaska 99603

www.anniesrealestate.com
(907) 235-7700
fax: (907) 235-1216

Anchor Point



Location of detail



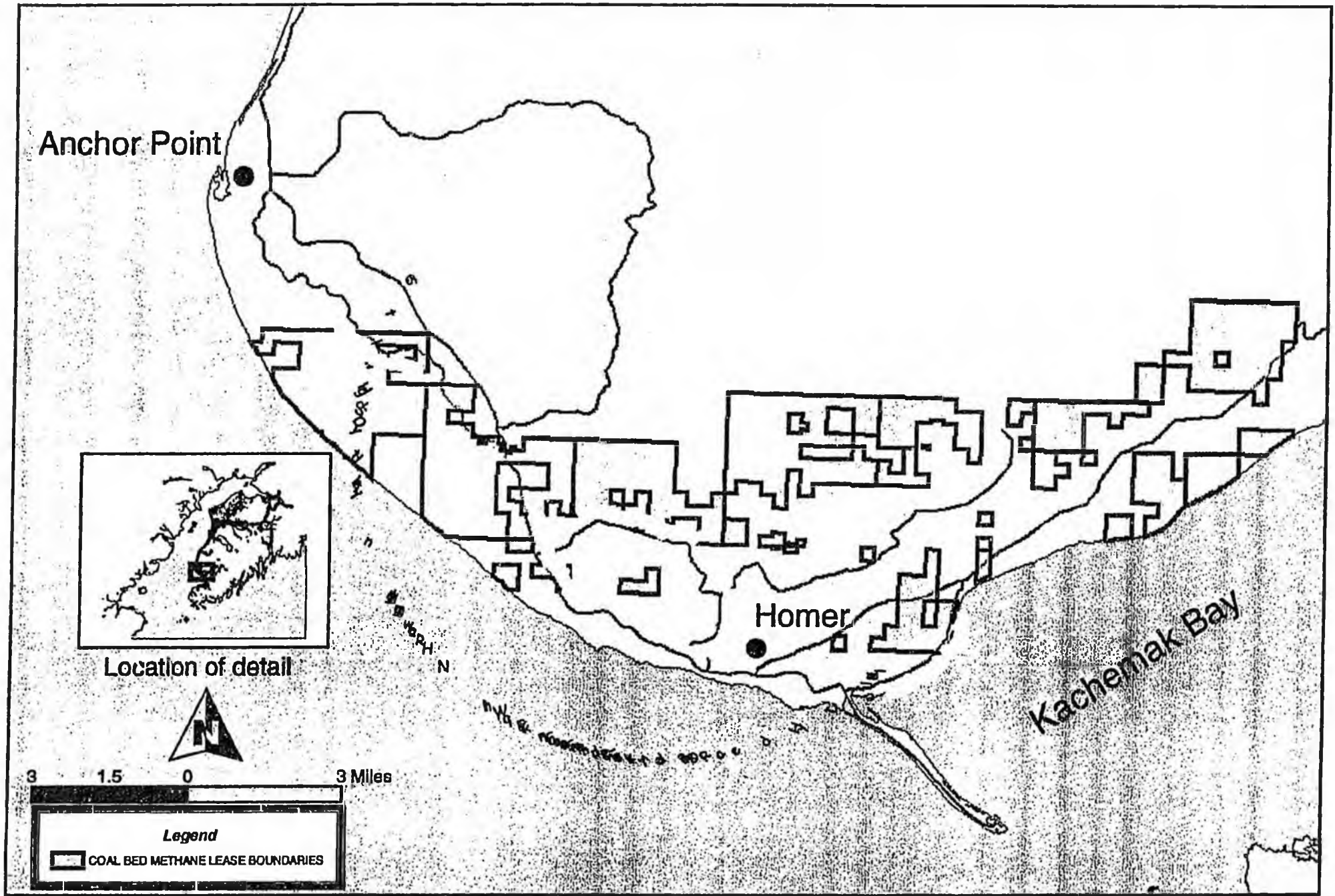
3 1.5 0 3 Miles

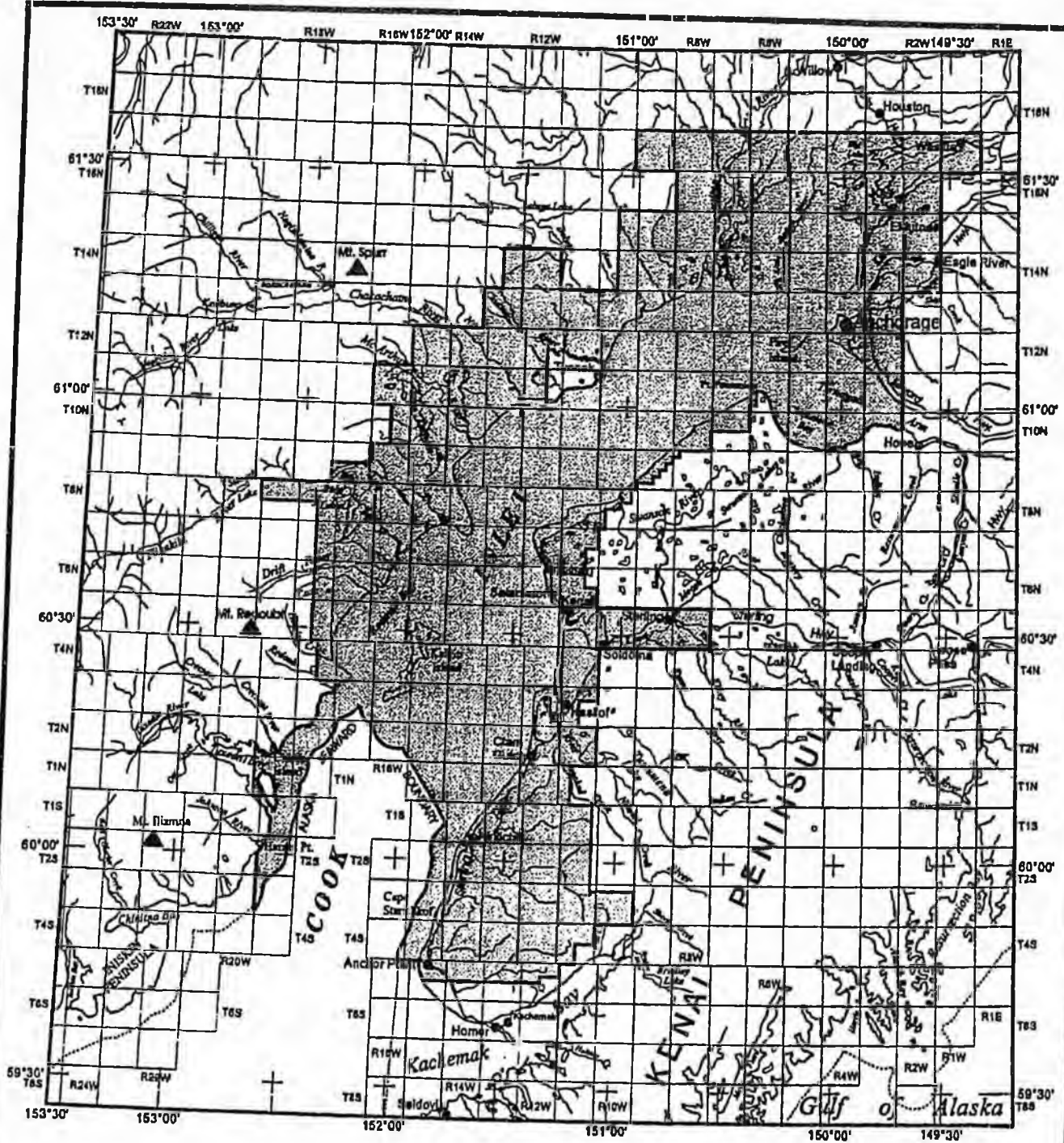
Legend

COAL BED METHANE LEASE BOUNDARIES

Homer

Kachemak Bay

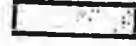




STATE OF ALASKA
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL AND GAS

COOK INLET AREAWIDE

Proposed Sale Area



SCALE 1:1,425,000 ONE INCH EQUALS 22.5 MILES APPROX.
 20 40 60 80 MILES

HB

366

SENATE COMMITTEE REPORT

DATE: 04/28/04

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/2/04

State Affairs Committee considered CS FOR HOUSE BILL NO. 366(FIN)

HB 366 ANIMAL CLASSICS CHARITABLE GAMING

"An Act relating to animal classic charitable gaming; 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#
DOR	1/28/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Carlsberg</i>	✓			
<i>Robert J. ...</i>	✓			
<i>Richard ...</i>	✓			
CHAIR <i>[Signature]</i>				

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 366
 (H) Publish Date: 2/5/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Rat Racing Charitable Gaming RDU Revenue Programs & Services
 Component Tax Division
 Sponsor Representative Stoltze
 Requester House State Affairs Component No. 2476

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						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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 formalizes in statute, a gaming activity that has been a long established practice in the Mat-Su valley.

This legislation will not result in additional revenues or costs to the department.

Prepared by: Larry Meyers and Jeffrey Prather Phone 907 269 6620
 Division Tax Division Date/Time 1/28/04 5:46 PM
 Approved by: Steve Porter, Deputy Commissioner Date 1/28/2004
 Agency Department of Revenue

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for;
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

Interim:
PO Box 464
Chugiak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 366

"An act relating to animal classic charitable gaming"

SPONSOR STATEMENT

Two years ago, the Attorney General issued a legal opinion stating certain traditional "games of chance" were illegal under current statute. This ruling included games like the Alaska State Fair Elks Rat Races and the Soldotna Progress Days VFW Chicken Sh*t Contest.

House Bill 366, an act relating to animal classic charitable gaming, was introduced to allow these games and permit them to continue. It is a very narrow subject and does not expand charitable gaming in Alaska. This bill allows games that have traditionally been in operation. HB 366 is only to protect these traditional games of chance which is strongly supported by many Alaskans and the charity organizations that rely on the funds raised by these events.

These two events have become an integral part of their communities. I greatly appreciate your consideration and hopefully your support to allow these events to continue to aide the charities in their communities.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK



VETERANS OF FOREIGN WARS OF THE U.S.
JERRY V. HORN MEMORIAL NO. 10046
134 North Birch Street
Soldotna, Alaska 99669
Phone (907) 262-2722
Fax (907) 262-2762

TO: SEN. TOM WAGGONER

RE: ANIMAL CLASSICS HOUSE BILL 366

DEAR SEN. WAGGONER,

THIS HOUSE BILL IS OF GREAT IMPORTANCE TO SOLDOTNA VFW POST #10046. WE HAVE HAD A CHICKEN SH*T CONTEST AT THE VFW IN SOLDOTNA SINCE 1990 AS PART OF SOLDOTNA PROGRESS DAYS CELEBRATION. WE HOLD AN "OPEN HOUSE" FOR THE COMMUNITY WHICH INCLUDES OUR COLOR GUARD PARTICIPATION IN THE COMMUNITY PARADE, BBQ (CHICKEN, OF COURSE), LIVE MUSIC AND THE CHICKEN SH*T CONTEST. WE PURCHASE SPECIAL T-SHIRTS (LOCAL BUSINESS) & SELL SPECIAL T-SHIRTS FOR THIS EVENT. WE HAVE THE LARGEST TURN-OUT OF THE YEAR FOR THIS EVENT.

THE MONEY GENERATED FROM THE CONTEST GOES TO OUR COMMUNITY CHARITY PROGRAMS. THIS INCLUDES LOCAL FOOD BANK, VETERAN SUPPORT PROGRAMS, SCHOLARSHIP PROGRAMS FOR LOCAL SCHOOLS, ETC.

WE AT VFW POST 10046 ENCOURAGE OUR REPS. TO HEAR HB 366 AND MOVE IT OUT OF COMMITTEE.

SINCERELY,

**CHUCK RHODES
COMMANDER
VFW POST 10046**

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



26 January 2004

Rep. Bill Stoltz
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Stoltz:

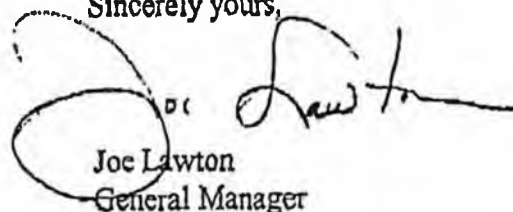
This letter is in support of your efforts to retain the ability of local charitable organizations to continue their efforts at our annual State Fair.

Our local Elks (B.P.O.E.) Club has run a "Rat Race" on our grounds at least fifty years by my memory, and perhaps considerably longer. It is one of several Games of Chance at our event that allows organizations to raise money for worthy causes. The operators of these attractions invariably donate their time to help their organization maximize the use of their gift.

The Rat Race is an innocuous attraction at the Fair. Several years ago, to better "theme" our layout, we relocated it closer to the bulk of the Fair's Games, and away from its isolated position on a main walkway. However, incidents and complaints about the Game are and always have been virtually absent. It is difficult to imagine any reason why it should not continue to be a part of the flavor of our Fair.

I applaud your efforts to guarantee the ability of the Elks Club to raise this money for charity, and may be called upon for additional information.

Sincerely yours,



Joe Lawton
General Manager

A FRATERNAL ORGANIZATION



Palmer Lodge No. 1842

BENEVOLENT AND PROTECTIVE ORDER OF ELKS

January 28, 2004

Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801

Attention: Representative Bill Stoltze, Alaska State Legislature

Reference: Palmer Elks Lodge Rat Race and House Bill 366

Dear Representative Stoltze:

This letter is written to provide the legislature with information and strong support from the Palmer Elks Lodge for House Bill 366. We received your letter dated January 13, 2004, regarding the introduction of HB 366 and your efforts to document the long historical precedence of the Elks Rat Race at the Alaska State Fair. Thank you very much for your efforts and your support of this very important Elks' fund raising activity.

The Palmer Elks Lodge has over 760 members. In a ballot of the membership there is unanimous support for the Rat Race and its annual continuance at the Alaska State Fair. The lodge officers both past and present support the Rat Race unanimously. As you know all of the monies that are raised by the Rat Race are funneled into the Elks Scholarship Fund. The scholarships are awarded annually to worthy students pursuing further education. The high schools help us select worthy candidates. The Palmer Elks Lodge annually awards about \$20,000 in scholarships.

Please use this letter to convey to the legislature, the strong support and adamant need the Palmer Elks Lodge has for the passage of House Bill 366. We plan to have as many people available as time allows to provide testimony via the telephone conference hearing planned for Thursday, January 29, 2004.

2600 N. Barry's Resort Drive
Phone: 745-3950

Wasilla, Alaska 99654
Fax: 745-3960

1/28/04 Page 2 of 2

Subject: Palmer Elks Lodge Rat Race and House Bill 366

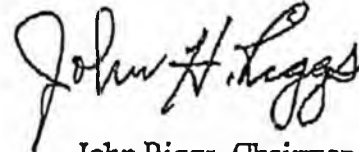
If there is anything else that the Lodge can do to support your efforts, please advise us at your earliest convenience. Once again, on behalf of the lodge members and our scholarship recipients we sincerely thank you for your efforts to save the Rat Race.

Sincerely,



Scott Pillars, Exalted Ruler
Palmer Elks Lodge No. 1842

Sincerely,



John Riggs, Chairman
Board of Trustees

2600 N. Barry's Resort Drive
Phone: 745-3950

Wasilla, Alaska 99654
Fax: 745-3960

General Affidavit under Oath

I, Maurice R. Pelletier ("Declarant"), am a resident of
Palmer, County of Mat-Su Borough, State of
Alaska, and do hereby certify, swear or affirm, and
declare that I am competent to give the following declaration based on my personal
knowledge, unless otherwise stated, and that the following facts and things are true and
correct to the best of my knowledge (*insert facts*):

This affidavit is to certify
That I worked the Palmer Elks Lodge #
1842 rat race in 1956 and many years
after at the Alaska Fair held in Palmer.

WITNESS my signature this 14th day of Feb. 2004 (year and month).

Maurice R Pelletier
Signature of Declarant

Witness:
Marilyn Grasser

HB

373

SENATE COMMITTEE REPORT

DATE: 2/11/04

FURTHER:

DATE TURNED IN TO OFFICE: 5/2/04

State Affairs Committee considered HOUSE BILL NO. 373

HB 373 STATE TREASURY WARRANTS

"An Act requiring warrants drawn by the Department of Administration against the state treasury to be negotiable instruments."

and recommends:

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

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<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	Zero	Indet.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
DOR/DOR	12/1/04		✓		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Conroy</i>	✓			
<i>Robert R. Anderson</i>	✓			
<i>Richard L. Hines</i>			✓	
CHAIR: <i>[Signature]</i>	x			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 373
(H) Publish Date: 1/21/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration / Revenue
Title An Act requiring warrants issued by BRU Various
the state to be negotiable Component Various
Sponsor House State Affairs
Requester House State Affairs 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

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 statute change codifies in law a 1992 ruling by the Alaska Supreme Court (National Bank of Alaska vs. Univentures and the State of Alaska, Department of Administration, file #S-4087) that reversed a Superior Court ruling on the negotiability of warrants issued by the state. The Supreme Court held that state warrants are negotiable instruments subject to the UCC rules governing holders in due course.

Since that Supreme Court decision, the state has administered its warrants as negotiable instruments, so no administrative changes are necessary if this legislation passes. I will simply codify in statute the ruling of the Supreme Court

Prepared by: Kim Garner, Director Phone 465-3435
Division: Division of Finance Date/Time 1/21/04 9:14 a.m.
Approved by: Mike Miller, Commissioner Date 1/21/2004
Agency: Administration

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

STATE AFFAIRS COMMITTEE

Sponsor Statement

HB 373

Requiring state treasury warrants to be negotiable instruments.

House Bill 373 continues the committee's work last session on House Bill 109—State Dated Warrants. It clarifies existing statutes governing state treasury warrants by providing that warrants, like bank checks, are negotiable instruments under the Uniform Commercial Code.

During the 1980s, there was a long-standing dispute between commercial banks and the State of Alaska regarding the negotiability of state treasury warrants. This dispute was ultimately resolved by the Alaska Supreme Court in National Bank of Alaska v. Univentures 1231, 824 P.2d 1377 (Alaska 1992), which held that state treasury warrants were negotiable instruments under the Uniform Commercial Code and were therefore subject to the "holder in due course" defense. This was an important protection for businesses with financial dealings with the State. Although the Division of Finance amended its business practices to comply with the Supreme Court ruling, Alaska statutes have never been amended to incorporate this holding. HB 373 simply codifies the holding the National Bank of Alaska v. Univentures 1231.

The State Affairs Committee is introducing this legislation in order to clarify Alaska statutes and continue the modernization of the state treasury warrant system.

Contact: Teri Tibbett
465-4940

Released: January 15, 2004

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA 99801

(907) 465-3744
FAX (907) 465-2273

STATE AFFAIRS COMMITTEE

Sectional Analysis

HB 373

Requiring state treasury warrants to be negotiable instruments.

Section 1. Payment of warrants.

Adds language that clarifies the nature of a warrant issued by the Department of Administration against the state treasury. The language originates in a 1992 Supreme Court decision, *National Bank v. Univentures*, and it states that state treasury warrants (those things that we think of as "checks") constitute a negotiable instrument, and they must be paid according to the terms of the Uniform Commercial Code § 3-104(1)(b).

Adds language stating that "negotiable instrument" has the meaning given in AS 45.03.104(a).

Title 45 TRADE AND COMMERCE
Chapter 45.03 NEGOTIABLE INSTRUMENTS

Sec. 45.03.104. Negotiable instrument.

(a) Except as provided in (c) - (d) of this section, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if the unconditional promise or order

- (1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
- (2) is payable on demand or at a definite time; and
- (3) does not state any other undertaking or instruction by the person promising or ordering payment to do an act in addition to the payment of money, but the promise or order may contain an undertaking or power to give, maintain, or protect collateral to secure payment, an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or a waiver of the benefit of a law intended for the advantage or protection of an obligor.

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 (907) 274-7686 fax 274-9493
 e-mail: jimgotts@touchngo.com

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You can do a full-text search of the Alaska Supreme Court opinions or go to the recent opinions, or the chronological or subject indices.

National Bank of AK v. Univentures 1231 (1/24/92), 824 P 2d 1377

Notice: This is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

NATIONAL BANK OF ALASKA,)	
National Banking Association,)	Supreme Court File No.
)	S-4087
Appellants,)	Superior Court File No.
)	3AN-88-278 Civil
)	
v.)	O P I N I O N
)	
UNIVENTURES 1231 and STATE OF)	
ALASKA, DEPARTMENT OF)	
ADMINISTRATION,)	
)	
Appellees.)	[No. 3799 - January 24, 1992]
)	

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, J. Justin Ripley, Judge.

Appearances: David Floerchinger and Deirdre D. Ford, Staley, DeLisio, Cook & Sherry, Inc., Anchorage, for Appellants. Sally J. Kucko and Rick L. Owen, Groh, Eggers & Price, Anchorage, for Appellees Univentures 1231. Jeffrey W. Bush, Assistant Attorney General, and Charles E. Cole, Attorney General, Juneau, for Appellee State of Alaska, Department of Administration.

Before: Rabinowitz, Chief Justice,
Burke, Matthews, Compton and Moore, Justices.

MOORE, Justice.

National Bank of Alaska (NBA) brought an action against the State of Alaska, Univentures 1231 (Univentures), Charles D. LeViege, and Lee D. Garcia to recover the amount which NBA paid on a warrant issued by the state. The superior court held that the warrant is not a negotiable instrument under the Uniform Commercial Code as enacted in Alaska, and that NBA therefore could not recover as a holder in due course under the code. NBA appeals. The sole issue on appeal is whether the superior court was correct in finding that the state treasury warrant is a non-negotiable instrument under Article III of the Uniform Commercial Code. We reverse.

I.

The State of Alaska is a tenant in a large office building which is owned by Univentures. On November 24, 1987, the state made a lease payment of \$28,143.47 to Univentures with state treasury warrant No. 21045102. Charles LeViege, the managing partner of Univentures, assigned the warrant on behalf of Univentures to Lee Garcia.

As a result of a dispute which arose among the partners of Univentures, the state was notified on November 25, 1987 that it should no longer pay Charles LeViege the monthly rent due the partnership. The state was directed to hold the rent in abeyance pending the naming of a court-appointed receiver. On November 27, 1987, the state treasury placed a stop-payment order on warrant No. 21045102.

Garcia presented the warrant to NBA, the state's clearing bank, on November 30, 1987. NBA paid Garcia \$28,143.47 on the warrant but did not debit the state's account because of the stop-payment order. On January 14, 1988, NBA filed an action

against the State of Alaska, Charles LeViege, and Lee Garcia, to recover the sum of \$28,143.47 which NBA had paid to Lee Garcia in exchange for the warrant. The state deposited an equivalent sum with the court and moved to join Univentures as a party. Samuel and Catherine LeViege answered on behalf of Univentures.

NBA moved for summary judgment claiming that it is a holder in due course under AS 45.03.302(a). NBA argued that the warrant is a negotiable instrument and that it paid the warrant in good faith, without knowledge of facts which would indicate the instrument may not be payable as its terms provide. As such, NBA maintained that it took the warrant free from the defenses presented by Univentures and the state. The state and Univentures opposed NBA's motion, arguing that NBA is not a holder in due course because the warrant is not a negotiable instrument, and because NBA had notice of the stop-payment order when it paid Garcia on the warrant. Univentures filed a cross-motion for summary judgment.

The superior court granted Univentures' cross-motion for summary judgment and denied NBA's motion for summary judgment. Judge Ripley, in ruling for Univentures, specifically found that the warrant is not a negotiable instrument and that NBA therefore is not a holder in due course. Pursuant to the parties' stipulation, \$16,000.00 of the money deposited with the court was immediately disbursed to Univentures and NBA in equal amounts. The court ordered that the remaining \$12,143.47 be held by the court pending appeal of the court's determination that the warrant is not negotiable. This appeal followed.

II.

Article III of the Uniform Commercial Code provides that the holder in due course of an instrument takes the instrument free of all but a very limited class of defenses that the original payor might have against the original payee. AS

45.03.305.1 The code defines a holder in due course as one who takes a negotiable instrument for value, in good faith, and "without notice that [the instrument] is overdue or has been dishonored or of any defense against or claim to it on the part of any person." AS 45.03.302(a). If a holder of an instrument is not a holder in due course, the holder takes the instrument subject to all valid claims to the instrument, as well as subject to several classes of defenses. AS 45.03.306.2

The superior court held that NBA was not a holder in due course because the state treasury warrant involved is not a negotiable instrument to which the Uniform Commercial Code applies.³ As a result, the superior court concluded that NBA took the warrant subject to the state's defense that it had issued a valid stop-payment order pursuant to AS 45.04.403(a).⁴ NBA argues that the warrant is a negotiable instrument, and that NBA is therefore a holder in due course. Whether the warrant is a negotiable instrument is a question of law, which we examine de novo. See *Hicklin v. Orbeck*, 565 P.2d 159, 163 n.6 (Alaska 1977) rev'd on other grounds, 437 U.S. 518 (1978).

Alaska Statute 45.03.104(a) provides that for a writing to be a negotiable instrument it must:

- (1) be signed by the maker or drawer;
- (2) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation, or power given by the maker or drawer except as authorized by this chapter;
- (3) be payable on demand or at a definite time, and
- (4) be payable to order or to bearer.

Alaska Statute 45.01.102(a) provides that the Code is to be "liberally construed and applied to promote the underlying purposes and policies." The underlying purposes and policies of the Uniform Commercial Code are:

- (1) to simplify, clarify, and modernize the law governing commercial transactions;
- (2) to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties;

(3) to make uniform the law among the various jurisdictions.

AS 45.01.102(b).

Warrant No. 21045102 satisfies all four elements of the definition of a negotiable instrument. First, the warrant is signed by the maker, Governor Steve Cowper. Second, the warrant contains an unconditional promise or order to pay a sum certain of \$28,143.47. A promise or order otherwise unconditional is not made conditional by the fact that the instrument is limited to payment out of a particular fund if the instrument is issued by a government or governmental agency or unit. AS 45.03.105(a)(7). Third, the warrant is payable at a definite time. Although the warrant states that it "will be deemed paid unless redeemed within two years after the date of issue," AS 45.03.109 provides that an instrument is payable at a definite time if by its terms it is payable on or before a stated date. AS 45.03.109(a)(1). Finally, the warrant clearly indicates that it is payable to the order of Univentures. An "instrument is payable to order if by its terms it is payable to the order or assigns of a person specified in the instrument with reasonable certainty." AS 45.03.110(a). Because the warrant meets the statutory definition in AS 45.03.104, we hold that the warrant is a negotiable instrument.⁵

The purposes for which the Uniform Commercial Code was enacted support the conclusion that warrants which satisfy the statutory definition of negotiability must be deemed negotiable. Univentures claims that state warrants should be deemed non-negotiable because the state must retain its rights to assert the defenses of a maker in order to maintain and protect its fiscal policies, practices, and procedures. This argument is directly contrary to the Code's policy of promoting commercial transactions by allowing a party to ascertain the negotiability of an instrument from its face. 5 R. Anderson, Uniform Commercial Code, 3-104:4 (1984) ("The whole idea of the

facilitation of easy transfer of notes and instruments requires that a transferee be able to trust what the instrument says, and be able to determine the validity of the note and its negotiability from the language in the note itself. To carve out an exception to the statutory definition of negotiability would jeopardize Article III's purposes of clarifying and modernizing commercial transactions by allowing reliance on written instruments. The transferee of an instrument must be able to rely on the negotiability of the instrument as evidenced by the instrument's terms, so that the transaction is not stalled while the transferee verifies its rights on the instrument.⁶

No Alaska case law addresses the issue of whether a state treasury warrant constitutes a negotiable instrument. Prior to the enactment of the Uniform Commercial Code, warrants issued by states, local governments, and municipalities were almost universally deemed non-negotiable. See, e.g., *Negotiability of County, Municipal, School, State, or Town Warrants*, 36 A.L.R. 949, 949 (1925); *Hamilton Nat'l Bank v. Pool*, 144 S.W.2d 670, 671 (Tex. App. 1940); *State v. Liberty Nat'l Bank & Trust Co.*, 414 P.2d 281, 283 (Okla. 1966). The drafters of the Uniform Commercial Code apparently intended to change this body of law, however, as evidenced by the Official Code Comment to 3-105. 5 R. Anderson, *Uniform Commercial Code*, 3-105:1, at 228 (1984) ("[Section 3-105(1)(g)] will permit some municipal warrants to be negotiable if they are in proper form.")⁷

Those courts which have considered the negotiability of government warrants have generally found those warrants to be negotiable so long as they satisfy the Code's requirements. The Louisiana Court of Appeals held that a warrant issued by a levee district to pay a construction company was a negotiable instrument. *St. James Bank & Trust Co. v. Board of Comm'rs*, 354 So. 2d 233 (La. App. 1978). The construction company in that case had negotiated the warrant to a bank. After the levee's Board of Commissioners stopped payment on the warrant, the

warrant was returned to the bank unpaid. The court found that the warrant was a negotiable instrument because it satisfied the requirements of 10:3-104 of the Louisiana statutes. That section is identical to AS 45.03.104. Id. at 234.

Similarly, the Supreme Court of Nebraska held that a warrant issued by a county sanitary and improvement district was a negotiable instrument. Sanitary & Improvement Dist. v. Continental Western, 343 N.W.2d 314 (Neb. 1983). In that case, the sanitary and improvement district which had issued capital and improvement warrants sought a judicial declaration of the invalidity of the warrants. After examining the warrants in light of 3-104 of the Nebraska Uniform Commercial Code, which is almost identical to AS 45.03.104, the Supreme Court of Nebraska held that they were negotiable instruments.

We are mindful of a 1987 attorney general opinion which concluded that state treasury warrants are not negotiable. While attorney general opinions are entitled to some deference in matters of statutory construction, they are not always correct.⁸ In this instance we are unconvinced by the attorney general's opinion. It fails to consult the language and policies of the Uniform Commercial Code, and it relies mainly on cases examining the negotiability of warrants arising prior to the enactment of the Uniform Commercial Code.

The decision of the superior court is REVERSED. The \$12,143.47 on deposit with the court is awarded to NBA.⁹

1. AS 45.03.305 provides:

To the extent that a holder is a holder in due course the holder takes the instrument free from

(1) all claims to it on the part of any person; and

(2) all defenses of any party to the instrument with whom the holder has not dealt except

(A) infancy, to the extent that it is a defense to a simple contract;

(B) such other incapacity, or duress, or illegality of the transaction as renders the obligation of the party a nullity;

(C) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms;

(D) discharge in solvency proceedings; and

(E) any other discharge of which the holder has notice when the holder takes the instrument.

2. AS 45.03.306 provides:

Unless the person has the rights of a holder in due course, a person takes the instrument subject to

(1) all valid claims to it on the part of any person;

(2) all defenses of a party which would be available in an action on a simple contract;

(3) the defenses of want or failure of consideration, nonperformance of a condition precedent, nondelivery, or delivery for a special purpose (AS 45.03.408); and

(4) the defense that the person or a person through whom the person holds the instrument acquired it by theft, or that payment or satisfaction to the holder would be inconsistent with the terms of a restrictive endorsement; the claim of a third person to the instrument is not otherwise available as a defense to a party liable on the instrument unless the third person personally defends the action for the party.

3. Univentures argued in its cross-motion for summary judgment that even if the warrant is a negotiable instrument, NBA is not a holder in due course because NBA had notice of the stop-payment order when it paid Garcia on the warrant. Univentures claimed that NBA was given notice of the stop-payment order on November 27, 1987, in its role as the clearing bank for state treasury warrants. The superior court apparently found that NBA did not have knowledge of the stop-payment order when it accepted the warrant, for the final judgment provides that NBA is entitled to the funds on deposit with the court if this court determines warrant No. 21045102 is a negotiable instrument. We do not consider whether NBA had knowledge of the stop-payment order, for that issue is not a stated point on appeal, and was not briefed by either party.

4. AS 45.04.403(a) provides:

A customer may, by order to the bank, stop payment of an item payable for the customer's account, but the order must be received at a time and in a manner which afford the bank a reasonable opportunity to act on it before an action by the bank with respect to the item described in AS 45.04.03.

5. AS 45.03.104(b) classifies certain writings which satisfy the definition of "negotiable instrument" as drafts, checks, certificates of deposit, and notes. We reject the state's argument that an instrument must fit within one of these

categories before it can qualify as a negotiable instrument. Negotiability is determined by the four-pronged test of AS 45.03.104, not by the name affixed to a particular writing. If it were necessary to categorize the warrant at issue in this case, it would be a draft. An instrument is a draft if it is an order. AS 45.03.104(b)(1).

6. If the state truly believes that the non-negotiability of treasury warrants is essential to maintain and protect its fiscal policies, the state could make its warrants non-negotiable simply by printing "non-negotiable" on the face of the warrants.

7. All of the cases cited by Univentures and the state are distinguishable from the present case for the reason that all were based upon the "law merchant" which has now been replaced in Alaska by the Uniform Commercial Code. See Prince v. LeVan, 486 P.2d 959, 962 (Alaska 1971) ("By legislative declaration the code is the law, and if general principles appear inconsistent, they must be considered displaced under [this section]. Moreover, even where inconsistency does not exist, the code must be regarded as supreme; general principles even when consistent with the code are merely supplementary.")

8. Carney v. State Board of Fisheries, 785 P.2d 544, 548 (Alaska 1990) ("Opinions of the attorney general, while not controlling on matters of statutory interpretation, are entitled to some deference."); Girves v. Kenai Peninsula Borough, 536 P.2d 1221, 1225 (Alaska 1975) ("We hold that the 1962 Attorney General's opinion is in error insofar as it concludes that the territorial government of Alaska had no power to accept the right-of-way granted in 43 U.S.C. 932 (1964).")

9. NBA and Univentures stipulated that if we reverse the superior court's determination that the warrant is not a negotiable instrument, Univentures waives all other claims to the interpled money against NBA and the state, including the claim that NBA was not a holder in due course of the instrument.

HB

378

SENATE COMMITTEE REPORT

DATE: 04/6/04

FURTHER: Judiciary
Finance

DATE TURNED IN TO OFFICE: 4/21/04

State Affairs Committee considered HOUSE BILL NO. 378

HB 378 FOOD, DRUGS, COSMETICS, CERTAIN DEVICES

"An Act relating to the Alaska Food, Drug, and Cosmetic Act, including sales, advertising, certain devices, food donors, and food banks; making certain violations of organic food provisions and of the Alaska Food, Drug, and Cosmetic Act unfair methods of competition and unfair or deceptive acts or practices under certain of the state's unfair trade practices and consumer protection laws; 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:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<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#
Law	2/2/04			✓	1
DEC	1/14/04	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John J. Coakley</i>	✓			
<i>Bob H. Hesterman</i>			x	
CHAIR: <i>[Signature]</i>			T	

in STA The

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
HOUSE BILL 378 FACT SHEET

WHY

- Regulation of sanitary practices in food handling is one of the core duties of government assigned to DEC by the Legislature in Title 44.
- HB 378 proposes several amendments to Title 17, Chapter 20 of the Alaska Food, Drug and Cosmetic Act. This Act enables DEC to carry out the responsibilities assigned in Title 44.
- HB 378 is a response to legislative intent delivered to the Administration with the FY 2002 budget for DEC. The Legislature told the Department it would not continue to fund the old system of restaurant inspections. DEC would have to find a better way to protect food sold in restaurants.
- DEC already has broad statutory powers to issue orders, regulations, permits and closures.
- The Cabaret, Hotel, Restaurant and Retailers Association (CHARR) has endorsed DEC's new approach. DEC will work closely with industry while developing the regulations to implement the new program.

WHAT

- HB 378 adds training, testing and certification - these are regulatory tools that have worked well in other States and other industries, such as commercial driving and alcohol servers (Tam cards).
- HB 378 also adds civil fine authority for food safety violations, bringing the food industry into alignment with other regulated industries.
- HB 378 adds labeling and advertising violations of AS 17.20 to the list of violations that can be enforced through the unfair trade practices act.
- HB 378 clarifies that violations of AS 17.06, Sale of Organic Foods, are also violations under AS 45.50.471-45.50.561 (unfair trade practices).

FISCAL IMPACT

- 210.7 First year and 128.9 following years, ALL RECEIPT SUPPORT SERVICES.
- DEC proposes to charge \$10 for each food handler test which will be valid for 3 years.

FN - will be self-supporting.
Contact: Kristin Ryan, Director - 907-269-7644

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 378
 (H) Publish Date: 2/9/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the Alaska Food, Drug, and Cosmetic Act, including sales, advertising..." RDU Civil
 Component Environmental
 Sponsor House Finance
 Requester House Health, Education and Social Services 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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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 bill amends AS 17.20.005 by adding a requirement that training, testing and certification be required for individuals who handle or prepare food, their supervisors, and their employers to ensure knowledge of food safety and sanitation. It also broadens the potential penalties and fines that may be imposed on anyone who violates one of the prohibited acts under the Food, Drug and Cosmetics Act but provides certain exceptions, under certain circumstances for disseminators of false advertising, and for donors of food to a food bank and to food banks themselves. The bill also gives concurrent jurisdiction to the Attorney General to act against violators of this revised statute.

Passage of this legislation will have a negligible fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughettee, Director Phone 465-3673
 Division: Administrative Services Date/Time 2/2/04 1:13 PM
 Approved by: Kathryn Daughettee for Gregg D. Renkes, Attorney General Date 2/2/2004
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 378
 (H) Publish Date: 2/9/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title An Act Relating to Food, Drug and Cosmetics RDU Environmental Health
 Component Food Safety, and Sanitation
 Sponsor Representative Bill Williams
 Requester House HESS Committee Component No. 2343

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	106.7	106.7	106.7	106.7	106.7	106.7
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual	13.2	13.2	13.2	13.2	13.2	13.2
Supplies	72.0	2.0	2.0	2.0	2.0	2.0
Equipment	13.8	2.0	2.0	2.0	2.0	2.0
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
TOTAL OPERATING	210.7	128.9	128.9	128.9	128.9	128.9

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

CHANGE IN REVENUES (1005/1156)	80.0	157.0	77.0	157.0	157.0	77.0
--	-------------	--------------	-------------	--------------	--------------	-------------

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
1156 Receipt Supported Services	210.7	128.9	128.9	128.9	128.9	128.9
TOTAL	210.7	128.9	128.9	128.9	128.9	128.9

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	2	2	2	2	2	2
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Kristin Ryan, Director Phone 269-7645
 Division Division of Environmental Health Date/Time 1/14/04 12:00 AM
 Approved by: Kurt Fredriksson, Deputy Commissioner Date 1/14/2004
 Agency Department of Environmental Conservation

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 378

ANALYSIS

This bill authorizes the department to implement key elements of the new food safety program called - Active Managerial Control (AMC). This includes certification requirements for food service managers, separate food worker certification and testing, and authority to issue civil fines.

REVENUES

Food Worker Certification: Regulations will be implemented that require food workers to pass an exam administered by the department. A \$10.00 fee will be assessed for a three-year certification with a \$10.00 fee for each re-certification. There are approximately 16,000 food workers employed in the state.

- FY2005 – Half of the food workers will be certified in the first year of implementation producing \$80.0 in receipts. (There is a one-year grace period in effect that extends into FY2006).
- FY2006 – The other half of food workers will be certified plus 45% in new certifications representing estimated industry turnover for seasonal workers generating revenue estimated at \$152.0.
- FY2007 – Third year revenue is from turnover certification only.

Revenues continue in this pattern with a three-year re-certification cycle.

Civil Fines: Revenue projections include a minimal amount for civil fines at a rate of \$5.0 per year. The department will impose fines for failure to comply with the food safety system requirements or repeat or serious food safety violations. Food establishments will have a one year grace period for the necessary training and to implement the AMC system. Revenue from fines will not begin until after the grace period has expired (FY2006 or later) and are, at this point, difficult to estimate.

OPERATING COSTS

Personal Services: An Environmental Health Technician, will track compliance, deposit payments, issue certifications, and distribute training materials. An Environmental Health Officer will supervise Train-the-Trainer instruction on the requirements for food worker training and will coordinate with state and national providers of training for the Certified Food Protection Manager (CFPM) certification requirement in conjunction with state proctored exams.

Travel: Cost of conducting training, audits and to provide technical assistance.

Contractual: Funding for maintenance and support of the certification system and basic position support costs.

Supplies: Costs include a first year, one-time expenditure of \$70.0 for the purchase and implementation of a Food Safety System (software) that will provide food worker training and testing on-line and in multiple languages. Training and certification will be available in remote as well as urban areas, and to workers for whom English is not the primary language.

Equipment: Standard equipment purchases in the first year with ongoing maintenance costs.

FUNDING

Receipts from annual food establishment permit fee collections will be used to fund AMC activities.

FISCAL NOTE #2

Personal Services New Position Detail

Department of Environmental Conservation

Scenario: A Scenario for FY2005 Fiscal Notes (3605)
 Component: Food Safety & Sanitation (2343)
 RDU: Environmental Health (207)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#015	Environmental Health Tech.	FT	A	GP	Anchorage	2A	12B	12.0		31,308	0	0	15,944	47,252

Justification:

This position will be responsible for tracking compliance with the food worker certification requirement, deposit of the certification fees, issuance of the certifications and the distribution of training materials.

Funding Detail:

1156	Receipt Supported Services	100.00%	47,252
Total Funding:		100.00%	47,252

18-#016	Environmental Health Officer	FT	A	GP	Anchorage	2A	16B	12.0		41,136	0	0	18,257	59,393
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Justification:

This position will be responsible for providing food worker and Active Managerial Control (AMC) training, proctoring certification exams and "training the trainer" for 3rd party trainers in food worker and AMC requirements.

Funding Detail:

1156	Receipt Supported Services	100.00%	59,393
Total Funding:		100.00%	59,393

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1156 Receipt Supported Services	100.00%	106,645
Total Funding:	100.00%	106,645

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Revenue



During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

Representative William K. Williams

HB 378

Sponsor Statement

HB 378 amends provisions in Title 17 relating to the powers of the Commissioner of the Department of Environmental Conservation (DEC) relating to food offered or sold to the public. The bill makes it possible for DEC to require food-handling operators to become trained and certified and assess fines. Both of these capacities are needed as part of the new food safety paradigm - Active Managerial Control. In addition, the bill defines a violation of labeling or advertising as a violation of the unfair trade and consumer protection provisions.

Currently, AS 17.20.005 allows the Commissioner of DEC to issue orders, regulations, permits, embargoes, and quarantines. This includes inspection, sanitation standards, food handling methods, and labeling. Under this bill, the Commissioner of DEC will have additional authority to ensure knowledge of food safety and sanitation by individuals who handle or prepare food for the public, and persons who supervise or employ those individuals. This bill also authorizes DEC to impose a civil fine for a violation of the Alaska Food, Drug, and Cosmetic Act.

HB 378 also clarifies that a violation of the label or advertisement provisions in AS 17.20, or a violation of the representation requirement in AS 17.06 is an unfair or deceptive trade practice under Alaska's Statutes. This will allow the Attorney General's office to investigate labeling violations that are not food safety or sanitation concerns.

LEGAL SERVICES

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

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


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

MEMORANDUM

February 26, 2004

SUBJECT: Sectional summary of HB 378 relating to the Alaska Food, Drug, and Cosmetic Act and organic food (Work Order No. 23-LS1473\A)

TO: Representative Bill Williams
Co-Chair of House Finance Committee
Attn: Geraldine

FROM:  Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Authorizes the commissioner of environmental conservation to issue orders, regulations, permits, quarantines, and embargoes relating to the training, testing, and certification requirements for individuals who handle food, and their supervisors and employers.

Section 2. Makes the commissioner of environmental conservation also responsible for enforcing AS 17.20.290(a)(5) if it involves food or cosmetics.

Section 3. Makes the commissioner of health and social services responsible for enforcing AS 17.20.290(a)(5) if it involves drugs or devices.

Section 4. Provides that a penalty under this section does not prevent imposition of a penalty under the state's unfair trade practices act for the same violation.

Section 5. Authorizes the Department of Environmental Conservation to impose a civil fine on a person for a serious or repeat violation of the chapter.

Section 6. Amends to provide that a violator is not subject to the new civil fine section or the penalties under the state's unfair trade practices act if the person establishes a guaranty or undertaking indicating that the article is not adulterated or misbranded.

Section 7. Amends to provide that certain persons connected with an advertisement are not liable under the new civil fine section or subject to the penalties under the state's

Representative Bill Williams
February 26, 2004
Page 2

unfair trade practices act for a false advertisement, unless certain conditions are met.

Section 8. Makes an amendment conforming the subsection to the new civil fine section.

Section 9. Makes an amendment conforming the subsection to the new civil fine section and the new language about the state's unfair trade practices act.

Section 10. Makes amendments conforming the section to the new civil fine section and the new language about the state's unfair trade practices act.

Section 11. Removes certain requirements that had to be satisfied before reporting a violation of the chapter to the attorney general.

Section 12. States that the enforcement powers, penalties, and remedies under the state's unfair trade practices act may also be used to enforce this chapter.

Section 13. Adds a violation of the labeling or advertising provisions of AS 17.20 and a violation of the organic food sale provisions in AS 17.06.010 to the list of acts that constitute unlawful acts and practices under the state's unfair trade practices act.

Section 14. Gives the Act an effective date.

If I may be of further assistance, please advise.

TLB:med
04-241.med

[Fwd: HB378]

Subject: [Fwd: HB378]

Date: Wed, 18 Feb 2004 11:04:35 -0900

From: Bill Williams <Representative_Bill_Williams@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Geraldine McIntosh <Geraldine_McIntosh@legis.state.ak.us>

Subject: HB378

Date: Thu, 05 Feb 2004 13:34:01 -0900

From: robin north <training@ak.net>

To: representative_bill_williams@legis.state.ak.us

Dear Representative Williams;

I am contacting you today in regard to HB378. As a business owner, consumer, trainer and former restaurant manager. I give my full support to this very important piece of legislation. I teach food safety & sanitation. As a certified instructor and former Education Director for the State Restaurant Association, I cannot stress enough the importance of education as key to keeping the food we serve the public safe. Alaska relies heavily on tourism and having worked in the tourism industry for 7 years I can safely say that a very large percentage of those visiting this state are over the age of 65, one of the most susceptible portions of the public where food borne illness is concerned. Manger and employee training will go a long way towards ensuring not only their safety, but the safety of all Alaskans who choose to eat out.

Thank you

Robin L North

Owner

Northern Hospitality Training & Consulting

907-644-4747