

1539 HOUSE LABOR & COMMERCE

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB335-DNR-DGGS-02-0
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Energy Research and Development RDU Resource Development
 Component Geological Development
 Sponsor Rep. Berkowitz
 Requester (H) L&C Component No. 1031

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 There is no anticipated fiscal impact associated with implementation of this legislation.

Prepared by: Bob Swenson, Acting Director Phone 907-451-5001
 Division: Geological & Geophysical Surveys Date/Time 2/1/2006
 Approved by: Michael Menge, Commissioner Date 2/1/2006
 Agency: Natural Resources



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February 3, 2006

Dear Committee Members:

On behalf of Renewable Energy Alaska Project (REAP) I am writing to express support for important provisions of HB 335 and to urge you to move it out of Committee.

REAP is a statewide organization made up of utility companies, consumer groups, conservation groups, Native organizations and businesses working to promote renewable energy development in Alaska. Alaska has tremendous renewable energy resources that have just begun to be tapped, and HB 335 is a good start toward state policy that will provide incentives for that development.

REAP supports the provisions to create a renewable energy loan fund and a 15-year production credit to pay down the principal of the loan. REAP urges the Committee to keep those provisions intact. There are nearly 100 villages that have some type of renewable energy resource nearby. Those resources are particularly important in these times of rising diesel fuel prices. Renewable energy resources have no fuel costs and therefore are a way to stabilize high electric rates. Without affordable energy, our communities may not be able to survive, let alone thrive.

Although renewable energy resources do not have fuel costs, their up-front capital costs can be high. For instance, the Alaska Village Electric Coop recently installed three 100 kW wind turbines in the village of Toksook Bay at a cost of approximately \$400,000 per turbine. Those turbines are expected to generate enough electricity to displace over 50,000 gallons of diesel per year. Even at today's price of \$4 per gallon for diesel, Toksook Bay will enjoy enormous fuel cost savings over the 25-year life of the wind turbines. However, if the other approximately 65 villages with identified wind resources are going to be able to install such systems, loan and grant monies must be made available. The loan and production credit provisions of HB 335 will do just that.

Our organization would be happy to answer other questions that the Committee may have.

Sincerely,

Chris Rose
Executive Director, REAP

24-LS1354V
Wayne
2/1/06

CS FOR HOUSE BILL NO. 335()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BERKOWITZ, Ciesna, Crawford, Ramras, Kerttula, Kapsner, Gara

A BILL
FOR AN ACT ENTITLED

1 **"An Act creating the Alaska energy research and development program in the Alaska**
2 **Energy Authority and providing for a Committee on Alaska Energy Research and**
3 **Development to assist in the development of that program; and providing for an**
4 **effective date."**

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

6 *** Section 1. AS 44.83 is amended by adding new sections to read:**

7 **Article 3A. Alaska Energy Research and Development Program.**

8 **Sec. 44.83.201. Energy research and development.** The authority shall
9 conduct a program of energy research, development, demonstration, and application.
10 The program shall be known as the Alaska energy research and development program.
11 The objectives of the program are to

12 (1) improve the development and application of reliable and cost-
13 efficient local alternative energy sources in the state to reduce the cost of energy paid
14 by Alaska communities and make them less dependent on nonrenewable fuels and

1 costly energy supplies;

2 (2) attract advanced technology development companies for research,
3 development, testing, and deployment of alternative energy sources; and

4 (3) advance Alaska's competitiveness in the developing field of
5 alternative energy research and development.

6 **Sec. 44.83.203. Administration and regulations.** (a) The authority shall
7 administer the Alaska energy research and development program.

8 (b) The authority shall adopt regulations developed by the Committee on
9 Alaska Energy Research and Development necessary to carry out the provisions of
10 AS 44.83.201 - 44.83.229.

11 **Sec. 44.83.205. Statewide surveys and report.** The authority shall

12 (1) determine statewide by community and region the viability of
13 alternative energy sources and shall do so by assessing existing surveys and studies
14 and providing for the conduct of surveys and studies as needed, including a statewide
15 reconnaissance of available wind resource data; and

16 (2) produce a timely and periodical statewide report identifying by
17 individual community and region alternative energy resources that have the highest
18 likelihood of providing a long-term, cost-effective energy supply.

19 **Sec. 44.83.207. Community meetings.** The authority shall, at the request of a
20 community or region, conduct a public meeting in that community or region to discuss
21 the report published under AS 44.83.205, to help communities or regions understand
22 possible alternative energy options and decide whether to invest in one or more of
23 those options.

24 **Sec. 44.83.209. Wind resource site visiting and monitoring.** (a) For
25 communities or regions that decide to invest in development of a local wind-powered
26 energy supply, the authority shall provide, as needed, for

27 (1) site visits by experts to assess the wind power potential, if any, in
28 the interested community or region; and

29 (2) the installation of equipment to monitor wind resources for a time
30 determined by the authority as necessary to accurately assess the wind-powered
31 energy potential in the interested community or region.

1 (b) On completion of the on-site wind resource assessment and a preliminary
2 finding of significant wind power energy potential by the authority, the authority shall
3 provide for a preliminary design based on the wind resource assessment, real and
4 potential energy consumption, and other energy resources, real and potential. The
5 completed preliminary design must include an analysis of its feasibility.

6 (c) To the greatest extent practicable, site visits, deployment of monitoring
7 equipment, preliminary designs, and all other matters related to the Alaska energy
8 research and development program shall be managed to avoid redundancies and
9 unnecessary costs.

10 **Sec. 44.83.211. Energy loan fund.** (a) The energy loan fund is established.
11 The fund consists of

- 12 (1) appropriations made to the fund;
13 (2) repayment of principal of and interest on loans made under this
14 section; and
15 (3) funds acquired through the state sale of carbon credits.

16 (b) The authority may make loans from the energy loan fund to energy
17 providers to pay the costs of

- 18 (1) license and permit applications, preconstruction engineering, and
19 design of alternative energy facilities;
20 (2) constructing and equipping alternative energy facilities; and
21 (3) training local residents to operate and maintain the local alternative
22 energy facility.

23 (c) A loan from the energy loan fund shall bear an annual rate of interest of
24 two percent of the unpaid balance of the loan.

25 (d) Money in the energy loan fund may be used by the legislature to make
26 appropriations for costs of administering the fund.

27 **Sec. 44.83.213. Energy production incentive credits and debt reduction.** (a)
28 An energy production incentive credit for power produced from an alternative energy
29 source is available to energy providers to reduce the principal of loans from the energy
30 loan fund.

31 (b) The authority may approve energy production incentive credits on receipt

1 of an application that establishes that the applicant is eligible to receive a credit. The
2 application shall be presented in a manner the authority establishes by regulation.

3 (c) Energy production incentive credits shall be applied annually to reduce the
4 principal of a loan from the energy loan fund.

5 (d) The energy production incentive credit is equal to 1.9 cents a kilowatt hour
6 generated from an alternative energy facility that is subject to debt under the energy
7 loan fund. The amount of payment made to an energy provider shall be annually
8 adjusted for inflation for each fiscal year. Inflation shall be calculated under this
9 subsection as reflected by the United States Department of Labor, Bureau of Labor
10 Statistics, Consumer Price Index for Anchorage, Alaska.

11 (e) Application of energy production incentive credits to loans under this
12 section may not exceed 15 years for each loan.

13 (f) The receipt of a federal energy credit does not preclude receipt of a
14 qualified production incentive credit under this section.

15 **Sec. 44.83.215. Direction to seek grant funds.** The authority shall seek and
16 apply for assistance and grant funding from appropriate federal and private sources to
17 avoid, offset, or pay the financial costs of the Alaska energy research and development
18 program.

19 **Sec. 44.83.217. Committee on Alaska Energy Research and Development.**

20 (a) The Committee on Alaska Energy Research and Development is created in the
21 Department of Commerce, Community, and Economic Development.

22 (b) The committee consists of nine members appointed under AS 39.05.080 as
23 follows:

- 24 (1) one member who represents for-profit energy providers;
25 (2) three members who represent nonprofit energy cooperatives;
26 (3) one member who represents municipally owned electric utilities;
27 (4) two members who represent consumers;
28 (5) one member who represents a relevant academic field; and
29 (6) one member who represents the executive branch of state
30 government.

31 (c) The committee shall elect a chair and, as needed, other officers from

1 among its members.

2 (d) Members of the committee serve staggered terms of four years and, on
3 expiration of their terms, continue to serve until their successors are appointed.

4 (e) A member of the committee may serve not more than two consecutive
5 terms.

6 **Sec. 44.83.219. Powers and duties of the committee.** (a) The Committee on
7 Alaska Energy Research and Development shall

8 (1) develop regulations necessary to carry out the provisions of
9 AS 44.83.201 - 44.83.229,

10 (2) provide oversight of the Alaska energy research and development
11 program; and

12 (3) provide oversight of the bidding and awarding of state contracts to
13 encourage the use of the most appropriate, cost-effective, and efficient technology in
14 alternative energy projects.

15 (b) The committee shall develop strategies and recommendations to enhance
16 alternative energy research and the development of alternative energy projects. The
17 strategies and recommendations may address

18 (1) the design of an energy portfolio standard requiring that energy
19 providers derive a portion of produced electricity through alternative energy sources;

20 (2) development of a system of tradable energy credits to meet an
21 energy portfolio standard;

22 (3) policies to promote federal and private investment in alternative
23 energy research and development; and

24 (4) policies to promote efficient use of energy by state citizens,
25 governments, and business.

26 (c) In carrying out the duties under (b) of this section, the committee shall
27 consider the following goals:

28 (1) reduce the rate costs of electricity and lessen their volatility;

29 (2) create jobs in the state;

30 (3) increase investment in the state; and

31 (4) increase the use of alternative energy in communities and regions

1 statewide.

2 (d) Before December 1 of each year, the committee shall prepare and
3 distribute to the legislature committee findings and recommendations and the
4 committee's recommendations for any legislative action.

5 **Sec. 44.83.229. Definitions.** In AS 44.83.201 - 44.83.229,

6 (1) "alternative energy" means energy or fuel that is used for the
7 production of electricity, heat, or mechanical power and that is derived from
8 renewable or local sources other than liquid petroleum; "alternative energy" includes
9 wind, solar, geothermal, hydrogen, hydroelectric, landfill methane, wave and tidal
10 sources, river turbines, and biomass power sources;

11 (2) "carbon credits" means tradable credits issued, if applicable, under
12 AS 44.37.200(b), or otherwise according to the amount of absorption of carbon and
13 then sold to emission sources to offset their emissions;

14 (3) "energy providers" means electric utilities, regional electric
15 authorities, municipalities, regional and village corporations, village councils,
16 independent power producers, nonprofit marketing cooperatives, and joint action
17 agencies formed under AS 42.45.300.

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

20 APPOINTMENT OF INITIAL MEMBERS OF THE COMMITTEE ON ALASKA
21 ENERGY RESEARCH AND DEVELOPMENT. Notwithstanding AS 44.83.217(d), added
22 by sec. 1 of this Act, the persons first appointed as the members of the Committee on Alaska
23 Energy Research and Development shall serve terms as follows:

24 (1) three members serve for two years;

25 (2) three members serve for three years;

26 (3) three members serve for four years.

27 * Sec. 3. This Act takes effect July 1, 2006.

Comparison between HB 335 and proposed committee substitute:

HB 335	CSHB 335
Page 2, line 6: The Alaska Energy Authority adopts regulations to carry out the provisions of the Act.	Page 2, line 8: adds that the authority adopts regulations developed by the Committee on Alaska Energy Research and Development.
Page 3, line 13: the loan fund consists of ... funds acquired through the state sale of alternative energy and carbon credits.	Page 3, line 15: deletes "alternative energy" credits
Page 4, line 4: the energy production incentive credit is 1.5 cents a kilowatt hour...	Page 4, line 5: the energy production incentive credit is equal to 1.9 cents a kilowatt hour. Adds an annual adjustment for inflation.
	Page 4, line 13: adds that the receipt of a federal energy credit does not preclude receipt of a state production incentive credit.
Page 4, lines 9-28: requires the authority to design an energy portfolio standard and a system of tradable energy credits.	Section is deleted.
Page 5, lines 7-12: composition of the committee on Alaska energy research and development: (1) two members who represent for-profit energy providers; (2) two members who represent nonprofit energy cooperatives; (3) one member who represents municipally owned electric utilities; (4) two members who represent consumers; (5) one member who represents a relevant academic field; and (6) one member who represents energy investors.	Page 4, lines 24-30: changes composition of the committee to (1) one member who represents for-profit energy providers; (2) three members who represent nonprofit energy cooperatives; (3) one member who represents municipally owned electric utilities; (4) two members who represent consumers; (5) one member who represents a relevant academic field; and (6) one member who represents the executive branch of state government.
Page 5, lines 19-30: Powers and duties of the committee (1) assist the authority in designing and implementing the energy portfolio standards and the system of tradable energy credits; (2) provide oversight of the Alaska energy research and development program;	Page 5, lines 6-31: adds that the committee shall develop the regulations necessary to carry out the provisions of the Act. Deletes the duty to design the energy portfolio standard and the system of tradable energy credits.

<p>(3) provide oversight of the bidding and awarding of contracts to encourage the use of the most appropriate, cost-effective, and efficient technology in alternative energy projects; and</p> <p>(4) recommend to the legislature, the governor, state agencies, and private entities the most appropriate policy and action to enhance the development of alternative energy projects.</p>	<p>Adds that the committee shall develop strategies and recommendations to enhance alternative energy research and development of alternative energy projects.</p> <p>The strategies and recommendations may address energy portfolio standards and credits, policies to promote federal and private investment in alternative research and development, and policies to promote the efficient use of energy.</p>
<p>Page 6, lines 6-8: the definition of "alternative energy" includes</p> <p>(B) hydroelectric power sources first developed after the effective date of this Act; and</p> <p>(C) local sources of natural gas.</p>	<p>Page 6, lines 9-10: adds to the definition of "alternative energy" – hydroelectric, landfill methane and river turbines.</p> <p>Deletes the section that includes only hydroelectric power sources developed after the effective date of the Act.</p> <p>Deletes natural gas.</p>

Alaska State Legislature
House of Representatives
Minority Leader

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Representative Ethan Berkowitz
District 26

**SPONSOR STATEMENT
CSHB 335**

"An Act creating the Alaska Energy Research and Development Program in the Alaska Energy Authority; and providing for an effective date."

Alaska produces energy for America and the world. Our oil contributes significantly to the country's energy security and, with construction of a pipeline, our natural gas can warm homes and power factories in the Lower 48. At the same time, Alaskans pay too high a price for our own energy needs. Filling a tank or paying a heating bill costs more than it should and more than it needs to. Yet, we have the ability to reduce the cost of energy here at home. The benefits of energy self-reliance – energy independence – for Alaska include jobs, economic opportunity, and cost savings for individuals, for families and for communities.

HB 335 will launch Alaska onto a path of energy self-reliance, where we produce energy locally for local needs. With imagination and innovation, we can harness the resources of this state to better serve the people of Alaska. Those resources are both traditional and alternative. Whether we get our kilowatts from wind turbines or wood pellets, gas or geothermal or garbage, hydrogen or hydroelectric, biomass or fish oil, we have the ability to make our own future, to better control our lives – and become less captive of global market forces and imported energy costs.

HB 335 proposes an energy research and development program that will help communities to determine the energy sources that best serve their population. Under the bill, the Alaska Energy Authority will conduct surveys and studies so that local communities can make informed decisions about investment in energy options.

For communities that choose to invest in energy development, HB 335 creates a low interest loan fund for the design and construction of alternative energy facilities. The funds may also be used for training local residents to operate and maintain the facilities. The loan fund consists of appropriations, repayments and the sale of tradable carbon credits. In addition to providing loans at a low interest, HB 335 provides a production incentive credit. For every kilowatt hour generated from an alternative energy facility, 1.9 cents is applied toward the facility's debt under the loan program (adjusted annually for inflation).

HB 335 also calls for the creation of a committee on energy research and development that is comprised of nine members representing a range of energy related interests. The committee is charged with developing the regulations needed to carry out the provisions of the act, providing oversight of the energy research and development program and the bidding and award of state contracts, and making recommendations regarding policies and actions to enhance energy research and development in the state.

Alaska can be a world leader in energy technology, and at the same time, make all communities more energy self-reliant. These are goals well worth pursuing.

For more information:

<http://www.dsireusa.org/> [Database of state incentives for renewable energy]

<http://www.crest.org/index.html> [Renewable Energy Policy Project]



DIVISION OF COMMUNITY ADVOCACY REPORT TO THE COMMISSIONER

CURRENT COMMUNITY CONDITIONS: FUEL PRICES ACROSS ALASKA

INTRODUCTION

Fuel prices have significantly increased over the past year across Alaska. With the onset of the winter season and associated extreme low temperatures, rural Alaska communities and households that are reliant on fuel to heat their homes and buildings and to generate electricity are confronted with the challenge of paying increased retail fuel prices to meet basic survival needs. Current nationwide statistics suggest households heated primarily with heating fuel are paying approximately 32% more in 2005 than in 2004 (United States Energy Information Administration, 2005). Significantly increased fuel and energy costs combined with high unemployment rates, limited local economic bases, and local governments that are struggling to provide basic local services have presented rural Alaska communities and households with difficult circumstances.

In response to current rural Alaska energy challenges, Governor Frank Murkowski has pledged to seek financial assistance to meet rising fuel costs, provide emergency assistance for small municipalities, and provide a state contribution to a federal program that helps low-income households pay for energy. The Murkowski Administration has advocated for a variety of specific programs focused on alleviating the consequences of increased retail fuel prices including the following: 1) Small Municipality Energy Assistance Program; 2) Bulk Fuel Revolving Loan Fund; 3) Fuel Bridge Loan Program; 4) Power Cost Equalization; 5) Low Income Home Energy Assistance Program; 6) Power Project Loan Fund; 7) Power, Fuel, and Hydro Training; and 8) Bulk Fuel Upgrades.

In an effort to assess current retail fuel prices and start tracking longitudinal price changes across rural Alaska, the Division of Community Advocacy conducted a statewide survey of retail heating fuel and gasoline prices in a cross section of select Alaska communities. This report, *Current Community Conditions: Fuel Prices Across Alaska*, summarizes fuel survey findings, provides a national perspective of fluctuating fuel prices, and presents a short case-study of increased fuel costs and associated impacts to electrical costs in five rural Alaska communities.

METHODOLOGY

The DCA Research and Analysis Section, in consultation with the Local Government Assistance Section, developed the survey instrument and community sample frame. In short, communities were selected to represent differing socioeconomic conditions and various Alaska regions including the Interior, North Slope, South Coastal, Southeast, and Western Regions. Selected communities had also generally been the recipient of an Alaska Energy Authority bulk fuel project in the past. Since a non-probability sampling method was utilized, this survey should be considered a non-scientific study with results not generalizable to the entire population of rural Alaska communities.

Local Government Specialists from DCA Regional Offices implemented the survey instrument during November 17 – 29, 2005. In total, local fuel retailers from 100 communities were contacted (via telephone) and requested to provide current heating fuel and gasoline prices. Survey results should be considered one-time measurements and representative of fuel prices on the particular day of contact. Furthermore, heating fuel and gasoline prices may have changed between the time of contact and publishing of this report.

CURRENT FUEL PRICES ACROSS ALASKA

As Table 1 on the following page illustrates, average heating fuel prices per gallon vary across Alaska by region. Western Alaska communities report the highest average heating fuel retail price at \$3.73 per gallon while North Slope communities report the lowest retail price at \$1.64 per gallon. Of noteworthy importance, the North Slope Borough provides free heating fuel for residential use through village corporations who distribute fuel to borough community residents, charging only a delivery fee on a per gallon basis. The North Slope Borough does not subsidize heating fuel to village corporations for commercial use. Consequently, heating fuel retail price for commercial entities is higher than residential use heating fuel (see Table 2).

To accurately summarize statewide heating fuel prices, it is appropriate to exclude North Slope Borough communities due to the North Slope Borough subsidy for residential use heating fuel. When considering statewide heating fuel prices, Everts Fuel in Hughes (Western Alaska) reported the highest heating fuel retail price at \$5.40 per gallon. In contrast, the City of Akutan (South Coastal Alaska) reports the lowest heating fuel retail price at \$2.30 per gallon. On average, heating fuel retail price is \$3.48 per gallon across Alaska with 93 communities reporting heating fuel prices.

Table 1. Heating Fuel (#1) Retail Price Summary

	Statewide (North Slope Excluded)	Statewide (North Slope Included)	Interior Region	North Slope Region	South Coastal Region	Southeast Region	Western Region
High	\$5.40	\$5.40	\$5.40	\$2.50	\$4.75	\$4.10	\$4.65
Low	\$1.20	\$2.30	\$2.31	\$1.20	\$2.30	\$2.80	\$2.99
Range	\$4.20	\$3.10	\$3.09	\$1.30	\$2.45	\$1.30	\$1.66
Mean	\$3.37	\$3.48	\$3.34	\$1.64	\$3.30	\$3.24	\$3.73
Median	\$3.39	\$3.40	\$3.05	\$1.53	\$3.15	\$3.10	\$3.70
Total Communities Reporting	99	93	15	6	27	11	40

As Tables 2 and 3 illustrate, average gasoline prices per gallon also vary across Alaska by region. North Slope communities report the highest average gasoline retail price at \$4.26 per gallon while Southeast communities report the lowest retail price at \$3.29 per gallon. Statewide retail prices indicate significant variation in gasoline retail price. Specifically, Kuukpik Corporation in Nuiqsut (North Slope Region) reports the highest gasoline price at \$6.25 per gallon. In contrast, Nenana Heating in Anderson (Interior Alaska) reports the lowest gasoline retail price at \$2.11 per gallon. On average, gasoline retail price is \$3.83 per gallon across Alaska with 95 communities reporting gasoline prices.

Table 2. North Slope Heating Fuel (#1) and Gasoline Retail Prices

Community	Community Retailer	Heating Fuel #1 Retail Price		Gasoline Retail Price
		Residential	Commercial	
Anaktuvuk Pass	Nunamiut Corporation	\$1.20	\$4.29	\$5.94
Atkasuk	Atkasuk Corporation	\$1.45	Not Available	\$4.10
Barrow	BUFC, Inc	Natural Gas	Natural Gas	\$3.95
Kaktovik	Kaktovik Inupiat Corporation	\$1.60	\$4.25	\$2.65
Nuiqsut	Kuukpik Corporation	\$2.50	Not Available	\$6.25
Point Hope	Tigara Corporation	\$1.64	\$3.90	\$3.57
Wainwright	Olgoonik Corporation	\$1.45	\$3.26	\$3.35

Table 3. Gasoline Retail Price Summary

	Statewide	Interior Region	North Slope Region	South Coastal Region	Southeast Region	Western Region
High	\$6.25	\$5.00	\$6.25	\$5.25	\$4.15	\$5.50
Low	\$2.11	\$2.11	\$2.65	\$2.75	\$2.76	\$3.39
Range	\$4.14	\$2.89	\$3.60	\$2.50	\$1.39	\$2.11
Mean	\$3.83	\$3.61	\$4.26	\$3.65	\$3.29	\$4.09
Median	\$3.75	\$3.50	\$3.95	\$3.46	\$3.20	\$4.09
Total Communities Reporting	95	15	7	22	11	40

Method of transporting heating fuel and gasoline varies across Alaska with fuel retailers using barge, air, truck, or a combination to transport fuel into the community (Table 4). With 100 communities reporting the wide majority (83%) report barging fuel into the community. In contrast, nine communities (nine percent) report trucking fuel into the community, three communities (3%) report air freighting fuel into the community, and four communities (4%) utilize multiple methods of transporting fuel into the community (i.e., barge/truck, barge/air, or truck/air). Valdez reports no need to transport fuel because an on-site refinery exists within the community.

Table 4. Fuel Transportation Method

	Statewide	Interior Region	North Slope Region	South Coastal Region	Southeast Region	Western Region
No Transport Required	1	0	0	1	0	0
Barge Only	83	4	4	24	11	40
Truck Only	9	8	0	1	0	0
Air Only	3	3	0	0	0	0
Barge/Truck	1	0	0	1	0	0
Barge/Air	2	0	2	0	0	0
Truck/Air	1	0	1	0	0	0
Total Communities Reporting	100	15	7	27	11	40

COMMUNITY CASE STUDIES: INCREASING FUEL PRICES AND ELECTRICAL COSTS

Rural communities rely heavily on diesel fuel to generate electricity and to heat homes and buildings. Not only do rural communities depend on this form of fuel for meeting basic energy needs, the cost of fuel as a percent of total community operating cost is also significant. As a supplement to the community fuel survey, the DCA Research and Analysis Section also examined longitudinal fuel costs as a percent of total electrical costs in a select number of remote communities from various Alaska regions. In total, five case-study communities were selected for further evaluation including Coffman Cove, McGrath, Ouzinkie, St. Paul, and Tanana.

As Figure 1 illustrates, case-study findings suggest Coffman Cove, McGrath, Ouzinkie, St. Paul, and Tanana have generally experienced significant increased fuel costs as a percent of total electrical costs between 2004 and 2005. Specifically, fuel costs as a percent of total electrical costs increased six percent in Coffman Cove, 14 percent in Tanana, 19 percent in Ouzinkie, 33 percent in McGrath, and 36 percent in Ouzinkie. Of noteworthy importance, 2005 figures were current through mid-summer and are likely to have increased by the end of the year.

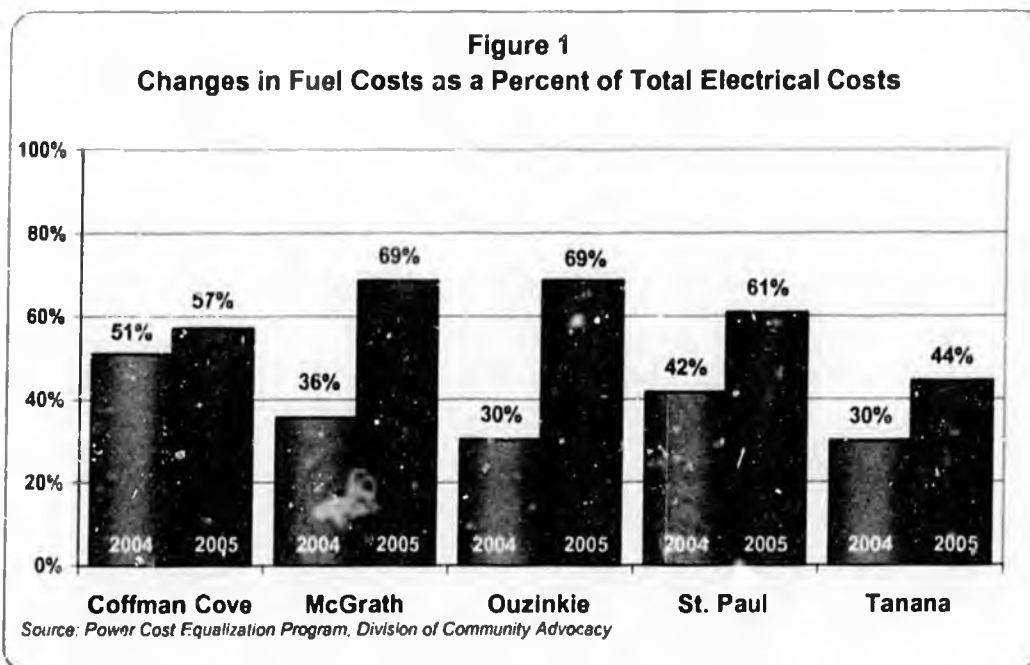
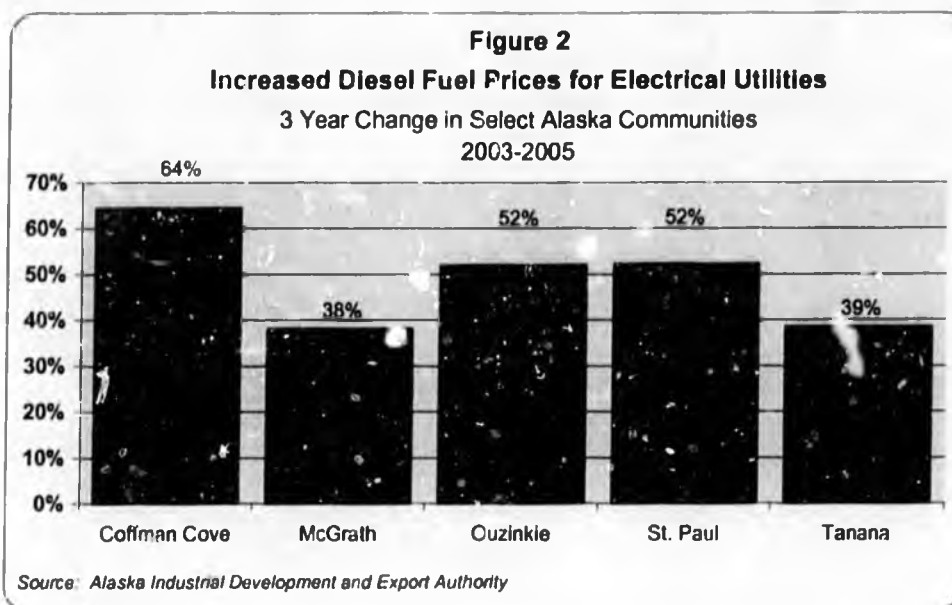


Figure 2 depicts a three-year average (2003 – 2005) of fuel cost changes in selected case-study communities. Coffman Cove reports the highest average diesel fuel cost increase at approximately 64 percent. In contrast, McGrath reports the lowest average diesel fuel cost increase at approximately 38 percent. The remaining case-study communities, Ouzinkie, Tanana, and St. Paul, have also experienced diesel fuel cost increases ranging from 39 to 52 percent.



THE NATIONAL CONTEXT

Gasoline and diesel fuel prices are expected to remain elevated over the short term as U.S. refining companies continue their gradual recovery following the devastation of September hurricanes Katrina and Rita in the Gulf of Mexico.

In September 2005, retail diesel fuel prices nationwide averaged \$3.18 per gallon compared with \$2.07 one year ago (Figure 3). According to the U.S. Energy Information Administration, which publishes official energy statistics from the United States Government, residential heating expenditures for this reporting period reflected fuel supply concerns following the hurricanes.

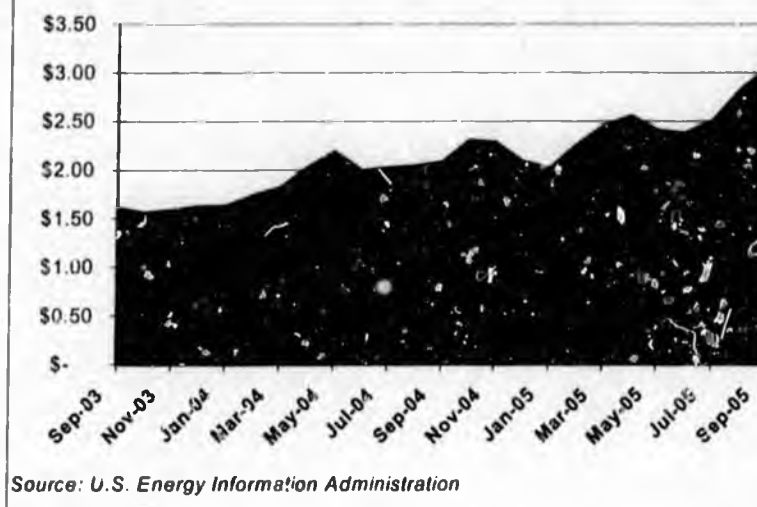
As recently as October 2005, the U.S. Department of Energy reported up to 15 percent of the U.S. refining capacity could be out of service for numerous weeks – especially with over 90 percent of the Gulf of Mexico's crude oil production shut down as a result of hurricane damage. However, recent U.S. Energy Information Administration mid-term trend information regarding heating fuel inventories and pricing predicts lower fuel prices heading into the 2005/2006 winter season.

It now appears fuel supply concerns are diminishing due in part to an unusual act of good luck and timing. Following the damages sustained from Hurricane Katrina, foreign fuel suppliers immediately responded to demand by increasing their exports to the United States. These new supplies of energy began entering the U.S. fuel distribution chain just as the second devastating hurricane (Rita) made landfall. The predicted crash in supply never occurred and some damaged refineries managed to come back on line sooner than expected.

U.S. residential heating fuel prices decreased for the second time during November, going from \$2.51 per gallon during week one to \$2.47 per gallon by November 14. However, the current price for heating fuel (\$2.47 per gallon) still represents a \$0.45 increase over the same time last

year, which is equivalent to a 22 percent per gallon price increase. Wholesale heating fuel prices (current November 14) stand at \$1.77 per gallon, down \$0.08 from November first, but up \$0.37 per gallon from a year ago.

Figure 3
Nationwide Diesel Fuel Retail Price



ADDRESSING THE FUEL CHALLENGE: SHORT- AND LONG-TERM STRATEGIES

Effective short-term strategies for alleviating high fuel costs and corresponding impacts for rural energy primarily include implementing energy assistance funding programs, which can only occur through the continued cooperation between federal agencies, state agencies, local governments, and tribal governments. Currently, the State of Alaska has implemented several programs to assist with the high cost of energy. The Small Municipalities Energy Assistance Program (SMEAP), which began in Fiscal Year 2005, offers municipalities with populations less than 2,500 grants ranging from \$22,396 to \$67,188 for fuel purchase. Governor Murkowski announced he will again ask the legislature for another \$6.4 million to be added to the Small Municipality Energy Assistance Program for the upcoming winter. Alaska Energy Authority's (AEA) Bulk Fuel Revolving Loan Fund provides loans to communities, utilities, or fuel retailers in rural communities to purchase emergency, semi-annual, or annual bulk fuel supplies. The Fuel Bridge Loan Program provides loan assistance to communities that are ineligible for AEA's Bulk Fuel Revolving Loan Fund. To date, the Fuel Bridge Loan Program has serviced 13 communities across Alaska. Governor Murkowski announced he will again seek full and supplemental funding from the Legislature for the Power Cost Equalization Program (PCE), which helps reduce the cost of electricity for residential consumers

and community facilities in rural Alaska. For the first time, Governor Murkowski has requested the addition of State funds for the federal Low Income Home Energy Assistance Program, which provides fuel purchase assistance to low-income households. The Power Project Loan Fund provides loans to local utilities, local governments, or independent power producers for the development or upgrade of electric power facilities, which includes bulk fuel storage facilities, waste energy conservation, or potable water supply projects.

While a variety of funding programs exist to address the short-term fuel challenge, long-term strategies remain elusive when considering the prognosis of predictable and sustainable energy costs. Seeking long-term solutions to the current fuel challenge will likely include a combination of greater fuel supply, developing appropriate local bulk fuel infrastructure, reducing transportation costs, and increasing local human capital. Specifically, AEA in collaboration with the Denali Training Fund, provides training opportunities to local residents regarding energy projects and infrastructure. The purpose of the training is to ensure community personnel have the appropriate skills to maintain bulk fuel infrastructure in a consistent and sustainable manner. Addressing the adequacy of bulk fuel farms is also a critical component of a long-term strategy to addressing fuel prices. Specifically, many bulk fuel farms were constructed more than 20 years ago and are currently in poor condition. With substantial contributions from the Denali Commission, the Bulk Fuel Upgrades Program provides funding for the design/engineering, business planning, and construction management services to build bulk fuel farms in rural communities.

Recognizing the need to study and develop feasible short- and long-term strategies to address rural energy in Alaska, Governor Murkowski commissioned the formation of the Rural Energy Action Council (REAC). During 2005, REAC closely reviewed the Power Cost Equalization (PCE) Program, energy conservation measures, diesel alternatives, the development of fuel cooperatives, and the cost of energy for schools. As a result, REAC recommended short- and long-term strategies to lower the cost of energy in rural Alaska. Short-term strategies included the following: 1) fully fund the PCE Program; 2) front-load the PCE endowment; 3) develop a bulk fuel operator technical assistance program; 4) incorporate downstream tanks and pipes into bulk fuel infrastructure upgrades; 5) support the development of regional bulk fuel cooperatives; 6) recommend higher loan limits for Bulk Fuel Revolving Loan Program single and cooperative applicants; 7) improve power plant operational efficiencies and remote capabilities; 8) increase support for development of alternative energy sources including coal, instream, wind, and gas projects; 9) accelerate renewable energy programs and implement energy conservation measures; 10) continue low-income home energy assistance program funding; and 11) create a new line-item for school district energy funding.

REAC also identified the following as elements of a long-term approach to improving the affordability of rural energy: 1) study the direct impacts of high fuel cost in rural Alaska; 2) develop regional energy centers on rural campuses; 3) support a feasibility study to examine links with the Railbelt Energy Grid; 4) develop a fuel price reporting system for "non-PCE" communities; 5) divest the State of rural energy infrastructure; and 6) improve transportation and distribution systems. For further information regarding REAC and its resultant rural energy recommendations, please visit the following website: <http://www.akenergyauthority.org/REAC/>.

Appendix
Community Heating Fuel and Gasoline Survey

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.28):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$2.83):	Transport. Method:	
Alatna	Interior	Everts Fuel	(907) 450-2307	\$4.00	15%	\$4.50	17%		Air
Anderson	Interior	Nenana Heating	(907) 832-5445	\$2.32	-33%	\$2.11	-45%		Truck
Arctic Village	Interior	Everts Fuel	(907) 450-2307	\$3.83	10%	\$4.08	7%		Air
Circle	Interior	Interior Fuel	(907) 456-1312	\$2.85	-18%	\$3.30	-14%		Truck
Delta Junction	Interior	Delta Fuel Company	(907) 895-4515	\$2.31	-34%	\$2.72	-29%		Truck
Eagle	Interior	Telegraph Hill Services	(907) 547-2261	\$3.25	-7%	\$3.50	-8%		Truck
Fairbanks	Interior	Petro Star - Flint Hill	(907) 488-2575	\$2.44	-30%	\$2.59	-32%		Truck
Galena	Interior	Crowley Marine Services	1-800-977-9771	\$3.50	1%	\$3.52	-8%	Barge	
Healy	Interior	Nenana Heating	(907) 832-5445	\$2.54	-27%	\$2.97	-22%		Truck
Hughes	Interior	Everts Fuel	(907) 450-2307	\$5.40	55%	\$4.75	24%		Air
Huslia	Interior	Yukon Fuel	(907) 832-5476	\$4.50	29%	\$5.00	31%	Barge	
Minto	Interior	Alaska Petro	(907) 488-2575	\$3.05	-12%	\$3.75	-2%		Truck

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Nenana	Interior	Interior Fuel	(907) 832-5445	\$2.46	-29%	\$2.96	-23%			Truck
Ruby	Interior	Dinega Fuel Corporation	(907) 832-5476	\$4.15	19%	\$4.40	15%	Barge		
Tanana	Interior	TCCo.	(907) 832-5476	\$3.55	2%	\$3.98	4%	Barge		
Anaktuvuk Pass	North Slope	Nunamiut Corporation	(907) 661-3026	\$1.20	-66%	\$5.94	55%	Barge	Air	
Atkasuk	North Slope	Atkasuk Corporation	(907) 633-6414	\$1.45	-58%	\$4.10	7%	Barge	Air	
Barrow	North Slope	BUEC, Inc	(907) 852-6166	Natural Gas	N/A	\$3.95	3%	Barge		
Kaktovik	North Slope	Kaktovik Inupiat Corporation	(907) 640-6120	\$1.60	-54%	\$2.65	-31%	Barge		
Nuiqsut	North Slope	Kuukpik Corporation	(907) 480-6711	\$2.50	-28%	\$6.25	63%		Air	Truck
Point Hope	North Slope	Tigara Corporation	(907) 368-2235 or (907) 368-2126	\$1.64	-53%	\$3.57	-7%	Barge		
Wainwright	North Slope	Olgoonik Corporation	(907) 763-2614	\$1.45	-58%	\$3.35	-13%	Barge		
Akutan	South Coastal	City of Akutan	(907) 698-2228	\$2.30	-34%	\$2.78	-27%	Barge		
Atka	South Coastal	Atka Native Store	(907) 839-2230	\$4.35	25%	\$4.90	28%	Barge		
Chenequa Bay	South Coastal	Chergega Bay Utility	(907) 573-5132	\$3.00	-14%	\$3.60	-6%	Barge		

Appendix
Community Heating Fuel and Gasoline Survey

Community	Region	Community Retailer: <small>(entity selling fuel)</small>	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: <small>(selling price per gallon)</small>	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: <small>(selling price per gallon)</small>	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:	
Alatna	Interior	Everts Fuel	(907) 450-2307	\$4.00	15%	\$4.50	17%		Air
Anderson	Interior	Nenana Heating	(907) 332-5445	\$2.32	-33%	\$2.11	-45%		Truck
Arctic Village	Interior	Everts Fuel	(907) 450-2307	\$3.83	10%	\$4.08	7%		Air
Circle	Interior	Interior Fuel	(907) 456-1312	\$2.85	-18%	\$3.30	-14%		Truck
Delta Junction	Interior	Delta Fuel Company	(907) 895-4515	\$2.31	-34%	\$2.72	-29%		Truck
Eagle	Interior	Telegraph Hill Services	(907) 547-2261	\$3.25	-7%	\$3.50	-9%		Truck
Fairbanks	Interior	Petro Star - Flint Hill	(907) 488-2575	\$2.44	-30%	\$2.59	-32%		Truck
Galena	Interior	Crowley Marine Services	1-800-977-9771	\$3.50	1%	\$3.52	-8%	Barge	
Healy	Interior	Nenana Heating	(907) 832-5445	\$2.54	-27%	\$2.97	-22%		Truck
Hughes	Interior	Everts Fuel	(907) 450-2307	\$5.40	55%	\$4.75	24%		Air
Huslia	Interior	Yukon Fuel	(907) 832-5476	\$4.50	29%	\$5.00	31%	Barge	
Minto	Interior	Alaska Petro	(907) 488-2575	\$3.05	-12%	\$3.75	-2%		Truck

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Nenana	Interior	Interior Fuel	(907) 832-5445	\$2.46	-29%	\$2.96	-23%			Truck
Ruby	Interior	Dinega Fuel Corporation	(907) 832-5476	\$4.15	19%	\$4.40	15%	Barge		
Tanana	Interior	TCCo.	(907) 832-5476	\$3.55	2%	\$3.98	4%	Barge		
Anaktuvuk Pass	North Slope	Nunamiut Corporation	(907) 661-3026	\$1.20	-66%	\$5.94	55%	Barge	Air	
Atkasuk	North Slope	Atkasuk Corporation	(907) 633-6414	\$1.45	-58%	\$4.10	7%	Barge	Air	
Barrow	North Slope	BUEC, Inc	(907) 852-6166	Natural Gas	N/A	\$3.95	3%	Barge		
Kaktovik	North Slope	Kaktovik Inupiat Corporation	(907) 640-6120	\$1.80	-54%	\$2.65	-31%	Barge		
Nuiqsut	North Slope	Kuukpik Corporation	(907) 480-6711	\$2.50	-28%	\$6.25	63%		Air	Truck
Point Hope	North Slope	Tigara Corporation	(907) 368-2235 or (907) 368-2126	\$1.64	-53%	\$3.57	-7%	Barge		
Wainwright	North Slope	Olgoonik Corporation	(907) 763-2614	\$1.45	-58%	\$3.35	-13%	Barge		
Akutan	South Coastal	City of Akutan	(907) 698-2228	\$2.30	-34%	\$2.78	-27%	Barge		
Atka	South Coastal	Atka Native Store	(907) 839-2230	\$4.35	25%	\$4.90	28%	Barge		
Cheneg Bay	South Coastal	Cheneg Bay Utility	(907) 573-5132	\$3.00	-14%	\$3.60	-6%	Barge		

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Chignik	South Coastal	City of Chignik	(907)749-2280	\$2.83	-19%	None Sold	N/A	Barge		
Chitina	South Coastal	Chitina Services Oil and Gas	(907) 822-3375	\$2.69	-23%	\$2.83	-26%	Barge		
Clark's Point	South Coastal	City of Clark's Point	(907) 236-1221	\$3.82	10%	\$3.82	0%	Barge		
Cordova	South Coastal	Hovers Mover	(907) 424-3221	\$3.39	-3%	\$3.36	-12%	Barge		
Dillingham	South Coastal	Delta Western	(907) 842-5441	\$4.00	15%	\$4.69	22%	Barge		
Glennallen	South Coastal	Service Oil and Gas	(907) 822-3375	\$2.99	-14%	\$2.87	-25%			Truck
Goodnews Bay	South Coastal	Mumtram Pikkai Village Corporation	(907) 967-8520	\$3.08	-11%	\$2.75	-28%	Barge		
Homer	South Coastal	Homer Run Oil	(907) 255-1393	\$2.55	-27%	\$2.89	-25%	Barge		Truck
King Cove	South Coastal	Peter Pan Seafood	(907) 497-2234	\$2.58	-26%	\$2.97	-22%	Barge		
Kodiak	South Coastal	Thompson Transfer	(907) 486-5774	\$3.01	-14%	None Sold	N/A	Barge		
Kokhanok	South Coastal	Kokhanok Tribal Council	(907) 282-2202	\$4.00	15%	\$5.00	31%	Barge		
Larsen Bay	South Coastal	City of Larsen Bay	(907) 847-2211	\$3.12	-10%	\$3.25	-15%	Barge		
Nelson Lagoon	South Coastal	Crowley	(907) 989-2204	\$3.30	-5%	\$3.61	-6%	Barge		
New Stuyahok	South Coastal	New Stuyahok Village Corporation	(907) 693-3122	\$3.80	9%	\$4.63	21%	Barge		

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Nondalton	South Coastal	City of Nondalton	(907) 294-2235	\$4.75	36%	\$5.25	37%	Barge		
Old Harbor	South Coastal	City of Old Harbor	(907) 286-2203	\$3.15	-9%	None Sold	N/A	Barge		
Ouzinkie	South Coastal	Ouzinkie Native Corporation	(907) 680-2208	\$2.91	-16%	None Sold	N/A	Barge		
Port Lions	South Coastal	Kizhuyak Oil Sales	(907) 454-2422	\$3.39	-3%	\$3.57	-7%	Barge		
Saint George	South Coastal	Delta Western	(907) 859-2456	\$3.86	11%	\$3.86	1%	Barge		
Sand Point	South Coastal	Paul Gundersen	(907) 383-2026	\$3.15	-9%	None Sold	N/A	Barge		
Seldovia	South Coastal	Seldovia Fuel and Lube	(907) 234-7622	\$3.15	-9%	\$3.16	-17%	Barge		
Togiak	South Coastal	Togiak Village Corporation	(907) 493-5520	\$4.38	26%	\$4.51	18%	Barge		
Unalaska	South Coastal	Delta Western	(907) 581-1295	\$2.99	-14%	\$3.18	-17%	Barge		
Valdez	South Coastal	North Pacific	(907) 838-8850	\$2.47	-29%	\$2.84	-26%	On-site Refinery		
Angoon	Southeast	Angoon C.I. and Gas	(907) 788-3436	\$3.30	-5%	\$3.20	-16%	Barge		
Craig	Southeast	Petro Marine	(907) 826-3296	\$3.10	-11%	\$2.76	-28%	Barge		
Gustavus	Southeast	Gustavus Dray - Gustavus Propane	(907) 697-2481 or (907) 697-2481	\$2.80	-20%	\$3.30	-14%	Barge		
Hoonah	Southeast	Hoonah Trading	(907) 945-3211	\$3.41	-2%	\$3.08	-20%	Barge		

Community	Region	Community Retailer: (entry selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Juneau	Southeast	Reliable Oil - Fred Meyer Gas	(907) 586-1490	\$2.94	-16%	\$2.91	-24%	Barge		
Kake	Southeast	Kake Tribal Fuel	(907) 785-3601	\$3.38	-3%	\$3.49	-9%	Barge		
Pelican	Southeast	Lisianski Oil - Pelican Sea	(907) 735-2233 or (907) 735-2204	\$3.47	0%	\$3.69	-4%	Barge		
Petersburg	Southeast	Petro Manne	(907) 772-4251	\$2.96	-15%	\$3.06	-20%	Barge		
Point Baker	Southeast	Point Baker Trading Post	(907) 559-2204	\$4.10	18%	\$4.15	8%	Barge		
Thome Bay	Southeast	Petro Alaska	(907) 828-3900	\$2.85	-18%	\$2.99	-22%	Barge		
Wrangell	Southeast	Wrangell Oil - Fennemore's Service	(907) 874-3276 or (907) 874-3687	\$3.29	-6%	\$3.55	-7%	Barge		
Akiak	Western	Kokarmiut Corporation	(907) 765-7228	\$3.95	14%	\$4.20	10%	Barge		
Anvik	Western	Deloyges, Inc.	(907) 663-6396	\$3.85	11%	\$5.50	44%	Barge		
Atmautluak	Western	Atmautluak Limited	(907) 553-5539	\$3.05	-12%	\$3.55	-7%	Barge		
Bethel	Western	Crowley	(907) 543-2421	\$3.37	-3%	\$3.61	-6%	Barge		
Brevig Mission	Western	Brevig Mission Native Store	(907) 642-4091	\$3.40	-2%	\$3.80	-1%	Barge		
Deering	Western	Deering IRA	(907) 363-2138 or (907) 363-2157	\$3.50	1%	\$3.60	-6%	Barge		
Emmonak	Western	Emmonak Corp. Tank Farm	(907) 949-1129	\$3.96	14%	\$4.11	7%	Barge		

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Gambell	Western	ANICA (Gambell Native Store)	1-800-426-2128 or (907) 985-5211	\$3.45	-1%	\$3.79	-1%	Barge		
Golovin	Western	Golovin Public Utilities	(907) 779-3681	\$3.60	3%	\$3.85	1%	Barge		
Grayling	Western	AYL Grayling Fuel Company	(907) 453-5124 or (907) 453-5240	\$4.00	15%	\$5.00	31%	Barge		
Holy Cross	Western	Holy Cross O.L. Company	(907) 476-7155	\$3.70	6%	\$4.25	11%	Barge		
Hooper Bay	Western	Crowley Marine	(907) 758-4007	\$4.00	15%	\$4.16	9%	Barge		
Kaltag	Western	Kaltag Cooperative	1-800-977-9771	\$3.90	12%	\$4.15	8%	Barge		
Kiana	Western	Kiana Traditional Council	(907) 475-2109	\$4.25	22%	\$4.75	24%	Barge		
Kotlik	Western	Kotlik Yupik Enterprises	(907) 899-4013	\$3.50	1%	\$3.98	4%	Barge		
Kotzebue	Western	Kikiktagruk Inupiat Corporation	(907) 442-3211 or (907) 442-3155	\$4.55	31%	\$4.65	21%	Barge		
Koyuk	Western	Koyuk Native Corporation	(907) 963-2424	\$3.55	2%	\$3.78	-1%	Barge		
Kwigillingok	Western	KWIK Marina Inc.	(907) 588-8112 or (907) 588-8313	\$3.40	-2%	\$3.79	-1%	Barge		
Marshall	Western	Maserculiq Inc.	(907) 679-6617	\$4.10	18%	\$4.52	18%	Barge		
McGrath	Western	Crowley	(907) 524-3019	\$3.97	14%	\$4.14	8%	Barge		

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Mountain Village	Western	Azachorak Fuel	(907) 591-2825	\$3.70	6%	\$4.40	15%	Barge		
Noc. ik	Western	Moms Trading Company	(907) 636-2161	\$4.40	29%	\$4.68	22%	Barge		
Nulato	Western	City of Nulato	(907) 832-5476	\$3.25	-7%	\$3.75	-2%	Barge		
Nunapitchuk	Western	Nunapitchuk LTD.	(907) 527-5717	\$3.00	-14%	\$3.45	-10%	Barge		
Pilot Station	Western	Pilot Station Native Corporation	(907) 549-3512	\$4.23	22%	\$4.76	24%	Barge		
Quinhagak	Western	Qanirtuuq Corporation	(907) 556-8712	\$3.52	1%	\$3.88	1%	Barge		
Russian Mission	Western	Russian Mission Corporation	(907) 584-5885	\$3.85	11%	\$4.20	10%	Barge		
Saint Michael	Western	Saint Michael Fuel Company	(907) 923-3271	\$3.15	-9%	\$3.50	-9%	Barge		
Savoonga	Western	ANICA (Savoonga Native Store)	1-800-426-2128 or (907) 984-6134	\$3.45	-1%	\$3.79	-1%	Barge		
Scammon Bay	Western	Askinuk Corporation	(907) 558-5411	\$4.10	18%	\$4.15	8%	Barge		
Shishmaref	Western	Shishmaref Native Store	(907) 649-3741	\$2.99	-14%	\$3.39	-11%	Barge		
Sleetmute	Western	Henry Hill Store	(907) 449-4227	\$4.65	34%	\$5.25	37%	Barge		
Stebbins	Western	Tapraq Fuel Company	(907) 934-2400	\$3.25	-7%	\$3.40	-11%	Barge		

Community	Region	Community Retailer: (entity selling fuel)	Community Retailer Telephone Number:	Heating Fuel #1 Retail Price: (selling price per gallon)	Percent +/- Statewide HF Average (\$3.48):	Gasoline Retail Price: (selling price per gallon)	Percent +/- Statewide Gas Average (\$3.83):	Transport Method:		
Teller	Western	City of Teller	(907) 642-3401	\$4.02	16%	\$3.91	2%	Barge		
Toksook Bay	Western	Nunakuiak Yupik Corporation	(907) 427-7928	\$4.26	22%	\$4.55	19%	Barge		
Tuntutuliak	Western	Qinarn:ut Corporation	(907) 258-2315	\$3.95	14%	\$4.18	9%	Barge		
Unalakleet	Western	Unalakleet Native Corporation	(907) 624-3411	\$3.15	-9%	\$3.50	-9%	Barge		
Upper Kalskag	Western	City of Upper Kalskag	(907) 471-2220	\$4.25	22%	\$4.25	11%	Barge		
Wales	Western	Wales Native Store	(907) 664-2138	\$3.80	9%	\$4.07	6%	Barge		
White Mountain	Western	White Mountain Native Store	(907) 638-2210	\$3.09	-11%	\$3.39	-11%	Barge		

AIDEA/AEA

Alaska Energy Authority

February 22, 2006

The Honorable Ethan Berkowitz
House Minority Leader
Alaska State Legislature
State Capitol, Room 404
Juneau, Alaska 99801-1182

Re: House Bill 335 Energy and Research Development Program

Dear Representative Berkowitz:

Thank you for taking the time to discuss HB 335 with me last week; we appreciate your interest in alternative energy programs. As you requested, attached is a list of our concerns with HB 335. The attached is an outline of CS HB 335 (L&C) and our comments by section.

Thank you for the opportunity to provide comments on HB 335 and we hope you will consider our concerns. In addition, we encourage your support of the Governor's FY 2007 AEA energy projects capital request. That request is for \$15,200,000 with federal receipts as the primary funding source. The request also includes \$1,200,000 in general funds as a match for alternative energy and energy efficiency programs.

Again, thank you for your interest and support of alternative energy programs and projects. We are available to comment on any changes you may propose to HB 335. The primary contact for HB 335 is Sara Fisher-Goad at 269-4623.

Regards,

/s/ Ron Miller
Executive Director

RM/bjt
Attachment

cc: House Finance Committee
House Labor and Commerce Committee
Kevin Jardell, Legislative Liaison, Office of the Governor

CS HB 335 (L&C)
Alaska Energy Authority Analysis and Comments

"An Act creating the Alaska energy research and development program in the Alaska Energy Authority and providing for a Committee on Alaska Energy Research and Development to assist in the development of that program; and providing for an effective date."

Section	Statute	Proposed Change	Alaska Energy Authority Comments
1	AS 44.83.201 New section	<p>Requires AEA to conduct an Energy Research and Development Program to</p> <ul style="list-style-type: none"> • improve the development and application of reliable and cost-efficient local alternative energy sources to reduce the cost of energy and reduce reliability on nonrenewable fuels • attract advanced technology development companies • advance Alaska's competitiveness in the developing field of alternative energy research and development 	<p>AEA's existing alternative energy and energy efficiency program develops and applies reliable and cost-efficient local alternative energy sources. AEA's separate rural power system upgrade program, funded with Federal Denali Commission grants, constructs powerhouses to provide efficient diesel generator systems that include waste heat facilities and hydroelectric where applicable. We welcome additional resources to accomplish our on-going work in alternative energy development.</p> <p>The University of Alaska Fairbanks' federally-funded Arctic Energy Technology and Development Laboratory (AETDL) has a substantial energy research and development program. AEA more appropriately focuses on implementing commercially proven technology. AEA cooperates and partners with AETDL on energy research in Alaska in such diverse areas as fuel cells, energy storage, diesel efficiency and the Rural Alaska Energy Conference.</p>
	AS 44.83.203 New section	AEA will administer the program and adopt regulations developed by the Committee (see new section AS 44.83.217)	See comments under AS 44.83.217
	AS 44.83.205 New section	<p>AEA will</p> <ul style="list-style-type: none"> • conduct statewide survey by community and region on the viability of alternative energy sources; specifically a statewide reconnaissance of available wind resource data • produce a periodical statewide report identifying by community and region alternative energy resources 	<p>AEA has developed a high-density wind energy map based on satellite wind speed measurements which has proven to be a useful tool in wind energy development.</p> <p>AEA is currently developing an alternative energy atlas which will include assessments of a wide variety of alternative energy sources by location within the state.</p>
	AS 44.83.207 New section	AEA will conduct public meetings at the request of a community or region to discuss the published report required under AS 44.83.205	<p>Meeting costs are addressed in the fiscal note.</p> <p>AEA has conducted a wind energy workshop in Bethel and geothermal workshops in Nome and Chena Hot Springs. AEA, in partnership with UAF, holds a Rural Energy Conference every 18 months. The last conference took place in September 2005 and was located in Valdez.</p>

Section	Statute	Proposed Change	Alaska Energy Authority Comments
	AS 44.83.213 New section	<p>Energy production incentive credit (EPIC) for power produced from an alternative energy source may be used to reduce the principal of loans from the energy loan fund</p> <p>AEA may approve EPICs on receipt of an eligible applicant's application presented in a manner the authority establishes by regulation</p> <p>EPICs shall be applied annually to reduce the principal of a loan</p> <p>EPIC = \$0.019/kWh; payment of credit shall be annually adjusted for inflation</p> <p>Application of EPICs may not exceed 15 years.</p> <p>A federal energy credit does not preclude receipt of a EPIC</p>	<p>The parameters for eligibility and the application of EPICs are not well defined. Assuming demand for loans will exceed available funds, criteria for eligibility and application of the credits should be further defined.</p> <p>AEA's Energy Cost Reduction program ranks and selects proposed projects based on life-cycle savings. Selected projects are offered a package of grants and PPF loans. To date AEA has provided \$5.3 million in grants using Denali Commission funds for projects ranging from diesel efficiency upgrades, waste heat recovery and energy conservation, to hydroelectric and geothermal projects. Estimated life cycle savings are \$23.5 million. Funding is available statewide to electric utilities, independent power producers, and local governments. A fourth Request For Proposals will be released this spring.</p> <p>This program provides a good template for expansion and AEA prefers the grant/loan approach at the beginning of a project rather than reducing principal payments on existing loans.</p>
	AS 44.83.215 New section	Directs AEA to seek grant funding from federal and private sources to offset or pay the financial costs of the Alaska energy research and development program	AEA actively seeks federal funds for its existing alternative energy program and does not need additional statutory authority to do so. However, AEA needs an appropriation to receive and expend any funds, federal or private. AEA has requested federal receipt authority and will request an appropriation to receive and expend private funds for alternative energy research and development when a private funding source is available.
	AS 44.83.217 New section	<p>Establishes Committee on Alaska Energy Research and Development</p> <p>Nine member committee established: 1 member who represents for-profit energy providers; 3 members representing non-profit energy cooperatives; 1 member who represents municipally owned electric utilities; 2 members representing consumers; one member representing a relevant academic field; 1 member from the executive branch of state government</p>	Representatives of power providers (for-profits, coops, and municipal utilities) constitute a majority of the proposed committee, five of nine members.

<u>Section</u>	<u>Statute</u>	<u>Proposed Change</u>	<u>Alaska Energy Authority Comments</u>
	<p>AS 44.83.219 New section</p>	<p>Powers and duties of the committee</p> <p>The committee shall</p> <ul style="list-style-type: none"> • develop regulations for the energy research and development program • provide oversight of the program • provide oversight of the bidding and awarding of state contracts to encourage the use of the most appropriate, cost-effective, and efficient technology in alternative energy projects <p>The committee shall develop strategies and recommendations to enhance alternative energy research and the development of alternative energy projects; the strategies and recommendations may address</p> <ul style="list-style-type: none"> • the design of an energy portfolio standard requiring energy providers derive a portion of produced electricity through alternative energy sources • development of a system of tradable energy credits • policies to promote federal and private investment in alternative energy research and development • policies to promote efficient use of energy by state citizens, governments, and business <p>In carrying out the duties, the committee shall consider the following goals</p> <ul style="list-style-type: none"> • reduce the rate costs of electricity and lessen volatility • create jobs in the state • increase investment in the state • increase the use of alternative energy in communities and regions <p>Annually present findings and recommendations to the legislature</p>	<p>This proposed section grants powers to a committee but does not require accountability for any action the committee may take. AS 44.83.040 vests the powers of the Alaska Energy Authority in the board of directors.</p> <p>The primary programs for which the committee is to provide oversight are the energy loan fund, which makes loans to energy providers, and the energy production incentive credit program, which reduces the loan principal which must be repaid; consequently, giving the beneficiaries of a publicly-funded loan and ultimately a grant program power over the program.</p> <p>"Shall provide oversight of the program" is ambiguous and does not give clear direction on what is meant by the term "oversight."</p> <p>The proposed "oversight" authority of this committee conflicts with the state procurement code, AS 36.30 which provides oversight of bidding and awarding state contracts to the Department of Administration and the Department of Transportation and Public Facilities.</p>

<u>Section</u>	<u>Statute</u>	<u>Proposed Change</u>	<u>Alaska Energy Authority Comments</u>
	AS 44.83.229 New section	<p>Defines alternative energy as energy or fuel that is derived from renewable or local sources other than petroleum</p> <p>Alternative energy includes wind, solar, geothermal, hydrogen, hydroelectric, landfill methane, wave and tidal sources, river turbines, and biomass power sources</p> <p>Energy providers mean electric utilities, regional electric authorities, municipalities, regional and village corporations, village councils, independent power producers, nonprofit marketing cooperatives, and joint action agencies</p>	
2	Uncodified law	Appointment of initial committee members	
3	Effective date	July 1, 2006	

HB

338

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: **HB338CS-DOLWD-MI-02-16-06**
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title: **Certificate of Fitness for Explosive Handlers**

Department: **Labor and Workforce Development**
 RDU: **Labor Standards and Safety**
 Component: **Mechanical Inspection**

Sponsor: **Representatives Chenault, Lynn**
 Requester: **House Finance**

Component Number: **346**

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation requires criminal history and background checks for a Certificate of Fitness for explosive handlers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: **Grey Mitchell, Director**
 Division: **Labor Standards & Safety**
 Approved by: **Greg O'Clary, Commissioner**
 Agency: **Department of Labor and Workforce Development**

Phone: **(907) 465-4855**
 Date/Time: **2/16/06 3:30 PM**
 Date: **2/16/2006**

AM. 1

Proposed Amendment to HB 338

Section 7 This act would not apply to people working under the jurisdiction of the U.S. Department of Labor, Mine Safety and Health Administration.

BUREAU
OF ALCOHOL,
TOBACCO &
FIREARMS

L & C
1/18/06

HB338 - CERT. OF FITNESS FOR EXPLOSIVE
HANDLERS

- GREY MITCHEL
DEPT. OF L & WD

176 LICENSES ISSUED
3 YR. LICENSE

• MINERS ASSOC.
SECT. 7 - AMEND.

• CLIFF HUSTEAD
OSHA
29 YR. EXPERT
INTENT NEVER TO INCLUDE MINERS

★ FITNESS

HB 338 –Certificate of Fitness for Explosive Handlers

The Alaska Department of Labor and Workforce Development has authority under AS 08.52.010 - .100 to issue a license known as a certificate of fitness to work with explosives in Alaska. The department currently requires explosive handler license applicants to submit to a criminal background check within Alaska, but this check does not require finger prints to verify proper identification and does not capture criminal acts the applicant committed in other states. To help ensure that an explosive handler's license is not issued to an individual that may cause a national security threat or a threat to Alaskans, it is necessary to have a statutory requirement for a fingerprint based nationwide background check.

The Alaska Department of Public Safety is not authorized to provide a nationwide fingerprint based criminal background check for licensing purposes, unless it is required by state or federal law. This bill will provide the necessary statutory authority for the Alaska Department of Public Safety to perform a fingerprint based nationwide criminal history search and to provide the data to the Alaska Department of Labor and Workforce Development.



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

January 18, 2006

Honorable Mike Chenault
Alaska State House of Representatives
Capitol Building
Juneau, AK 99801

RE: HB-338, Certificate of Fitness for Explosive Handlers

Dear Representative Chenault:

Thank you for the opportunity to comment on House Bill 338, which would make changes to the existing statute dealing with applications, qualifications and background checks for persons handling explosives.

Based on our initial review, HB-338 appears in large part to be a duplication of the Bureau of Alcohol Tobacco & Firearms (BATF) requirements. In addition to criminal history and background checks, Section 08.52.040 of the bill also requires the State to develop a procedure to determine that an individual is "found competent by reason of training, experience, and physical fitness" to handle explosives.

We fully agree with the need to ensure that explosives do not get into the wrong hands. However, we suggest that there may be another means for accomplishing this goal while not duplicating a requirement for business and not raising costs for state government.

BATF already requires a criminal background check, passport photo, finger prints and personal information on all "responsible persons" listed under a federal explosive permit. Criminal background checks and personal information is also required on all "employee possessors" under a federal explosive permit. Also, the Mine Safety and Health Administration already requires training and documentation for any person who handles explosive materials on a mine site. A State program would require development of a process to assess the training, experience and physical fitness of applicants. All of which would add cost to both business and state government.

An alternative to creating a new program would be to establish a link with BATF that would utilize the existing BATF results and thereby keep all requirements within that one agency. This would remove the duplication and still provide the information to the State.

Thank you for the opportunity to comment on this bill.

Sincerely,

Steven C. Borell, P.E.
Executive Director

HB 338 Sectional Analysis Explosive Handler Certificate of Fitness

Section 1 amends AS 08.52.030 to require an applicant for an explosive handler's certificate of fitness (license) to provide, in addition to existing information, fingerprints and fees for a nationwide criminal background check by the Alaska Department of Public Safety.

Section 2 establishes a new subsection (AS 08.52.035) to outline the authority and process for a nationwide criminal background check to be completed for an explosive handler's certificate of fitness. The applicant will be required to submit finger print cards and the required fees to the Alaska Department of Labor and Workforce Development. The Alaska Department of Labor and Workforce Development will then submit the finger prints and fees to the Alaska Department of Public Safety and request a nationwide criminal background check for criminal justice information on the applicant.

Section 3 amends AS 08.52.040 defining the standards for issuing an explosive handler's certificate to include the applicant's criminal background check.

Section 4 amends AS 08.52.040 to add a new subsection prohibiting the department from issuing an explosive handler's certificate of fitness to an individual convicted of a felony within 10 years of the date of application.

Section 5 amends AS 12.62.400 to add a new subsection that allows the Alaska Department of Public Safety to conduct a nationwide criminal background check for the purpose of issuing a certificate of fitness to handle explosives under AS 08.52.

Section 6 provides for an immediate effective date.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CRAWFORD

TO: HB 338

1 Page 2, lines 24 - 28:

2 Delete all material and insert:

3 "(b) The department shall establish in regulation standards of competency
4 based on training, experience, criminal history and background checks, and physical
5 fitness for the issuance of a certificate of fitness."

experience through a union or expediting

Business License - through union - don't need form through it
24-LS1380A

HOUSE BILL NO. 338

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CHENAULT AND LYNN

Introduced: 1/9/06

Referred: Labor and Commerce, Finance

Emergency state law to the federal status bar

Federal license info

*Tom Hart
Blaine Johnson
Alaska Barriers
Homepage*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to applications, qualifications, and criminal history and background
2 checks for a certificate of fitness for explosives handlers; and providing for an effective
3 date."

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

5 * Section 1. AS 08.52.030 is amended to read:

6 **Sec. 08.52.030. Application for and issuance of certificate.** The department
7 shall issue certificates of fitness. A certificate may be issued only to an individual. An
8 applicant for a certificate shall apply in writing, under oath, on a form prescribed by
9 the department containing

- 10 (1) the name and address of the applicant;
- 11 (2) the applicant's age;
- 12 (3) the applicant's citizenship; [AND]
- 13 (4) the applicant's fingerprints and fees for a criminal background
- 14 check conducted under AS 08.52.035; and

Someone in the field has to have a federal license - requires a state license

2. #

Amendations

HB0338a

ATF

Federal permit - 4-bonus

(5) other information that the department requires.

New?

* Sec. 2. AS 08.52 is amended by adding a new section to read:

Sec. 08.52.035. Criminal justice information and records. (a) An applicant for the issuance or renewal of a certificate of fitness under this chapter shall submit to the department, with the application, the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The department shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The department shall use the information obtained under this section in its determination of an applicant's qualification for issuance or renewal of a certificate of fitness.

(b) In this section, "criminal justice information" has the meaning given in AS 12.62.900.

* Sec. 3. AS 08.52.040 is amended to read:

Sec. 08.52.040. Issuance and contents of certificate. If, upon investigation and examination by the department, the applicant is found competent by reason of training, experience, criminal history and background check, and physical fitness, the department shall issue a certificate of fitness. The certificate must [SHALL] set out the competency of the applicant and provide for positive identification of the applicant, and shall be carried on the person engaged in handling explosives.

* Sec. 4. AS 08.52.040 is amended by adding a new subsection to read:

(b) The department may not find an applicant competent if the applicant's criminal history and background check conducted under AS 08.52.035 indicates a conviction of a felony in the past 10 years under the laws of the state or another jurisdiction. In this subsection, "conviction" has the meaning given in AS 12.55.045(n).

* Sec. 5. AS 12.62.400 is amended by adding a new paragraph to read:

(14) a certificate of fitness to handle explosives under AS 08.52.

* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

What's pushing Homeland security this?

impedus?

conviction not amended?

24-LS1380\G
Mischel
2/11/06

CS FOR HOUSE BILL NO. 338()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES CHENAULT AND LYNN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to applications, qualifications, and criminal history and background**
2 **checks for a certificate of fitness for explosives handlers; and providing for an effective**
3 **date."**

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

5 *** Section 1. AS 08.52.030 is amended to read:**

6 **Sec. 08.52.030. Application for and issuance of certificate.** The department
7 shall issue certificates of fitness. A certificate may be issued only to an individual. An
8 applicant for a certificate shall apply in writing, under oath, on a form prescribed by
9 the department containing

- 10 (1) the name and address of the applicant;
- 11 (2) the applicant's age;
- 12 (3) the applicant's citizenship; [AND]
- 13 (4) the applicant's fingerprints and fees for a criminal background
- 14 check conducted under AS 08.52.035; and

1 (5) other information that the department requires.

2 * Sec. 2. AS 08.52 is amended by adding a new section to read:

3 **Sec. 08.52.035. Criminal justice information and records.** (a) An applicant
4 for the issuance or renewal of a certificate of fitness under this chapter shall submit to
5 the department, with the application, the applicant's fingerprints and the fees required
6 by the Department of Public Safety under AS 12.62.160 for criminal justice
7 information and a national criminal history record check. The department shall submit
8 the fingerprints to the Department of Public Safety to obtain a report of criminal
9 justice information under AS 12.62 and a national criminal history record check under
10 AS 12.62.400. The Department of Public Safety may submit the fingerprints to the
11 Federal Bureau of Investigation for a national criminal history record check. The
12 department shall use the information obtained under this section in its determination of
13 an applicant's qualification for issuance or renewal of a certificate of fitness.

14 (b) In this section, "criminal justice information" has the meaning given in
15 AS 12.62.900.

16 * Sec. 3. AS 08.52.040 is amended to read:

17 **Sec. 08.52.040. Issuance and contents of certificate.** If, upon investigation
18 and examination by the department, the applicant is found competent by reason of
19 training, experience, criminal history and background check, and physical fitness,
20 the department shall issue a certificate of fitness. The certificate must [SHALL] set
21 out the competency of the applicant and provide for positive identification of the
22 applicant, and shall be carried on the person engaged in handling explosives.

23 * Sec. 4. AS 08.52.040 is amended by adding a new subsection to read:

24 (b) The department shall establish in regulation standards of competency
25 based on training, experience, criminal history and background checks, and physical
26 fitness for the issuance of a certificate of fitness.

27 * Sec. 5. AS 12.62.400 is amended by adding a new paragraph to read:

28 (14) a certificate of fitness to handle explosives under AS 08.52.

29 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

**Alaska Department of Labor Workforce Development
Labor Standards Safety Division**

**Summary of Explosive Handlers
License Requirements by State**

State	Explosives License Test Required	Criminal History Check
Alabama	yes	yes
Colorado	yes	yes
Connecticut	yes	yes
Delaware	yes	yes
District of Columbia	no	yes
Florida	yes	yes
Georgia	yes	yes
Hawaii	yes	yes
Illinois	yes	yes
Iowa	no	yes
Kansas	no	yes
Kentucky	yes	yes
Louisiana	yes	yes
Maine	no	yes
Maryland	yes	yes
Massachusetts	yes	yes
Michigan	no	yes
Minnesota	no	yes
Nebraska	yes	yes
Nevada	yes	yes
New Hampshire	yes	yes
New Jersey	yes	yes
New York	yes	yes
Oklahoma	yes	yes
Oregon	yes	yes
Pennsylvania	yes	yes
South Carolina	yes	yes
South Dakota	no	yes
Vermont	no	yes
Virginia	yes	yes
Washington	yes	yes
West Virginia	yes	yes
Wisconsin	yes	yes
Wyoming	yes	yes

Source of Information:
Institute of Makers of Explosives
website: <http://www.ime.org>

FINGERPRINT CARD

All applicants for a Blaster's Certificate of Competence are required to submit a fingerprint card. All applicants must contact the Department of Labor at the phone number given in the heading to receive a fingerprint card.



Complete the fingerprint card, glue one 1½ x 1½ photograph to the reverse side of the card directly under the words "For Submitting Agency Use" and bring the card to the nearest local or state police office where your fingerprints will be taken. The card should be sent with all other application material to the License and Certificate Unit.

FEES

The total fee is \$219.00. It consists of \$120.00 for the certificate application and \$99.00 for the DCJS and FBI fingerprints record search. These fees are non-refundable.



Applicants holding both a blaster certificate and a NYS explosives license will only be required to pay for the fingerprint fee once during the year when both the certificate and license are renewed.

PAYMENT

A check or money order made payable to the Commissioner of Labor in the amount outlined above.

SUBMISSION

An original application and the total fee, the notarized waiver in duplicate, the notarized Appendix to a License Application, and the fingerprint card must be mailed to the License and Certificate Unit.

GENERAL INFORMATION

Term of Certificate

The Certificate is valid for three years from the date of issuance.

Type of Certificates

Class A - Holder may supervise and perform the preparation for and the detonation of **any** blast.

Class B - Holder may supervise and perform the preparation for and the detonation of any **above** ground blast.

Class C - Holder may supervise and perform the preparation for and the detonation of any **underground** blast.

Carry Certificate

Carry the Certificate at all times when working with explosives. Failure to produce such certificate upon request will be presumptive evidence that the blaster is not certified.

Change of Address

You must notify the License and Certificate Unit of any change in your address. Failure to send in this information may prevent delivery of your certificate or your renewal application.

Denial of Certificate

Any applicant whose application for a Certificate of Competence has been denied may request a hearing before the examining board. The applicant must submit the request in writing to the Commissioner of Labor within 30 days after the mailing or personal delivery of the notice of denial.

IMPORTANT NOTICE:

To purchase, own, possess and/or transport explosives, it will be necessary to obtain a license for these purposes. Applications may be obtained from the NYS Department of Labor, License and Certificate Unit, Building 12, Room 290A, State Campus, Albany, NY 12240.

EXAMPLES FROM
OTHER STATES



The Department of Military Affairs and Public Safety

OFFICE OF THE STATE FIRE MARSHAL

1207 Quarrier St, 2nd Floor
Charleston, WV 25301

APPLICATION FOR INDIVIDUAL BLASTER'S PERMIT

In compliance with West Virginia State Code, Chapter 29-3-12/12b and the State Fire Code, application is hereby made for an individual State Explosive Handler's Permit of the type and class indicated below. Please circle the type of permit you wish to apply for.

<u>Type Permit</u>	<u>Class</u>	<u>Blasting Authorized</u>	<u>Annual Permit Fee</u>
Unlimited	A	All types of blasting	\$ 75.00
Gen. Aboveground	B	All blasting operations in quarries, open pit mines, and aboveground construction	\$ 75.00
Gen. Underground	C	All blasting operations in underground mines, shafts, tunnels and drifts. Exception: underground coal mining	\$ 75.00
Demolition	D	All blasting in demolition projects	\$ 75.00
Seismic	E	All blasting in seismic prospecting	\$ 50.00
Agriculture	F	All blasting in agriculture – limited to no more than 50 lbs per blast	\$ 15.00
Special	G	Special blasting operations limited to indication on permit (i.e. coal only – law enforcement – well drilling, etc.)	\$ 40.00

Applicant Name					
Address		City, State & Zip			
Home Phone () _____ - _____		Work Phone () _____ - _____			
Soc. Sec. No.		Date of Birth			
Drivers License No.:		State of Issue			
Applicant Data		Height	Weight	Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	

Answer any and all of the following questions:

US Citizen	yes ___ no ___	If not state nationality:
Are you addicted to narcotics, intoxicants or similar drugs ?	yes ___ no ___	
Have you ever been refused an Explosive Handler's license in any state ?	yes ___ no ___	
Have you ever been convicted of a felony ?	yes ___ no ___	*
Are you currently under indictment for a felony ?	yes ___ no ___	*
How many years / months have you had experience in handling explosives ?		
Please indicate at least one previous employer as a reference:		

Current Employer:

Company Name:	Address:
Company Phone:	Job Title:
Employed since:	Name of Supervisor:

Application Review Fee: \$ 40.00 (initial application only – does not apply for renewal within 3 yrs of expiration)

License Fee (see pg 1): \$ _____

Total Amount Due: \$ _____

This application must be officially notarized as follows:

I hereby swear/affirm under oath that the aforementioned questions have been answered truthfully to the best of my knowledge; that I have adequate training and field experience in the safe handling / use of explosive material in the class authorized by this permit; that I have not been convicted of a violation of any explosive law or regulation; that I am not currently under indictment or have pled to an information for/or have been convicted of a crime punishable by imprisonment for a term exceeding one (1) year; that I am not a fugitive from justice; that I am not addicted to narcotics or dangerous drugs; that I have never been adjudicated as a mental defective nor do I have a physical defect that would interfere with the safe and proper handling of explosives; that I do not advocate or knowingly belong to any organization or group that advocates violent overthrow of or violent action against any federal, state, or local government, and that no misrepresentation of any of the facts or information contained herein was made to fraudulently obtain this permit to use; and that I will adhere to and abide by all the rules and regulations as promulgated in the West Virginia State Fire Code, Section 4, which pertains to explosives, and shall be responsible for the results and any other consequences that may arise from my handling, loading or firing of any explosive material. *I also agree that a record check on my behalf shall be made and I am authorizing the State Fire Marshal's Office to obtain any police record found.*

Applicant Signature	Date
Notarized By	Seal

For office use only:

Application was ___ approved ___ disapproved by _____

FORM: FM2004EXP001

STATE OF ALASKA

Department Of Labor and Workforce Development

FRANK H. MURKOWSKI, GOVERNOR

P. O. Box 21149
Juneau, AK 99802-1149
Phone: (907)465-2700
Fax: (907)465-2784

OFFICE OF THE COMMISSIONER

February 1, 2006

The Honorable Tom Anderson
House Labor and Commerce Committee
M/S 3100
Juneau, AK 99801-1182

Dear Chairman Anderson,

I am writing in support of HB 338. This legislation aims to minimize threats to public safety and unsafe work sites by requiring a finger print based national criminal history check before issuing an explosives handler's license under AS 08.52. This bill does not apply to explosives handlers in the mining industry, as these workers are specifically excluded from the licensing requirement under AS 08.52.070.

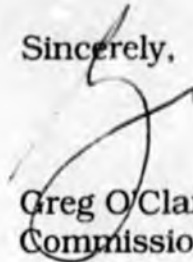
Currently, the department has no statutory authority to require an explosives handler's license applicant to submit to a criminal history check. The Federal Bureau of Alcohol, Tobacco, Firearms and Explosives does not require explosives handlers (employee possessors) to provide fingerprints for a national criminal history check. HB 338 provides the necessary authority to improve the security of Alaskans.

The State of Alaska currently requires fingerprint based national background checks for several occupations through authority granted under AS 12.62.400 (copy enclosed). The occupations listed, including security guards, nurses, teachers, school bus drivers and attorneys, perform work requiring a high level of public trust.

A person licensed to handle and detonate explosives on construction sites, which can be in close proximity to schools and other public facilities and residential areas, also performs work requiring a high level of public trust. The state has a responsibility to take appropriate measures to minimize risks to public safety. HB 338 will provide a vital tool to help the department meet its responsibilities.

I urge your support of this legislation. Thank you for your time and attention.

Sincerely,



Greg O'Claray
Commissioner

Enclosure

cc: Representative John Harris, Speaker of the House
Representative Mike Chenault
Members of the House Labor & Commerce Committee

Sec. 12.62.400. National criminal history record checks for employment, licensing, and other noncriminal justice purposes.

To obtain a national criminal history record check for determining a person's qualifications for a license, permit, registration, employment, or position, a person shall submit the person's fingerprints to the department with the fee established by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the person for the purpose of evaluating a person's qualifications for

(1) a license or conditional contractor's permit to manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage under AS 04.11;

(2) admission to the Alaska Bar Association under AS 08.08;

(3) licensure as a collection agency operator under AS 08.24;

(4) licensure to practice nursing or certification as a nurse aide under AS 08.68;

(5) a position involving supervisory or disciplinary power over a minor or dependent adult for which criminal justice information may be released under AS 12.62.160 (b)(9);

(6) a teacher certificate under AS 14.20;

(7) licensure as a security guard under AS 18.65.400 - 18.65.490;

(8) a concealed handgun permit under AS 18.65.700 - 18.65.790;

(9) licensure as an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster under AS 21.27;

(10) serving and executing process issued by a court by a person designated under AS 22.20.130;

(11) a school bus driver license under AS 28.15.046 ;

(12) licensure as an operator or an instructor for a commercial driver training school under AS 28.17;

(13) registration as a broker-dealer, agent, investment adviser representative, or state investment adviser under AS 45.55.030 - 45.55.060.

HB

350

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 350
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Unfair Claim Settlement Practices RDU Insurance (116)
 Component Insurance Operations
 Sponsor Chenault and Gruenberg
 Requester Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	55.3	55.3	55.3	55.3	55.3	55.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	55.3	55.3	55.3	55.3	55.3	55.3

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						
1156 Receipt Supported Services	55.3	55.3	55.3	55.3	55.3	55.3
TOTAL	55.3	55.3	55.3	55.3	55.3	55.3

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation creates a private cause of action for violations of the insurance code. Currently, there is no private cause of action. The legislation requires the Director of the Division of Insurance to issue a cease and desist order against a company when a trial court finds that the company has violated the insurance laws. Such an order would have a statewide impact. There is a potential that a cease and desist order issued under this act would affect all or a portion of the insurance market. Consequently, the Division would have to monitor private litigation brought under the act, and intervene as a party or as *amicus* in lawsuits where a trial court decision could have a significant public policy impact.

The Division estimates that this would require annually the assistance of two attorneys, at \$115 per hour.

Prepared by: Linda S. Hall, Director Phone 907-269-7900
 Division: Insurance Date/Time 2/9/06 1:18 PM
 Approved by: William C. Noll, Commissioner Date 2/9/2006
 Agency: Commerce, Community and Economic Development



Alaska Independent
Insurance Agents & Brokers, Inc.

Alaska Independent Insurance Agents & Brokers

Position Paper on HB350

The Alaska Independent Insurance Agents & Brokers is a professional trade association representing business people throughout Alaska. We work with our insurance company partners while representing the interests of our clients. Because we deal with the Alaskan consumer on a daily basis, we are particularly sensitive to their needs and concerns. We believe the best consumer protection is a healthy, competitive insurance marketplace.

HB350 – “An Act relating to enforcement of insurance unfair claim settlement practices by a person affected by a violation; permitting penalties for a single-act unfair claim settlement practice; and providing for an effective date.”

The Alaska Independent Insurance Agents & Brokers Oppose HB350.

- This bill would remove authority from the Director of Insurance and move it to the court system which is already overburdened. It could also extend the length of time it takes to settle a claim.

We respectfully request that you consider these issues when reviewing the bill. We welcome the opportunity to discuss the issues with you in more detail.

Sincerely,

Mike Combs, CIC, CRM
President



HEADQUARTERS
3601 VINCENTS ROAD
INDIANAPOLIS, INDIANA 46268
TELEPHONE (317) 875-5250
FAX (317) 879-8408
WWW.NAMIC.ORG

WASHINGTON OFFICE
122 "C" STREET, NW
SUITE 540
WASHINGTON, D.C. 20001
TELEPHONE (202) 628-1598
FAX (202) 628-1601

Representative Tom Anderson, Chair
Alaska House of Representatives
House Labor and Commerce Committee
State Capitol, Room 408
Juneau, AK 99801-1182

April 11, 2006

Sent via email to: Representative_Tom_Anderson@legis.state.ak.us
Representative_Mike_Chenault@legis.state.ak.us
Representative_Max_Gruenberg@legis.state.ak.us

Re: NAMIC's Letter of Opposition to HB 350, *Unfair Claim Settlement Practices*

Dear Representative Anderson:

The National Association of Mutual Insurance Companies (NAMIC) respectfully submits these written comments in opposition to HB 350, *Unfair Claim Settlement Practices*.

NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite 43 percent (\$196 billion) of the property and casualty insurance premium in the United States. NAMIC has 66 member insurance carriers writing business in the state of Alaska, who write approximately 31% of the property and casualty insurance business in the state.

The National Association of Mutual Insurance Companies is opposed to HB 350 for the following reasons:

Creating a civil cause of action is unnecessary:

NAMIC is concerned that this monumental change in state law is being entertained when there has been no evidence offered to support the contention that the current version of the Unfair Claim Settlement Practices Act, AS 21.36.125, has failed to properly regulate and enforce lawful insurance settlement practices and/or provide claimants with an appropriate venue for the redress of their insurance complaints.

Creating a private cause of action should not be undertaken without first requiring the proponents of the bill to demonstrate, with statistical data, not just a few anecdotal examples, that a private cause of action is necessary to remedy an "actual" and "significant" claim settlement practices problem in the state that cannot be addressed by the Department of Insurance.

When one considers the actual claim settlement data, the number of claim settlement complaints filed with the Alaska Department of Insurance is quite small in relation to the

total number of claims settled by insurance carriers in the state. Thus, the proponents of HB 350 should be required to prove that there is a "real" need for the proposed legislation.

HB 350 would likely cause insurance rates to increase:

NAMIC is concerned that the proposed legislation will force insurance carriers to expend a greater percentage of their insured's premium dollars on litigation expenses. Basic economic principles dictate the conclusion that as insurance company legal defense expenditures rise, so too must the company's insurance rates in order to pay for the costs associated with the litigation. Consequently, NAMIC requests that the state legislature consider the impact HB 350 could have on availability and affordability of insurance.

Unreasonable usurpation of Insurance Commissioner's regulatory prerogative:

The vast majority of states in the country have delegated the sole responsibility for evaluating, investigating and remedying consumer complaints about unfair claim settlement practices to the state's Department of Insurance. This approach is reasonable, cost-effective and consistent with the regulatory function of the department.

Creating a private cause of action is unlikely to have any meaningful impact upon on how insurance carriers adjust and settle insurance claims. The state's Department of Insurance is already empowered to use a wealth of different regulatory sanctions to discipline carriers that do not comply with state insurance law. Thus, HB 350 is unlikely to do anything other than increase the earnings of trial lawyers, who will now have another "procedural chip" for negotiating settlements, i.e. threaten a punitive damages lawsuit to secure a larger settlement.

Legislation could lead to the filing of groundless and frivolous lawsuits:

NAMIC is concerned that HB 350 will lead certain plaintiffs to file groundless, baseless and frivolous lawsuits in hope of coercing insurance companies into settling claims that do not financially merit an expenditure of policyholder premiums on litigation expenses. This misuse of the legal process could clutter the trial dockets of the state courts and adversely impact the judicial system's ability to timely adjudicate meritorious causes of action.

For the aforementioned reasons, NAMIC respectfully requests that the House Labor and Commerce Committee vote against HB 350.

Respectfully submitted,

Christian John Rataj, Esq.
NAMIC Western State Affairs Manager



**Liberty
Northwest.**

Liberty Centre
650 NE Holladay Street
PO Box 4555
Portland, OR 97208-1555

Tel: 503 239 5800
www.libertynorthwest.com

March 24, 2006

Honorable Tom Anderson
House Labor and Commerce Committee
State Capitol
Juneau, AK 99801

RE: Opposition to HB 350

Honorable Tom Anderson:

As CEO of Liberty Northwest Insurance Corporation, and on behalf of our Alaska customers, I am writing to you to express my strong opposition to HB 350.

Five years ago Liberty Northwest was authorized to write workers compensation insurance in Alaska, and since then we have successfully grown our business by partnering with Alaska employers in a manner beneficial to them, to us, and to the State. We are proud of that. Presently we write a substantial and growing portion of the Alaska workers compensation market, and we are a servicing carrier to nearly a quarter of the State's involuntary market.

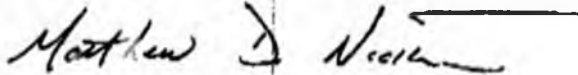
As you know, insurance is one of the most heavily regulated enterprises there is. This is true in Alaska as elsewhere. So it was with surprise and concern that I read HB 350. It authorizes civil actions, and allows courts to render judgments, even when doing so would be directly contrary to a finding or conclusion of the Director of Insurance on the same matter. This proposal - and the ensuing uncertainty and litigation it would create - would materially increase the cost of insurance. Moreover, it proposes to fix a problem that does not exist.

Like legislatures across the country, the Alaska Legislature has wrestled with what is commonly known as the litigation crisis and its harmful effects on the economy and growth. This bill adds gasoline to that fire. It promotes litigation. For example, AS 21.36.125 prohibits insurers from failing to "act promptly upon communications regarding a claim". This is certainly fair. It is something reputable insurers and the Director are keen to promote. Currently the standard for what constitutes actionable failure to communicate is determined by the Director based on her knowledge of the system generally. Anyone with a concern about a specific case can bring it to the Director. The Director can bring an array of actions and penalties against an offending insurer.

This bill would drastically change that and permit civil lawsuits over, for example, an alleged failure to pick up a phone in a specific case. This will clog up the courts and unnecessarily increase costs. Like all businesses, insurers must pass costs onto their customers. This bill will directly and materially increase the cost of insurance to Alaska businesses and consumers.

There appears to be no need for such drastic action. Customers already have the ability to sue their insurers for breach of contract as well as making an Unfair Claim Settlement Practices claim with the Director. If the Legislature feels the Director is not enforcing the Unfair Claim Settlement Practices law properly, the Director can be directed to do so. The bill usurps the Director's authority with unintended consequences, promotes litigation, and increases the cost of insurance.

Sincerely,

A handwritten signature in cursive script that reads "Matthew D. Nickerson". A horizontal line is drawn above the signature.

Matthew D. Nickerson
President and CEO

LESSMEIER & WINTERS
LAWYERS - LLC**VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801****MICHAEL L. LESSMEIER
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SHELDON E. WINTERS****TELEPHONE: (907) 796-4999
FACSIMILE: (907) 796-4998
E-MAIL: lw@pd.net****VIA FAX ONLY**

March 23, 2006

**House Labor and Commerce Committee
c/o Representative Tom Anderson, Chairman
State Capitol Room 408
Juneau, Alaska 99801****Re: House Bill 350**

Dear Chairman Anderson and Committee Members:

I am writing on behalf of State Farm with respect to HB 350. State Farm adamantly opposes this bill. First, we are not aware of a problem with the current statute or judicial relief avenues that need to be addressed. This bill is apparently attempting to address a one-time problem that does not exist to the level of requiring a change in our currently working system.

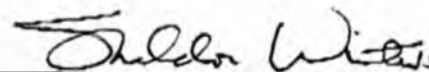
Second, if there is any problem with the current statute, and we are aware of none, it seems the problem would be whether the division is properly responding to consumer complaints and insurer abuses, a problem that, if it truly exists, should be addressed by other means. The solution is not to open the flood gates of litigation, change tried and true judicial standards for insurer/insured disputes or change Legislative mandate both in terms of insurer standards enforced by the regulator and in terms of statutory requirements and limits on punitive damages.

Lastly, this bill would create a myriad of problems, too many to list here, but which we are confident will be brought to the attention of the Committee. Thank you for your consideration.

Sincerely,

**LESSMEIER & WINTERS
Lobbyists For State Farm**

By. _____



Sheldon E. Winters

SEW/caf

0015-006/1 letter to Anderson HLCC re HB 350.wpc

Alaska State Legislature

Interim:

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Kenai, AK 99611

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**Session:**

Alaska State Capitol, Room 505

Juneau, AK 99801-1182

Phone: (907) 465-3779

Fax: (907) 465-2833

Toll Free: (800) 469-3779

Representative Mike Chenault

District 34

Sponsor Statement

HB 350

Title: "An Act relating to enforcement of insurance unfair claim settlement practices by a person affected by a violation; permitting penalties for a single-act unfair claim settlement practice; and providing for an effective date."

Under AS 21.36.125, the Unfair Claims Settlement Practices Act sets standards for insurance companies to abide by. This act was enacted to protect Alaskans from unfair insurance settlement practices, including slow or deceptive claims handling. These regulations define what is acceptable conduct in the insurance industry.

HB 350 strengthens the Unfair Claims Settlement Practices Act and further encourages Insurers to abide by fair and acceptable standards by increasing penalties. This bill would set higher standards than what are currently in place and would be a benefit to Alaskans.

Some states laws allow for judges to award attorney's fees as well as punitive damages on behalf of the plaintiff suing an insurance company in violation of the Unfair Claims Settlement Practices Act. HB 350 would give the same advantage to Alaskans.

HB 350 would allow a person harmed by an unfair claims settlement to seek a remedy in court if the person is harmed by the violation.

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

January 3, 2006

SUBJECT: Sectional analysis (Work Order No. 24-LS1413\A)

TO: Representative Mike Chenault
Attn: Julie Morris

FROM: Dennis C. Bailey
Legislative Counsel

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

Section 1. contains the main provisions of the bill. AS 21.36.125(b) changes existing law to allow a person injured by a violation of the Unfair Claims Settlement Practices Act to seek a remedy in court if the person is harmed by the violation.

Section 2.

This section conforms the penalty section of AS 21.36, that enforces AS 21.35.125, to allow a court, as well as the director, to impose a cease and desist order if a person commits an unfair claim settlement practice.

Section 3.

AS 21.36.320(d) permits a court to impose remedies for violations of the Unfair Claims Settlement Practices Act allowed under the existing statute as well as compensatory damages or punitive damages if warranted.

Section 4.

AS 21.36.320(e) permits a court to impose the existing remedies for intentional violations of the Unfair Claims Settlement Practices Act.

Section 5.

This section repeals AS 21.36.320(h) which restricts the penalty for single act violations of the Act.

Section 6. Gives the measure an immediate effective date.

DCB:med
05-585.med

7 of 7 DOCUMENTS

RAYMOND J. THERCHIK, individually and as Personal Representative of the Estate of Isadore Therchik; KATIE M. TONY, Personal Representative for the Estate of Theresa Tony and the Estate of Henry Tony; JIMMY TONY; NICK THERCHIK; and LAURA THERCHIK, Appellants, v. GRANT AVIATION, INC.; R. BRUCE McGLASSEN; and MARK W. HEIKEL, Appellees.

Supreme Court No. S-10437, No. 5715

SUPREME COURT OF ALASKA

74 P.3d 191; 2003 Alas. LEXIS 73

July 25, 2003, Decided

PRIOR HISTORY: [**1] Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Bethel, Mary E. Greene, Judge. Superior Court No. 4BE-00-280 CI.

DISPOSITION: Judgment reversed and remanded for calculation of the attorney's fees recoverable under the policy.

CASE SUMMARY:

PROCEDURAL POSTURE: Appellants, survivors and personal representatives of airplane crash victims, sought review of a judgment from the Superior Court, Fourth Judicial District, Bethel (Alaska), which, in a negligence action brought against appellee airplane owners, ruled that a liability insurer's endorsement limited coverage of Alaska R. Civ. P. 82 attorney fee awards otherwise covered by the policy.

OVERVIEW: The limiting endorsement had not been preapproved by the Alaska Division of Insurance and deviated from the model form, "Notice A," set forth in Alaska Admin. Code tit. 3, § 26.550. The trial court nevertheless found the endorsement to be effective, concluding that it was substantially equivalent to the model form. The court, in reversing, noted that private parties had standing to litigate the validity of an unapproved endorsement. The court held that a post-accident judicial determination of substantial equivalence to Notice A was not sufficient to satisfy § 26.550. Absent regulatory approval, an endorsement could satisfy § 26.550 only if it conformed with Notice A, meaning that it had to be very close to identical. The court determined that the challenged endorsement did not meet this standard, as its language was more complex. Moreover, *Alaska Stat. § 21.42.220*, which permitted a court to substitute statutory provisions

for inconsistent policy terms under some circumstances, could not be read to uphold a defective provision that attempted to limit coverage. The court also rejected a contention that Alaska Admin. Code tit. 3, § 26.510 had been promulgated without authority.

OUTCOME: The court reversed and remanded for calculation of the attorney fees recoverable under the policy.

LexisNexis(R) Headnotes

Civil Procedure > Summary Judgment > Standards of Review

Civil Procedure > Summary Judgment > Summary Judgment Standard

Civil Procedure > Appeals > Standards of Review > Issues of Fact & Law

[HN1] An appellate court reviews grants of summary judgment de novo and will affirm a grant of summary judgment if there are no genuine issues of material fact and if the moving party is entitled to judgment as a matter of law. The appellate court reviews questions of law, including interpretation of statutes, regulations, and contracts, using its independent judgment.

Civil Procedure > Justiciability > Standing
Insurance Law > Regulation of Insurance > Policy Forms

Civil Procedure > Costs & Attorney Fees > Attorney Fees
[HN2] Private parties may litigate whether an endorsement attempting to limit attorney fees coverage is enforceable if it arguably does not comply with Alaska Admin. Code tit. 3, § 26.550.

Insurance Law > Regulation of Insurance > Policy Forms

[HN3] A post-accident judicial determination of substan-

tial equivalence to Notice A is not sufficient to satisfy Alaska Admin. Code tit. 3, § 26.550. Per the regulation, the Alaska Director of Insurance must determine that the proposed notice is substantially equivalent to Notice A and then approve the proposed notice in writing. Absent such approval, an endorsement can satisfy § 26.550 only if it conforms with Notice A. "Conform with" means something very close to identical, a definition that accounts for minute deviations, such as immaterial punctuation errors, that do not diminish the quality of notice or the substantive message.

Insurance Law > Regulation of Insurance > Policy Forms

Insurance Law > Claims & Contracts > Policy Interpretation > Contract Interpretation Rules
[HN4] See Alaska Stat. § 21.42.220.

Insurance Law > Regulation of Insurance > Policy Forms

Insurance Law > Claims & Contracts > Policy Interpretation > Contract Interpretation Rules
[HN5] Alaska Stat. § 21.42.220 cannot be read to uphold a defective provision that attempts to limit coverage.

Insurance Law > Regulation of Insurance > Policy Forms

Insurance Law > General Liability Insurance > Defense Obligations

Civil Procedure > Costs & Attorney Fees > Attorney Fees
[HN6] Alaska Admin. Code tit. 3, § 26.510 applies to insurance policies with duty-to-defend provisions. It provides in part that a policy under which an insurer has a right or duty to provide a defense for an insured must provide coverage for the payment of attorney fees taxable as costs against the insured under Alaska R. Civ. P. 82. The regulation further requires an insurance carrier to cover additional attorney fees.

COUNSEL: Daniel C. Kent, Law Office of William G. Azar, P.C., Anchorage, for Appellants.

Daniel T. Quinn, Gregory R. Henrikson, Richmond & Quinn, Anchorage, for Appellees.

JUDGES: Before: Fabe, Chief Justice, Matthews, Eastaugh, Bryner, and Carpeneti, Justices.

OPINIONBY: EASTAUGH

OPINION:

[*192] EASTAUGH, Justice.

I. INTRODUCTION

This case concerns the validity of a liability insurer's endorsement limiting coverage of Alaska Civil Rule 82 attorney's fees awards otherwise covered by its policy. The limiting endorsement Houston Casualty Company attached to Grant Aviation's policy deviated from the model form adopted by the Alaska Division of Insurance and had not been preapproved by the division's director. We conclude that the endorsement did not "conform with" the model form and therefore violated 3 Alaska Administrative Code (AAC) 26.550 (2000). We also conclude that AS 21.42.220 [*2] does not render the endorsement enforceable against the insured. We therefore reverse the judgment entered against the claimants and remand for calculation of the attorney's fees recoverable under the insurance policy.

II. FACTS AND PROCEEDINGS

Raymond Therchik, Nick Therchik, Laura Therchik, Katie Tony, and Jimmy Tony sued Grant Aviation, Inc., R. Bruce McGlassen, and Mark Heikel (collectively "Grant Aviation") after an airplane owned and operated by Grant Aviation crashed near Bethel in 1999, killing family members of the plaintiffs. n1 We refer here to the plaintiffs collectively as the "Therchiks." Houston Casualty Company had issued a policy to Grant Aviation insuring it against liability for damages. The language of the policy also covered Grant Aviation's liability for "all costs" — and therefore attorney's fees — awarded against Grant Aviation in addition to the applicable facial limit of liability. n2 This "all costs" provision potentially required Houston Casualty to pay "unlimited" attorney's fees awarded under Alaska Civil Rule 82, i.e., a Rule 82 attorney's fees award based on the full amount of all damages awarded at trial against Grant Aviation, [*3] even if those damages exceeded the policy's facial limits. The policy Houston Casualty issued to Grant Aviation also contained a separate provision that attempted to limit the Rule 82 coverage. That provision, Endorsement 8, provides that the policy only covers Rule 82 awards based on a final award not exceeding the policy's applicable facial limits of liability. n3

n1 Raymond Therchik sued Grant Aviation individually and as personal representative of Isadore Therchik's estate. Katie Tony sued individually and as personal representative of Theresa and Henry Tony's estates. The other plaintiffs sued in their individual capacities.

n2 This provision of the policy Houston Casualty issued to Grant Aviation states in part:

During such time as [Houston Casualty] is obligated to defend a claim or claims under the provisions of the preceding paragraph, [Houston Casualty] will pay with respect to such claim, in addition to the applicable limit of liability:

....

2. All costs taxed against the Insured in any suit defended by [Houston Casualty]

n3 Endorsement 8 provides in part:

[Houston Casualty] will only pay a limited amount of attorney's fees an insured is required to pay under Rule 82 of the Alaska Rules of Court. . . . The most [Houston Casualty] will pay for attorney's fees the insured is liable to pay under Rule 82 of the Alaska Rules of Court ("Rule 82") is that amount of attorney's fees the insured would be liable to pay under Rule 82 if the claim was a contested claim and the amount of the final award was equal to the limit of liability for the applicable coverage stated

in the policy.

[**4]

In 2001 the **Therchiks** and Grant Aviation entered into a partial settlement. Per the settlement agreement, Houston Casualty paid the **Therchiks** the facial liability limits of Grant Aviation's insurance policy — \$500,000 per seat — plus \$52,500 in undisputed attorney's fees per seat. Per the agreement, the parties agreed to litigate in the existing lawsuit the question whether Houston Casualty owed additional attorney's fees beyond \$52,500 per seat or had successfully limited its Rule 82 coverage through Endorsement 8.

The **Therchiks** claimed that Houston Casualty owed unlimited attorney's fees under the policy language covering "all costs taxed against the Insured in any suit defended by the Company." Grant Aviation argued that Endorsement 8 effectively limited Houston Casualty's Rule 82 liability. The **Therchiks**

[*193] argued that Endorsement 8 was unenforceable because it did not include the exact language of Notice A, a model form adopted by the Alaska Division of Insurance, and had not been approved in writing by the division, per the alternative requirements of 3 AAC 26.550. Notice A is one of four model notice forms the division drafted and adopted by reference in 3 AAC 26.550. It [**5] is undisputed that Notice A is the applicable notice form for the type of insurance policy at issue here.

The superior court held that although Endorsement 8 did not "conform with" Notice A, it was "substantially equivalent" to Notice A. The court accordingly enforced Endorsement 8 and granted summary judgment for Grant Aviation.

The Therchiks appeal.

III. DISCUSSION

A. Standard of Review

[HN1] We review grants of summary judgment *de novo*. n4 We will affirm a grant of summary judgment "if there are no genuine issues of material fact and if the moving party is entitled to judgment as a matter of law." n5 We review questions of law, including interpretation of statutes, regulations, and contracts, using our independent judgment. n6

n4 *Simmons v. Ins. Co. of N. Am.*, 17 P.3d 56, 59 (Alaska 2001).

n5 *Id.*

n6 *Holderness v. State Farm Fire & Cas. Co.*, 24 P.3d 1235, 1237-38 (Alaska 2001); *Russell v. Criterion Ins. Co.*, 917 P.2d 664, 666 (Alaska 1996).

[**6]

B. The Therchiks May Challenge the Validity of Endorsement 8 Under 3 AAC 26.550.

Grant Aviation argues in passing that the pertinent statutes and regulations "contemplate enforcement by the director, not private parties." It notes that the Alaska Division of Insurance may impose penalties on insurers that fail to file required forms.

But Grant Aviation points to no statute or regulation that prevents private litigants in civil actions from challenging the validity of insurance policy provisions that conflict with substantive requirements of state statutes or regulations. Nor does it refer us to any opinion in which we have prevented civil litigants from doing so.

The issue ultimately before us is whether a policy provision that attempts to limit coverage is enforceable if it differs from the form required by a state regulation. Our opinions have often dealt with claims brought by private parties challenging the validity of policy provisions that arguably conflict with state statutes or regulations. n7 We have never intimated that private parties are unable to litigate the validity of those limiting provisions. Our opinions holding that particular provisions do not comply [**7] with statutory and regulatory standards tacitly acknowledge that private litigants can obtain rulings about the validity of such provisions. n8

n7 See, e.g., *Holderness*, 24 P.3d at 1238; *State Farm Mut. Auto. Ins. Co. v. Harrington*, 918 P.2d 1022, 1025 (Alaska 1996); *Hughes v. Harrelson*, 844 P.2d 1106, 1106-07 (Alaska 1993).

n8 See cases cited *supra* note 7.

Although 3 AAC 26.550 is silent on the issue of private enforcement, we have approved private actions to enforce Title 21 requirements on several occasions. n9 For example, in *Peter v. Schumacher Enterprises, Inc.*, we held that an insured could bring a private cause of action in tort alleging that an insurer violated AS 21.89.020(c) and (e). n10 We recognized that the statutory remedy in Title 21 for violation of AS 21.89.020(c) and (e)

[*194] was a civil penalty of not more than \$2,500 assessed by the state in administrative [**8] proceedings before the Division of Insurance. n11 We observed that the \$2,500 penalty was relatively modest, and that the enforcement resources of the Division of Insurance were necessarily limited. We further observed:

Without a tort remedy it seems likely that many violations of the requirements of subsections (c) and (e) would go unredressed. Further, it is difficult to see how providing an implied tort remedy could interfere with state enforcement. The tort action should provide a meaningful incentive to insurance companies to comply with the statutory requirements. n12

n9 See, e.g., *Peter v. Schumacher Enters., Inc.*, 22 P.3d 481, 488-89 (Alaska 2001) ("Private actions to enforce the requirements of [AS 21.89.020] have been maintained and approved by this court"); *Harrington*, 918 P.2d at 1025-26; *Burton v. State Farm Fire & Cas. Co.*, 796 P.2d 1361, 1363 (Alaska 1990).

n10 *Peter*, 22 P.3d at 490; see also AS 21.89.020(c) (requiring automobile liability insurers to offer coverage prescribed in AS 28.20.440 and 28.20.445 or AS 28.22 for "protection of persons insured under policy who are legally entitled to recover damages for bodily injury or death from owners or operators of uninsured or underinsured motor vehicles"); AS 21.89.020(e) (allowing waiver of the coverage in AS 21.89.020(c) and (d)).

[**9]

n11 *Peter*, 22 P.3d at 488; see also AS 21.90.020, which provides in part that "[a] person, determined by the director, following an appropriate hearing . . . to have violated a provision of this title, is subject to a civil penalty of not more than \$2,500."

n12 *Peter*, 22 P.3d at 489.

Similarly, allowing private parties to litigate the enforceability of provisions such as Endorsement 8 gives insurance companies an incentive to comply with the notice requirements of 3 AAC 26.550 if they wish to limit their Rule 82 coverage and expose their insureds to attorney's fees awards that may not be fully covered under their policies.

Grant Aviation relies on *Harper v. K & W Trucking Co.*, n3 in which we rejected an employee's claim to

recover a statutory penalty for an insurer's violation of former AS 21.89.030. n14 That [**10] statute required insurance companies to pay settlements or judgments with negotiable bank checks. n15 The employee in *Harper* received a settlement payment for a workers' compensation claim in the form of a "payable through" draft instead of a bank check, in violation of that statute. n16 We held that the employee was not entitled to recover the statutory penalty because AS 21.89.030 "is an administrative tool for use of the division of insurance, not private parties." n17

n13 *Harper v. K & W Trucking Co.*, 725 P.2d 1066 (Alaska 1986).

n14 AS 21.89.030 (1968), amended by ch. 62, § 106, SLA 1995. Before it was amended in 1995, AS 21.89.030 provided:

No insurance company doing business in this state may pay a judgment or settlement of a claim in this state for a loss incurred in this state with an instrument other than a negotiable bank check payable on demand and bearing even date with the date of writing.

n15 *Harper*, 725 P.2d at 1068.

n16 *Id.*

[**11]

n17 *Id.*

Harper does not control here. In denying a private right of action, we differentiated between a statute that "directly addresses the effect of negotiable instruments on underlying obligations" and AS 21.89.030, which "concerns only the form of payment which must be used for settling insurance claims, not its effect on an underlying obligation." n18 We reasoned that a private cause of action was not necessary to enforce a statute that was primarily an administrative tool for the division. n19

n18 *Id.*

n19 *Id.*

Unlike AS 21.89.030, 3 AAC 26.550 is not merely an administrative tool employed to facilitate insurance transactions. Rather it is intended to force insurers to comply with proper notice requirements to protect insureds' reasonable expectations. n20 It therefore properly bears on the validity of a policy provision [**12] that limits coverage.

n20 The Alaska Director of Insurance observed in Order R 96-03 that "limitations of coverage for attorney fees taxable as costs against an insured according to Alaska Rule of Civil Procedure 82 that do not address an insured's reasonable expectations for coverage or do not provide adequate disclosure of the insured's potential uninsured liability constitute an unfair or deceptive trade act."

Because a dispute about whether a limiting endorsement "conforms with" Notice A necessarily assumes that the director did not approve the limitation before the insurer issued the endorsement, it almost inevitably will arise only after an accident occurs. Post-accident agency enforcement will provide little relief to insureds whose rights may