



# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
ADMINISTRATION REGULATION REVIEW COMMITTEE, CHAIRMAN  
JUDICIARY COMMITTEE, VICE-CHAIR

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## Representative Tom Anderson

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### SECTIONAL ANALYSIS OF CSHB 494

Section 1. AS 08.26.010. License Required.

Except as provided by AS 08.26.180, a person may not engage in the business of providing services as a private professional guardian or a conservator unless the person has a license issued under this chapter.

The phrase "private professional" is being inserted before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy. Though the title of this statutory chapter is "Private Guardian and Conservator", the Division of Corporations, Business and Professional Licensing has pointed out that public guardians could be construed to be engaging in the business of providing private and professional services. To ensure that there is no ambiguity regarding applicability to public guardians this statute would become consistent with A.S. 08.26 by specifically referencing "private professional" guardians and conservators.

Section 2. AS 08.26.020. Requirements for [INDIVIDUAL] private professional full and partial guardian licenses [LICENSE]

(a) The department shall issue an individual private professional full guardian license to an individual

(1) who is at least 21 years of age;

(2) who has two or more years of professional client casework experience or at least an associate degree in human services, social work, psychology, sociology, gerontology, special education, or a closely related field;

(3) who is certified as a guardian by a nationally recognized organization in the field of guardianships;

(4) who provides proof satisfactory to the department that the individual is able to be bonded and insured;

(5) whose criminal history record checks under AS 08.26.070 show that the individual has not been convicted of a **felony or a misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in the state or in any other jurisdiction**; [ CRIME WITHIN 10 YEARS OF THE APPLICATION THAT WOULD AFFECT THE INDIVIDUAL'S ABILITY TO PROVIDE THE SERVICES OF A GUARDIAN COMPETENTLY AND SAFELY FOR THE WARD; AND]

(6) who satisfies the application requirements of AS 08.26.060; **and**

**(7) who satisfies the requirements for obtaining an individual private professional conservator license, as set forth in AS 08.26.030.**

The first change, insertion of the term "full", would help to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, The Division of Corporations, Business and Professional Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements), most applicants are going to be willing to act as full guardians with conservatorship responsibilities and shouldn't have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator.

The phrase "individual" in the title of this statute would be deleted because of the proposed repeal of the organizational statute license.

A proposed change is made to AS 08.26.020 (5) to conform the criminal history requirements to the requirements for certification by the National Guardianship Foundation. A.S. 08.26.020 (3) requires that a guardian be certified as a guardian by a nationally recognized organization in the field of guardianship. The National

Guardianship Foundation is the nationally recognized organization in the field of guardianship and conservatorship, and their standards preclude licensure of anyone convicted of a felony, or "found civilly or criminally liable for an action of fraud, misrepresentation, material omission, misappropriation, theft or conversion." Since the NGF has a blanket prohibition of licensure of an applicant convicted of a felony, its broader provisions would be controlling over the current statutory provision regarding conviction of a crime within 10 years.

Proposed AS 08.26.020(7) would clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

#### Section 3 A.S. 08.26.020 (b)

(b) The Department shall issue a private professional partial guardian license to an individual who satisfies the requirements under (a)(1)-(6) of this section. A licensed private professional partial guardian may not perform conservator services.

Proposed AS 08.26.020(b) is added to deal with the situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

#### Section 4. A.S. 08.26.030. Requirements for [INDIVIDUAL] private professional conservator license.

The department shall issue a [AN INDIVIDUAL] private professional conservator license to an individual

- (1) who is at least 21 years of age;
- (2) who has obtained a high school diploma, or a general education development diploma or its equivalent;
- (3) who has six months' employment experience in a position involving financial management, or has at least an associate degree in accounting or a closely related field;
- (4) who is certified as a guardian by a nationally recognized organization in the field of guardianships;

(5) who provides proof satisfactory to the department that the individual is able to be bonded and insured;

(6) whose criminal history record checks under AS 08.26.070 show that the **individual [PERSON]** has not been convicted of a **felony or a misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in the state or any other jurisdiction**[ CRIME WITHIN 10 YEARS OF THE APPLICATION THAT WOULD AFFECT THE INDIVIDUAL'S ABILITY TO PROVIDE THE SERVICES OF A CONSERVATOR COMPETENTLY AND SAFELY FOR THE PROTECTEDPERSON]; and

(7) who satisfies the application requirements of AS 08.26.060 .

Subsection (6) of this statute would be amended in the same fashion as AS 08.26.020, previously discussed.

#### Section 5. AS 08.26.060. Application Requirements.

To apply for a license under this chapter, a person shall submit an application on a form provided by the department and submit

- (1) two complete fingerprint cards containing fingerprints and other information required by the Department of Public Safety to obtain state and national criminal history record information under AS 12.52 and AS 12.64; [THE FINGERPRINTS MUST BE THE FINGERPRINTS OF THE APPLICANT IF THE APPLICANT IS AN INDIVIDUAL, OR, IF THE APPLICANT IS AN ORGANIZATION, FINGERPRINTS OF THE  
(A) OFFICERS OF THE ORGANIZATION, IF THE APPLICANT IS A CORPORATION;  
(B) MEMBERS OF THE ORGANIZATION, IF THE APPLICANT IS A LIMITED LIABILITY COMPANY,  
(C) PARTNERS OF THE ORGANIZATION, IF THE APPLICANT IS A PARTNERSHIP;]
- (2) proof of **professional liability insurance and ability to obtain a surety bond ordered by the court** [THE ABILITY TO BE INSURED AND BONDED];
- (3) a written waiver of confidentiality signed by the applicant allowing the department to access at any time relevant complaint information made about the applicant to adult protective services, the designated protection and advocacy agency, the long-term care ombudsman, or an entity that certifies or licenses private professional guardians or private professional conservators;
- (4) a written statement signed by the applicant that the applicant will allow immediate access at any time to the department to the file of a ward or protected person and to financial information regarding the applicant, including corporate or other business records;
- (5) a detailed resume, including relevant experience, for each employee and contractor of the applicant who may provide services to a ward or protected person;
- (6) payment of the application fee, any criminal history record information checks fee charged under AS 12.62.160 (d), and any other fees required by the department; and
- [(7) IF THE APPLICANT IS NOT AN INDIVIDUAL, A COPY OF THE DOCUMENTS UNDER WHICH THE APPLICANT WAS FORMED, INCLUDING ARTICLES OF INCORPORATION AND BYLAWS IF THE APPLICANT IS A CORPORATION.]

The proposed revision to AS 08.26.060(1) consists of deletion of language that pertains to fingerprinting of members of an organization applicant. This would be necessary since HB 494 would repeal the organizational license statute, A.S. 08.26.040. See the discussion of Section 12

Subsection (2) addresses ambiguities in AS 08.26.060(2). This statute as currently written does not specify what type of insurance an applicant must possess, e.g., automobile, life, or homeowner's insurance. The proposed change would clarify that the applicant must provide proof of professional liability insurance.

Revised AS 08.26.060(2) would clarify that the nature of the bond required is a surety bond imposed by the court. Under current law the court may impose a requirement of bonding on a conservator but is not obligated to do so. See AS 13.26.215.

Subsection (7) would be deleted since it pertains to organizational applicants.

#### Section 6. AS 08.26.080. Annual Report

Within 30 days following the end of each calendar year, a licensee shall submit to the department

- (1) evidence of the [INITIAL AND] continuing existence of a court-ordered bond, if any and professional liability insurance [REQUIRED BY A COURT] to be maintained by the guardian or conservator;
- (2) a list, including case numbers, of the wards and protected persons for whom the licensee is acting as a private professional guardian or private professional conservator;
- (3) an accurate financial statement of the licensee[;] including total fees collected from the protected person, total business expenses, and documents necessary to establish financial solvency;
- (4) a letter stating that the licensee has filed all required court reports in the previous calendar year;
- (5) a copy of all of the licensee's federal tax documents filed with the Internal Revenue Service and all of the licensee's correspondence with the Internal Revenue Service for the calendar year; [and
- (6) A LIST OF ALL PERSONS CURRENTLY EMPLOYED BY THE LICENSEE IN THE BUSINESS FOR WHICH THE LICENSE WAS ISSUED].

The revision of subsection (1) of this statute would require that licensees annually submit evidence of any bond ordered by the court .

The phrase "required by a court" in current AS 08.26.080 would be deleted to reflect the change to AS 08.26.060(2), previously discussed, that would make professional liability insurance an application requirement and not a discretionary judicial requirement.

The proposed change to AS 08.26.080(3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement. Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

AS 08.26.080 would be repealed because it relates to an organizational license.

#### Section 7 AS 08.26.100 Court Appointment

An **individual** [A PERSON] who engages in the business of providing services as a **private** guardian or conservator may not be appointed **as** a guardian or a conservator in a court proceeding unless the **individual** [PERSON] is licensed under this chapter or exempt under AS 08.26.180.

The phrase "private" is inserted to clarify that the provisions of AS 08.26.100 apply only to private guardians and conservators as these terms are defined in AS 08.26.190.

#### §. AS 08.26.130. Grounds For Disciplinary Action.

The department may take disciplinary action against **an individual** [A PERSON] under AS 08.01.075 , **or refuse to renew a license** if the department determines that the **individual** [PERSON]

- (1) obtained or attempted to obtain a license under this chapter through deceit, fraud, or intentional misrepresentation;
- (2) has not complied with the standards of conduct established by the department under AS 13.26.001 ;
- (3) forfeited a license in this or another jurisdiction as a result of deceit, fraud, intentional misrepresentation, or professional incompetence;
- (4) has been found by a court in this state to have engaged in professional misconduct or incompetence;
- (5) has advertised **the individual's** [ITS] services in a false or misleading manner;
- (6) has been convicted, including a conviction based on a guilty plea or plea of nolo contendere, of a felony or other crime that affects **the individual's** [PERSON'S] ability to provide the licensee's services competently and safely for the ward or protected person;

(7) has been found to have abandoned, exploited, abused, or neglected a vulnerable adult; in this paragraph, "vulnerable adult" has the meaning given in AS 47.24.900 ;  
(8) has failed to comply with this chapter or with a regulation adopted under this chapter;

(9) has continued or attempted to practice after becoming unfit due to professional incompetence;

(10) has failed to maintain certification by a nationally recognized organization in the field of

(A) guardianships, if the individual [PERSON] was issued a [AN INDIVIDUAL] private professional guardian license; or

(B) conservatorships, if the individual was issued a [AN INDIVIDUAL] private professional conservator license; or

(11) is not able to be bonded and insured; OR

(12) IF THE LICENSEE HAS AN ORGANIZATIONAL LICENSE,

(A) DOES NOT MAINTAIN A PLACE OF BUSINESS IN THIS STATE;

(B) IS NOT IN COMPLIANCE WITH THE STATE AND FEDERAL REQUIREMENTS THAT APPLY TO THE ORGANIZATION; OR

(C) HAS AN EMPLOYEE WHO PROVIDES THE SERVICES OF A PRIVATE PROFESSIONAL GUARDIAN OR PRIVATE PROFESSIONAL CONSERVATOR FOR THE ORGANIZATION AND IS NOT LICENSED UNDER THIS CHAPTER.]

This statute would be amended by clarifying that The Division of Corporations, Business and Professional Licensing may refuse to renew a license as well as take disciplinary action if there is a determination that the licensee has done any of the things specified in AS 08.26.130.

AS 08.26.130 would be deleted because it pertains to organizational licenses, as previously discussed.

#### 9. AS 08.26.180 Exemption

**An individual who is employed** by a [A] financial institution regulated by the federal government or a financial institution regulated under AS 06 by the department is not required to be licensed under this chapter in order to engage, **in the course of the individual's employment by the financial institution**, in the business of providing services as a guardian or a conservator or be appointed as a private professional guardian or a private professional conservator by a court. In this subsection, "financial institution" does not include a person who is exempt under AS 06.26.020 or who has received an exemption under AS 06.26.020.

This amendment is proposed to clarify that the exemption from the licensing requirement for financial institutions does not apply to the financial institution's employees who desire to provide guardianship or conservatorship services outside of their employment by that institution.

## Section 10. A.S.08.26.190 Definitions

In this chapter,

- (1) "conservator" has the meaning given in AS 13.06.050 ;
- (2) "department" means the Department of Commerce, Community, and Economic Development;
- (3) "guardian" has the meaning given in AS 13.06.050 ;
- (4) "licensee" means a person licensed under this chapter;
- (5) ["ORGANIZATIONAL LICENSE" MEANS A LICENSE ISSUED UNDER AS 08.26.040;
- (6)] "private professional conservator" means an individual [A PERSON] who acts as a conservator under AS 13.26.165 - 13.26.320 and receives compensation for acting in that capacity for an individual who is not an immediate family member of the conservator;
- (6) [(7)] "private professional conservator license" means a license issued under AS 08.26.030 ;
- (7) [(8)] "private professional guardian" means an individual [A PERSON] who acts as a guardian under AS 13.26.030 - 13.26.155 and receives compensation for acting in that capacity for an individual who is not an immediate family member of the guardian;
- (8) [(9)] "private professional guardian license" means a license issued under AS 08.26.020 ;
- (9) [(10)] ("protected person" has the meaning given in AS 13.26.005 ;
- (10) [(11)] "ward" has the meaning given in AS 13.26.005 .

The definition section would be changed by deleting the definition of organizational license, as discussed in Section 12.

A.S. 08.26.190(6) (formerly (5)) and AS 08.26.190(8) (formerly (7)) would be amended to clarify that an individual acting as guardian or conservator for a family member would be able to seek fees for time spent in this capacity.

## Section 11. AS 13.26. 400 Staff delegation of powers and duties.

The public guardian may employ staff and delegate to members of the staff or to volunteers the powers and duties as guardian or conservator and other powers and duties under this chapter. However, the public guardian retains responsibility for the proper performance of the delegated powers and duties. The public guardian may only delegate powers and duties under this chapter to an individual who meets [ALL DELEGATIONS SHALL BE TO PERSONS WHO MEET] the eligibility requirements of AS 13.26.145 and has passed the criminal history record information check under AS08.26.070. In addition, the individual must either hold a current certification as a guardian from a nationally recognized organization at the time of the delegation or apply for an receive that certification within one year of the delegation.

This proposed revision to a statute pertaining to employees of the Public Guardian section of the Office of Public Advocacy would specify that public guardians (like private professional guardians and conservators) would be required to obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This would require that they take and pass an exam as a registered or master guardian, and they pass the same criminal background check required by AS 08.26.070.

Section 12. AS 08.26.040 is repealed

ASAGA and the Division of Corporations, Business and Professional Licensing concurs. Currently, interested applicants are being told that they must maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of persons interested in entering this field. There is no need for an organizational license as long as the persons within the organization who are providing guardianship and conservatorship services are individually licensed.

Section 13. The uncodified law of the State of Alaska is amended by adding a new section to read:

**APPLICABILITY.** A person who is not an individual who has a current organizational license issued by the department under AS 08.26.040 may continue to provide guardianship and conservatorship services under the requirements of AS 08.26 until the license expires. Each individual performing guardianship or conservatorship services under an organizational license must apply for and receive an individual license issued under AS 08.26 within 60 days after the expiration of the license in order to continue to provide guardianship or conservatorship services.

This section is added to provide guidance to holders of organizational licenses regarding the viability of their licenses after organizational licenses are eliminated and the time frame for obtaining an individual license after expiration of the organizational license.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB494-DPS-CRI-3-31-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dep. Affected: Public Safety  
 Title "An Act relating to private professional conservators RDU Statewide Support  
and private and public guardians." Component Alaska Criminal Records and  
 Sponsor House Labor and Commerce Committee Identification \_\_\_\_\_  
 Requester House Labor and Commerce Committee Component No. 1190

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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

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

Estimate of any current year (FY2006) cost: 0.0

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

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This legislation will have little if any fiscal impact on the Department of Public Safety.

Prepared by: Director David Schade  
 Division Statewide Services  
 Approved by: Commissioner William Tandeske  
 Agency Department of Public Safety

Phone 907-269-0202  
 Date/Time 3/31/06 4:17 PM  
 Date 3/31/2006

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 494  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title Guardianship and Conservators RDU Corp. Bus & Prof Licensing (117)  
Component Corp. Bus & Prof Licensing  
Sponsor Labor & Commerce  
Requester Labor & Commerce Component No. 2360

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|------------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES ( 1156 )</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|------------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other 1156 - Receipt Supported Services |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2006) cost: \_\_\_\_\_

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)

The division currently licenses private professional full guardian and conservators. This legislation amends the current statute to, among other things, add another license category for partial guardian and conservator licenses. The division does not anticipate significant revenues to be generated by this new category as the number of people to be licensed will be small. Additional funds are not required to implement the provisions of this legislation.

Prepared by: Katherine Mason, Administrative Manager Phone (907) 465-2572  
Division: Corporations, Business and Professional Licensing Date/Time 3/31/06 5:51 PM  
Approved by: William C. Noll, Commissioner Date 3/31/2006  
Agency: Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 494  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/2/06 6:43 p.m. Dept. Affected: Administration  
Title: An act relating to private professional conservators and private and public guardians RDU: Legal and Advocacy Services  
Component: Office of Public Advocacy  
Sponsor: House Labor & Commerce Committee  
Requester: (H) L&C Committee Component No. 43

**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      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 |            |            |            |            |            |            |
| Contractual            | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (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 corrects unintended consequences created by the passage of HC 427 in the 2004 legislative session, which established licensure requirements for private professional guardians and conservators. The bill primarily amends AS 8.26 to eliminate the need for multiple licenses and to clarify licensure requirements and definitions so as not to create a disincentive to the creation of private professional guardians and conservator ships in Alaska (Sections 1-10).

This legislation also amends AS 13.26.400 to require that public guardians be certified from a nationally recognized organization within one year of employment and pass the same criminal background check required of private guardians under AS 8.26.070. This legislation should have no fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone 907.259-3501  
Division: Office of Public Advocacy Date/Time 4/2/06 at 6:43 pm  
Approved by: Mike Tibbles, Deputy Commissioner Date 4/3/2006  
Agency: Administration

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
ADMINISTRATION REGULATION REVIEW COMMITTEE, CHAIRMAN  
JUDICIARY COMMITTEE, VICE-CHAIR

website: <http://www.akrepublicans.org/Anderson.htm>



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## Representative Tom Anderson

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### Summary of Proposed Changes to HB 494

The following is a summary of proposed changes to current HB 494. These changes are proposed by the Division of Corporations, Business and Professional Licensing and are supported by ASAGA, the Alaska State Association for Guardianship and Advocacy

- Section 1 - Substitutes the word "individual" for "person" to make this section consistent with the rest of HB 494
- Section 2- Adds the phrase "and conservatorships" to AS 08.26.020(3) so that it now requires an individual obtaining a private professional guardian license to be certified by a "nationally recognized organization in the field of "guardianships and conservatorships."
- Section 2- Deletes completely AS 08.26.020(4). This provision is unnecessary due to the amended version of AS 08.26.060(2), which more specifically cover the liability insurance and bonding requirements.
- Section 4- Deletes completely AS 08.26.030(5), which is identical to AS 08.26.020(4), for the same reason as the proposed deletion of that statute.
- Section 4- Adds the phrase "and conservatorships" to AS 08.26.030(4) to achieve consistency with the proposed revision to AS 08.26.020(3) in Section 2.
- Section 5- Substitutes the word "individual" for "person" to make this section consistent with the rest of HB 494
- Section 5- Changing AS 08.26.060(5) so that an applicant would not have to file with the Division a resume for every employee who is hired to perform services for a client.
- Section 6- Deletes the phrase "documents necessary to establish financial solvency" from AS 08.26.080(3), and adds the phrase "for the previous calendar year" to clarify which financial documents should be filed.
- Section 6- Deletes completely AS 08.26.080(5) regarding annual submission of each licensee's federal tax documents.

- Section 7- Adds the phrase "professional" prior to the phrase "guardian or conservator" in AS 08.26.100 in order to achieve consistency with the rest of AS 08.26. Also adds cites to the definitions of "private professional guardian" and "private professional conservator"
- Section 10- Changes the definition of private professional guardian and private professional conservator to exclude from the licensing requirement an individual who performs guardianship or conservatorship services for one other individual who is not a family member...

## SECTIONAL ANALYSIS OF HB 494

### Section 1. AS 08.26.010. License Required.

Except as provided by AS 08.26.180, a person may not engage in the business of providing services as a **private professional** guardian or a conservator unless the person has a license issued under this chapter.

The phrase "private professional" is being inserted before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy. Though the title of this statutory chapter is "Private Guardian and Conservator", the Division of Corporations, Business and Professional Licensing has pointed out that public guardians could be construed to be engaging in the business of providing private and professional services. To ensure that there is no ambiguity regarding applicability to public guardians this statute would become consistent with A.S. 08.26 by specifically referencing "private professional" guardians and conservators.

### Section 2. AS 08.26.020. Requirements for [INDIVIDUAL] private professional **full and partial** guardian licenses [LICENSE]

- (a) The department shall issue an individual private professional full guardian license to an individual
- (1) who is at least 21 years of age;
  - (2) who has two or more years of professional client casework experience or at least an associate degree in human services, social work, psychology, sociology, gerontology, special education, or a closely related field;
  - (3) who is certified as a guardian by a nationally recognized organization in the field of guardianships;
  - (4) who provides proof satisfactory to the department that the individual is able to be bonded and insured;
  - (5) whose criminal history record checks under AS 08.26.070 show that the individual has not been convicted of a **felony or a misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in the state or in any other jurisdiction**; [ CRIME WITHIN 10 YEARS OF THE APPLICATION THAT WOULD AFFECT THE INDIVIDUAL'S ABILITY TO PROVIDE

THE SERVICES OF A GUARDIAN COMPETENTLY AND SAFELY FOR THE WARD;  
AND]

(6) who satisfies the application requirements of AS 08.26.060; and

(7) who satisfies the requirements for obtaining an individual private professional conservator license, as set forth in AS 08.26.030.

The first change, insertion of the term "full", would help to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, The Division of Corporations, Business and Professional Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements), most applicants are going to be willing to act as full guardians with conservatorship responsibilities and shouldn't have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator.

The phrase "individual" in the title of this statute would be deleted because of the proposed repeal of the organizational statute license.

A proposed change is made to AS 08.26.020 (5) to conform the criminal history requirements to the requirements for certification by the National Guardianship Foundation. A.S. 08.26.020 (3) requires that a guardian be certified as a guardian by a nationally recognized organization in the field of guardianship. The National Guardianship Foundation is the nationally recognized organization in the field of guardianship and conservatorship, and their standards preclude licensure of anyone convicted of a felony, or "found civilly or criminally liable for an action of fraud, misrepresentation, material omission, misappropriation, theft or conversion." Since the NGF has a blanket prohibition of licensure of an applicant convicted of a felony, its broader provisions would be controlling over the current statutory provision regarding conviction of a crime within 10 years.

Proposed AS 08.26.020(7) would clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

Section 3 A.S. 08.26.020 (b)

(b) The Department shall issue a private professional partial guardian license to an individual who satisfies the requirements under (a)(1)-(6) of this section. A licensed private professional partial guardian may not perform conservator services.

Proposed AS 08.26.020(b) is added to deal with the situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

Section 4. A.S. 08.26.030. Requirements for [INDIVIDUAL] private professional conservator license.

The department shall issue a [AN INDIVIDUAL] private professional conservator license to an individual

- (1) who is at least 21 years of age;
- (2) who has obtained a high school diploma, or a general education development diploma or its equivalent;
- (3) who has six months' employment experience in a position involving financial management, or has at least an associate degree in accounting or a closely related field;
- (4) who is certified as a guardian by a nationally recognized organization in the field of guardianships;
- (5) who provides proof satisfactory to the department that the individual is able to be bonded and insured;
- (6) whose criminal history record checks under AS 08.26.070 show that the **individual [PERSON]** has not been convicted of a **felony or a misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in the state or any other jurisdiction** [CRIME WITHIN 10 YEARS OF THE APPLICATION THAT WOULD AFFECT THE INDIVIDUAL'S ABILITY TO PROVIDE THE SERVICES OF A CONSERVATOR COMPETENTLY AND SAFELY FOR THE PROTECTED PERSON]; and
- (7) who satisfies the application requirements of AS 08.26.060 .

Subsection (6) of this statute would be amended in the same fashion as AS 08.26.020, previously discussed.

Section 5. AS 08.26.060. Application Requirements.

To apply for a license under this chapter, a person shall submit an application on a form provided by the department and submit

- (1) two complete fingerprint cards containing fingerprints and other information required by the Department of Public Safety to obtain state and national criminal history record information under AS 12.62 and AS 12.64; [THE FINGERPRINTS MUST BE THE FINGERPRINTS OF THE APPLICANT IF THE APPLICANT IS AN INDIVIDUAL, OR, IF THE APPLICANT IS AN ORGANIZATION, FINGERPRINTS OF THE  
(A) OFFICERS OF THE ORGANIZATION, IF THE APPLICANT IS A CORPORATION;  
(B) MEMBERS OF THE ORGANIZATION, IF THE APPLICANT IS A LIMITED LIABILITY COMPANY;  
(C) PARTNERS OF THE ORGANIZATION, IF THE APPLICANT IS A PARTNERSHIP;]
- (2) proof of **professional liability insurance and ability to obtain a surety bond ordered by the court** [THE ABILITY TO BE INSURED AND BONDED];
- (3) a written waiver of confidentiality signed by the applicant allowing the department to access at any time relevant complaint information made about the applicant to adult protective services, the designated protection and advocacy agency, the long-term care ombudsman, or an entity that certifies or licenses private professional guardians or private professional conservators;
- (4) a written statement signed by the applicant that the applicant will allow immediate access at any time to the department to the file of a ward or protected person and to financial information regarding the applicant, including corporate or other business records;
- (5) a detailed resume, including relevant experience, for each employee and contractor of the applicant who may provide services to a ward or protected person;
- (6) payment of the application fee, any criminal history record information checks fee charged under AS 12.62.160 (d), and any other fees required by the department; and
- [(7) IF THE APPLICANT IS NOT AN INDIVIDUAL, A COPY OF THE DOCUMENTS UNDER WHICH THE APPLICANT WAS FORMED, INCLUDING ARTICLES OF INCORPORATION AND BYLAWS IF THE APPLICANT IS A CORPORATION.]

The proposed revision to AS 08.26.060(1) consists of deletion of language that pertains to fingerprinting of members of an organization applicant. This would be necessary since HB 494 would repeal the organizational license statute, A.S. 08.26.040. See the discussion of Section 12

Subsection (2) addresses ambiguities in AS 08.26.060(2). This statute as currently written does not specify what type of insurance an applicant must possess. e.g., automobile, life, or homeowner's insurance. The proposed change would clarify that the applicant must provide proof of professional liability insurance.

Revised AS 08.26.060(2) would clarify that the nature of the bond required is a surety bond imposed by the court. Under current law the court may impose a

requirement of bonding on a conservator but is not obligated to do so. See AS 13.26.215.

Subsection (7) would be deleted since it pertains to organizational applicants.

#### Section 6. AS 08.26.080. Annual Report

Within 30 days following the end of each calendar year, a licensee shall submit to the department

- (1) evidence of the [INITIAL AND] continuing existence of a court-ordered bond, if any and professional liability insurance [REQUIRED BY A COURT] to be maintained by the guardian or conservator;
- (2) a list, including case numbers, of the wards and protected persons for whom the licensee is acting as a private professional guardian or private professional conservator;
- (3) an accurate financial statement of the licensee[;] including total fees collected from the protected person, total business expenses, and documents necessary to establish financial solvency;
- (4) a letter stating that the licensee has filed all required court reports in the previous calendar year;
- (5) a copy of all of the licensee's federal tax documents filed with the Internal Revenue Service and all of the licensee's correspondence with the Internal Revenue Service for the calendar year; [and
- (6) A LIST OF ALL PERSONS CURRENTLY EMPLOYED BY THE LICENSEE IN THE BUSINESS FOR WHICH THE LICENSE WAS ISSUED].

The revision of subsection (1) of this statute would require that licensees annually submit evidence of any bond ordered by the court .

The phrase "required by a court" in current AS 08.26.080 would be deleted to reflect the change to AS 08.26.060(2), previously discussed, that would make professional liability insurance an application requirement and not a discretionary judicial requirement.

The proposed change to AS 08.26.080(3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement. Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

AS 08.26.080 would be repealed because it relates to an organizational license.

#### Section 7 AS 08.26.100 Court Appointment

**An individual [A PERSON]** who engages in the business of providing services as a **private** guardian or conservator may not be appointed **as** a guardian or a conservator in a court proceeding unless the **individual [PERSON]** is licensed under this chapter or exempt under AS 08.26.180.

The phrase "private" is inserted to clarify that the provisions of AS 08.26.100 apply only to private guardians and conservators as these terms are defined in AS 08.26.190.

#### 8. AS 08.26.130. Grounds For Disciplinary Action.

The department may take disciplinary action against **an individual [A PERSON]** under AS 08.01.075 , **or refuse to renew a license** if the department determines that the **individual [PERSON]**

- (1) obtained or attempted to obtain a license under this chapter through deceit, fraud, or intentional misrepresentation;
- (2) has not complied with the standards of conduct established by the department under AS 13.26.001 ;
- (3) forfeited a license in this or another jurisdiction as a result of deceit, fraud, intentional misrepresentation, or professional incompetence;
- (4) has been found by a court in this state to have engaged in professional misconduct or incompetence;
- (5) has advertised **the individual's [ITS]** services in a false or misleading manner;
- (6) has been convicted, including a conviction based on a guilty plea or plea of nolo contendere, of a felony or other crime that affects **the individual's [PERSON'S]** ability to provide the licensee's services competently and safely for the ward or protected person;
- (7) has been found to have abandoned, exploited, abused, or neglected a vulnerable adult; in this paragraph, "vulnerable adult" has the meaning given in AS 47.24.900 ;
- (8) has failed to comply with this chapter or with a regulation adopted under this chapter;
- (9) has continued or attempted to practice after becoming unfit due to professional incompetence;
- (10) has failed to maintain certification by a nationally recognized organization in the field of
  - (A) guardianships, if the **individual [PERSON]** was issued **a [AN INDIVIDUAL]** private professional guardian license; or
  - (B) conservatorships, if the individual was issued **a [AN INDIVIDUAL]** private professional conservator license; **or**
- (11) is not able to be bonded and insured[; OR
- (12) IF THE LICENSEE HAS AN ORGANIZATIONAL LICENSE,
  - (A) DOES NOT MAINTAIN A PLACE OF BUSINESS IN THIS STATE;
  - (B) IS NOT IN COMPLIANCE WITH THE STATE AND FEDERAL REQUIREMENTS THAT APPLY TO THE ORGANIZATION; OR

(C) HAS AN EMPLOYEE WHO PROVIDES THE SERVICES OF A PRIVATE PROFESSIONAL GUARDIAN OR PRIVATE PROFESSIONAL CONSERVATOR FOR THE ORGANIZATION AND IS NOT LICENSED UNDER THIS CHAPTER.]

This statute would be amended by clarifying that The Division of Corporations, Business and Professional Licensing may refuse to renew a license as well as take disciplinary action if there is a determination that the licensee has done any of the things specified in AS 08.26.130.

AS 08.26.130 would be deleted because it pertains to organizational licenses, as previously discussed.

#### 9. AS 08.26.180 Exemption

**An individual who is employed** by a [A] financial institution regulated by the federal government or a financial institution regulated under AS 06 by the department is not required to be licensed under this chapter in order to engage, **in the course of the individual's employment by the financial institution**, in the business of providing services as a guardian or a conservator or be appointed as a private professional guardian or a private professional conservator by a court. In this subsection, "financial institution" does not include a person who is exempt under AS 06.26.020 or who has received an exemption under AS 06.26.020.

This amendment is proposed to clarify that the exemption from the licensing requirement for financial institutions does not apply to the financial institution's employees who desire to provide guardianship or conservatorship services outside of their employment by that institution.

#### Section 10. A.S.08.26.190 Definitions

In this chapter,

- (1) "conservator" has the meaning given in AS 13.06.050 ;
- (2) "department" means the Department of Commerce, Community, and Economic Development;
- (3) "guardian" has the meaning given in AS 13.06.050 ;
- (4) "licensee" means a person licensed under this chapter;
- (5) ["ORGANIZATIONAL LICENSE" MEANS A LICENSE ISSUED UNDER AS 08.26.040;
- (6)) "private professional conservator" means **an individual** [A PERSON] who acts as a conservator under AS 13.26.165 - 13.26.320 and receives compensation for acting in that capacity **for an individual who is not an immediate family member of the conservator**;
- (6) [(7)]** "private professional conservator license" means a license issued under AS 08.26.030 ;

~~(7)~~ [(8)] "private professional guardian" means an individual [A PERSON] who acts as a guardian under AS 13.26.030 - 13.26.155 and receives compensation for acting in that capacity for an individual who is not an immediate family member of the guardian;

~~(8)~~ [(9)] "private professional guardian license" means a license issued under AS 08.26.020 ;

~~(9)~~ [(10)] ("protected person" has the meaning given in AS 13.26.005 ;

~~(10)~~ [(11)] "ward" has the meaning given in AS 13.26.005 .

The definition section would be changed by deleting the definition of organizational license, as discussed in Section 12.

A.S. 08.26.190(6) (formerly (5)) and AS 08.26.190(8) (formerly (7)) would be amended to clarify that an individual acting as guardian or conservator for a family member would be able to seek fees for time spent in this capacity.

Section 11. AS 13.26. 400 Staff delegation of powers and duties.

The public guardian may employ staff and delegate to members of the staff or to volunteers the powers and duties as guardian or conservator and other powers and duties under this chapter. However, the public guardian retains responsibility for the proper performance of the delegated powers and duties. The public guardian may only delegate powers and duties under this chapter to an individual who meets [ALL DELEGATIONS SHALL BE TO PERSONS WHO MEET] the eligibility requirements of AS 13.26.145 and has passed the criminal history record information check under AS 08.26.070. In addition, the individual must either hold a current certification as a guardian from a nationally recognized organization at the time of the delegation or apply for and receive that certification within one year of the delegation.

This proposed revision to a statute pertaining to employees of the Public Guardian section of the Office of Public Advocacy would specify that public guardians (like private professional guardians and conservators) would be required to obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This would require that they take and pass an exam as a registered or master guardian, and they pass the same criminal background check required by AS 08.26.070.

Section 12. AS 08.26.040 is repealed

ASAGA and the Division of Corporations, Business and Professional Licensing concurs. Currently, interested applicants are being told that they must

maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of persons interested in entering this field. There is no need for an organizational license as long as the persons within the organization who are providing guardianship and conservatorship services are individually licensed.

Section 13. The uncodified law of the State of Alaska is amended by adding a new section to read:

**APPLICABILITY.** A person who is not an individual who has a current organizational license issued by the department under AS 08.26.040 may continue to provide guardianship and conservatorship services under the requirements of AS 08.26 until the license expires. Each individual performing guardianship or conservatorship services under an organizational license must apply for and receive an individual license issued under AS 08.26 within 60 days after the expiration of the license in order to continue to provide guardianship or conservatorship services.

This section is added to provide guidance to holders of organizational licenses regarding the viability of their licenses after organizational licenses are eliminated and the time frame for obtaining an individual license after expiration of the organizational license.

HCR

3



# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HCR 3  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCCED  
 Title RENEWABLE ENERGY PROJECT BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Rep. Ramras Component No. \_\_\_\_\_  
 Requester Rep. Ramras

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

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This resolution has no fiscal impact.

Prepared by: Rep. Tom Anderson, Chair Phone \_\_\_\_\_  
 Division: House Labor & Commerce Committee Date/Time 3/3/05 7:53 AM  
 Approved by: Rep. Tom Anderson, Chair Date 3/3/2005  
 Agency: House Labor & Commerce Committee

**Representative Jay Ramras**  
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# Alaska State Legislature



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House District 10

## House of Representatives

### Sponsor Statement

#### HCR 3

House Concurrent Resolution 3 follows action taken by the 23<sup>rd</sup> Alaska Legislature to begin the process of determining a broad understanding of the State of Alaska's future energy needs.

While we continue to rely on oil and gas as our primary energy source, HCR 3 opens the door for renewable energy as a key component of long-term cost effective sources of energy for both urban and rural Alaskan communities. HCR 3 acknowledges that the development of renewable sources of energy is a strong potential source of economic development in the State of Alaska. With the expertise and resources available in the state, Alaska could lead the way in wind, geo, tidal, hydrogen, and biofuels.

HCR 3 encourages Governor Murkowski to join the Legislature by taking action in relation to further the development and production of renewable energy resources.

NonRailbelt Report  
Findings and Recommendations  
of the Alaska Energy Policy Task Force

**Task Force Members**

**Mike Barry, Chair**  
AIDEA/Alaska Energy Authority  
Chairman of the Board

**H. A. "Red" Boucher**  
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Speaker of the House

**Representative Pete Kott**  
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**Senator Gene Therriault**

Alaska Energy Policy Task Force



Alaska Energy Policy Task Force  
Created by the 23<sup>rd</sup> Alaska Legislature  
Legislative Resolve No. 24, 2003  
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**Alaska Energy Policy Task  
Force Report (non-Railbelt)**

**NonRailbelt Report  
Findings and Recommendations  
of the Alaska Energy Policy Task Force**



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## Letter from the Chair

Mike Barry



Many contributed to the work of this task force. I would like to thank each and every person and organization that presented to us. I would, especially, like to thank the individual members of the task force who set aside the needs of their particular organization to focus on those of the state as a whole. Special credit goes to Becky Gay and Bernie Smith who admirably and capably served as staff.

We have outlined many daunting challenges to meeting the electrical needs of the immense area and small population known as Alaska. It is vital that we become more efficient in our utilization of limited resources such as capital and human expertise in order to successfully meet these challenges.

To become better stewards we recognize that we must operate regionally rather than just one community at a time. We must plan and operate in the context of a model of sustainability, adhering to cost-effective principles of conservation and best practices. We need improved coordination between State and Federal efforts in funding infrastructure. We need to invest capital funding to achieve solutions that work as opposed to merely providing work.

We recognize that cost-effective electricity is crucial to quality of life and essential to economic health. Priority should be given to funding those projects which are regional in focus and management and which will support growth and diversification of our economy. Working together under a common set of principles and guidelines will allow Alaskans to meet the challenges ahead. We hope that the attached principles and guidelines will be helpful.

## Legislative Directive

In the first session of the 23rd Alaska State Legislature, the Energy Policy Task Force (EPTF) was established by concurrent resolution to address the energy needs of Alaska. This was to be done in two reports, categorized for "Railbelt" and "NonRailbelt" areas. The Railbelt report was completed by December 31, 2003. This is the NonRailbelt report and it presents the Findings and Recommendations of the Task Force for those areas that comprise the largest geographic portion of the state.

For purposes of this energy report, NonRailbelt Alaska was defined as three distinct energy areas:

**Four Dam Pool and Southeast Alaska,  
Power Cost Equalization (PCE) communities, and  
Southcentral Coastal communities.**

The following mandates were met with the NonRailbelt report:

1. **Develop a long-term energy plan to efficiently enhance Alaska's economic future.**
2. **Review and analyze the state's current and long-term energy needs.**
3. **Address elements of Alaska's long-term energy needs that can be solved through action on the part of industry and/or government actions.**

With prior permission from the Joint Leadership of the House and Senate, the deadline for a report of task force findings for NonRailbelt areas was extended from March 31 to April 15, 2004, to coincide with the "sunset" provision of the Task Force.



## **I. A LONG-TERM ENERGY PLAN TO ENHANCE ALASKA'S ECONOMIC FUTURE**

### **A. Vision Statement**

Alaska holds a worldwide leadership role in energy supply, delivery and use solutions and environmental stewardship. Alaska will have reliable, economic, sustainable and secure power supplies for its citizens. Public funds will be invested only in infrastructure that is sustainable.

### **B. Mission Statement**

Electricity is essential to meeting Alaska's economic, environmental, and educational development goals. The State will conduct its activities affecting energy in such a manner as to:

- **Promote reliable and secure electric power systems**
- **Promote the lowest cost for consumers**
- **Stimulate the economy**
- **Provide employment opportunities for Alaskans**
- **Improve the quality of life for all Alaskans**
- **Promote workforce development, including training Alaskans, for Alaska's utility sector.**
- **Enhance the State's social, cultural, economic and environmental assets**

### **C. Goals** (Listed in no particular order)

- Achieve sustainability.
- Develop Alaska's position as a leader in competitively priced and reliably available electricity.
- Develop Alaska's electrical infrastructure while maintaining competitively priced energy.
- Ensure security of physical and cyber energy infrastructure.
- Promote research, development and demonstration of clean and renewable energy technologies.
- Promote conservation and energy efficiency across all of Alaska.
- Develop Alaska as a world leader in using and exporting competitively priced and reliably available fossil fuels.
- Ensure standardized and consistent permitting and regulatory processes.
- Establish Alaska as a national leader in developing energy projects using its natural resources, including its workforce.
- Develop viable local solutions to provide cost-effective electric energy for small, geographically remote Alaskan communities.

## **D. Recommendations**

### **1. Workforce**

**Provide proper and focused workforce training to meet the challenges of 21st century energy industries.**

***Executive:***

Perform an assessment of the opportunities for Alaska workers in the resource development and energy sectors and, based upon these opportunities, examine the deployment of a portion of Alaska's resources toward training and retraining of the workforce in these sectors.

Amend Department of Labor/Workforce Development (DOL/WD) regulations to facilitate the ability to develop training and internship programs, with an emphasis on jobs for Alaskans.

Fund education to ensure that Alaska workers have the education and skills required to maintain the vital role energy plays in our economy.

Update certificate of fitness requirements for utility linemen to enhance workforce availability and better track the successful practices of the other 49 states.

Ensure that Alaska workforce regulatory practices conform to national practices.

***Private Sector:***

Work with the DOL/WD in its assessment of opportunities for the Alaska workforce in the energy and utility sectors.

Maximize internship programs that will allow entry into the Alaskan workforce.

Encourage development of new energy and energy related businesses in Alaska.

### **2. Energy Generation**

Alaska must be active in its pursuit of improving existing technologies and developing new generation technologies to increase efficiencies of present and future energy generation facilities.

**Assist the private sector in its efforts to develop energy generation capacity**

***Executive:***

Enhance the ability of public bodies, such as the Denali Commission and the Alaska Energy Authority (AEA), to assist the private sector and communities in efforts to develop adequate energy generation capacity, funded through conduit bonds and grants, to provide cost-effective electricity for all Alaskans.

**Explore utilization of Alaska's abundant renewable resources in the production of hydrogen, which is a fuel for the emerging fuel cell technology**

***Executive:***

Convene a workshop to discuss the potential for Alaska's leadership in hydrogen production. Such a workshop could serve as an educational tool and a platform for discussion between public, university research and private sector individuals and organizations.

Direct the University of Alaska and executive agencies to inventory ideal locations for future renewable energy generation sites that could be used as a source of hydrogen for in-state use and export.

### **3. Energy Infrastructure**

The Task Force's goals and strategies focused on matters including, but not limited to: (1) generation infrastructure; (2) transmission and distribution; and (3) economic efficiency. As the electrical system ages, there will be increased concerns about reliability, sustainability and stability. Technology-driven system improvements will be required. There must exist within the State the capacity to deliver resources and energy to end-users.

**Stimulate private-sector participation in Alaska's energy infrastructure to allow greater energy export capability to meet state, regional, and national energy demands.**

***Executive:***

Provide tax-exempt bonding to fund projects, with the State retaining only the obligations that cannot be transferred to the participating utilities.

Work with Alaska's Congressional delegation to provide financing or economic incentives to promote energy infrastructure development.

Encourage adequate transmission infrastructure to increase economic development activity.

**Conduct an assessment to identify the State's energy infrastructure security needs.**

***Executive:***

The RCA should include in their deliberations the issue of cyber-security.

***Private Sector:***

Continue in the joint planning process to identify the State's energy infrastructure needs.

Encourage adequate and secure transmission infrastructure to increase economic development activity.

Continue to promote adequate fuel delivery infrastructure.

**Assess the potential for the development of a locality into a sustainable energy community that utilizes novel distributed and/or renewable energy systems for residences and commercial enterprises.**

***Executive:***

Examine the potential for the development of an Alaska locality into a sustainable energy community.

***Legislative:***

Examine opportunities to provide support for the development of such a community.

**Alaska regional transmission planners should work to become leaders in energy infrastructure development.**

Establish energy infrastructure development projects that will promote the reliable transportation of electricity throughout the entire State that meets the State's energy, environmental and economic needs.

#### **4. Regulatory**

**Streamline all licensing, permitting, and regulatory processes of energy projects.**

***Executive:***

Review agency practices regarding the licensing, permitting, and regulatory processes of energy projects. These agencies could also review the licensing, permitting, and regulatory processes of energy projects in other states so as to develop a study of best practices regarding these issues.

Establish and maintain regulatory processes that are consistent and have defined processing timelines and encourage utilities to maintain long-term financial health.

***Legislative:***

Enact appropriate legislation for the implementation of best practices regarding the licensing, permitting and regulatory processes of energy projects.

***Private sector:***

Provide input to the Executive and Legislative Branches to implement best practices regarding licensing, permitting and regulatory processes of energy projects for small and medium sized utilities.

## **II. CURRENT AND LONG-TERM ENERGY NEEDS**

### **Findings**

NonRailbelt Alaska is diverse, contains both rural and urban customers, and both roadless and road accessible communities. Their most common energy denominator is that none of the areas are connected to the Railbelt energy grid.

For purposes of this report, NonRailbelt Alaska is divided into three distinct energy areas:

- **Four Dam Pool and Southeast Alaska,**
- **Power Cost Equalization (PCE) communities, and**
- **Southcentral Coastal communities.**

A large state geographically with a very small population means in energy terms - huge distances, minimal load. Most of Alaska is not accessible by roads. Access for most rural villages and Southeast Alaska is by air or water, making energy costs extremely high - as much as five times the national average. In Southeast Alaska, there is a lack of transmission interties to export surplus hydroelectric to other communities that need it.

As a comparison, in 2003, the average cost of power in Anchorage-Fairbanks-Juneau for residential customers was 10.6 cents/kWh, whereas in PCE eligible communities, the average residential cost of power prior to the State's rate reduction credit was 27.6 cents/kWh for 2003.

Over 66% of rural Alaska households use fuel oil as their heating source, priced at two to four times the national average. No electrical transmission lines interconnect the majority of Alaska's rural communities. In PCE Alaska, ninety utilities service 187 rural communities. Full funding of the Power Cost Equalization (PCE) program is not being met nor is a sustainable endowment provided.

### **A. Current Energy Needs NonRailbelt Findings**

- Over 50% of powerhouse structures and electrical distribution requires major repairs or replacement.
- Approximately 50% of fuel storage facilities are in poor condition.
- In Southeast Alaska, there is a lack of transmission interties to export surplus hydroelectric energy to other communities that need it.
- Average households in rural Alaska use approximately 425 kWh per month (compared to the average urban household in Alaska at approximately 700 kWh per month.)

### **See Appendix F ISER Status Report**

#### **Southeast and Four Dam Pool**

This region includes Juneau, Ketchikan, Sitka, Kodiak, Valdez and others and the following utilities.

#### **See Appendix H**

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| • Ketchikan (KPU)                   | Municipally Owned                   |
| • Petersburg (PMP&L)                | Municipally Owned                   |
| • Wrangell (WL&P)                   | Municipally Owned                   |
| • Sitka (SMED)                      | Municipally Owned                   |
| • Juneau (AEL&P)                    | Investor Owned                      |
| • Valdez (CVEA)                     | Cooperative Owned                   |
| • Yakutat Electric                  | Municipally Owned                   |
| • Other SE communities (AP&T)       | Investor Owned                      |
| • Four Dam Pool Joint Action Agency | Owned by participating cooperatives |

The Four Dam Pool consists of Swan Lake, Lake Tyee, Terror Lake, and Solomon Gulch hydro plants. On January 31, 2002, AEA sold the Four Dam Pool projects to the Four Dam Pool Power Agency, an entity formed by Ketchikan Public Utilities, Wrangell Municipal Light & Power, Petersburg Municipal Light & Power, Copper Valley Electric Association, and Kodiak Electric Association, Inc.

Southeast Alaska has significant hydroelectric potential because of topography and climate. In Southeast, there is a lack of transmission interties to export surplus hydroelectric power to other communities that need it, including

communities that utilize fossil fuel to generate electricity. Approximately 90% of the total annual electricity generated in this region is by hydroelectric generation, with diesel internal combustion engines and oil-fired turbines as expensive additional generation sources.

### **Power Cost Equalization (PCE) Communities**

In PCE Alaska, ninety utilities service 187 rural communities. Approximately 70,000 people, or 13% of the state's population, live in communities whose primary source of electricity is diesel fuel. The PCE program was established in 1984 as a successor to similar programs in effect since 1980 that reduce the end cost of electricity for residential and community facilities. PCE is available on the first 500 kWh used by households and on up to 70 kWh per resident for certain public facilities.

PCE communities are characteristically small, remote and accessible only by air or by seasonal barge service. Most PCE recipients reside in communities with populations of 400 or less. After application of PCE, the average cost of electricity for most rural communities is still more than 20 cents per kWh.

Because of the small size, remoteness and climactic extremes of PCE communities, alternative technologies such as hydropower and transmission grids are prohibitively expensive and impractical and emerging technologies have not yet been proven feasible. The high cost of power has attracted many entrepreneurs over the years who have proposed 'silver bullet' solutions, none of which have borne fruit. Efforts must continue to foster the fledgling supplemental wind power industry as well as other proven technologies to alleviate the burden in these communities of continued dependence on diesel fuel.

### **Eligibility**

An electric utility participating in the PCE must: a) provide electric service to the public for compensation; b) during calendar year 1983, have had less than 7,500 megawatt hours of residential consumption or less than 15,000 megawatt hours if two or more communities were served; and c) during calendar year 1984, the utility must have used diesel-fired generators to produce more than 75% of its electrical consumption. Customer eligibility is based on actual power sold.

Residential customers are eligible for PCE credit on up to 500 kWh/month per customer. Community facilities, as a group, can receive PCE credit for up to 70 kWh/month multiplied by the number of residents in a community. State and federal offices/facilities, commercial accounts and public schools are ineligible for PCE.

### **See Appendix I for PCE details**

FY03 PCE Program Participating Utilities

PCE program statistics comparing FY02 to FY03

PCE historical trends from 1993-2003

### **Southcentral Coastal: Kodiak, Cordova, Valdez and the Copper River Basin**

The Southcentral Coastal utilities consist of Cordova Electric Cooperative (CEC), Copper Valley Electric Association (CVEA) and Kodiak Electric Association (KEA). It contains the Roadbelt area along the Richardson and Glenn Highways that are not connected to any grid. Kodiak is also part of the Four Dam Pool

#### **Generation:**

- Hydroelectric generation capacity
- Thermal generation capacity
- Combustion turbines
- Reciprocating engines

### **B. Long-term Energy Needs NonRailbelt Findings**

A long-term plan is needed for coordinated generation and transmission of power, to maximize the use of public funds, and to minimize the cost of power to the consumers.

The Task Force adopted the definition of long-term as 20 years or more. Within the next 20 years, it was determined that NonRailbelt Alaska needs to:

- **Create secure and reliable transmission between load centers**
- **Provide energy infrastructure for economic development**
- **Identify and evaluate long-term fuel sources**
- **Establish regional system operations where feasible**
- **Connect new areas to the Railbelt grid**
- **Replace aging generation**
- **Replace an aging workforce**
- **Lessen dependence on fossil fuel generation where renewable options are available**

### **C. Needs/Projects NonRailbelt See Appendix G**

### **D. Recommendations**

Specific recommendations of how to fulfill future needs were as follows:

- Support increased vocational trade schools, higher education and training of technical and professional utility career staff and management in rural communities. [www.aidea.org/AEAdocuments/TrainingDesc2003-2004.pdf](http://www.aidea.org/AEAdocuments/TrainingDesc2003-2004.pdf)
- State grants or financing should give priority to sustainable projects that consolidate operations and expand existing electrical systems.
- Encourage resource sharing among utilities to lower cost of installation, administration, operations and maintenance.
- Increase the proportion of renewables in long-term fuel sources. Renewables

- include hydroelectric generation.
- Advance the physical and cyber security of the critical electrical infrastructure in Alaska.
- Implement alternative technologies as their costs become competitive with existing conventional technology.
- Have separate regulations for communities constrained by size.

### **III. INDUSTRY AND/OR GOVERNMENT ACTIONS**

#### **Findings**

Government has played a role in bringing affordable power to Alaska in many ways, most notably through PCE and federal funding of energy programs. Industry, utilities and local governments have formed entities to voluntarily work toward regional energy priorities.

Alaska has contributed hundreds of millions of dollars in grant funding for the construction of hydro projects such as Bradley Lake and the Four Dam Pool and for transmission lines such as the Anchorage-Fairbanks Intertie that allows inexpensive power from natural gas and hydro power to be exported to the Fairbanks area.

Small hydro projects and interties have been built in rural Alaska but most rural communities still rely exclusively on isolated diesel power plants since the prevailing characteristics of rural Alaska, such as low population density and remote village locations, render most alternatives to diesel power infeasible. Recognizing this, another form of providing more affordable power through direct rate reduction (the PCE program) was initiated for rural Alaska.

While diesel has been proven to be the most cost-effective in most parts of Alaska, and the economic potential for wind-driven energy is improving, there may be site-specific opportunities that economically justify hydro, coal, methane, and/or coal-bed methane driven power generation.

The expenditure of \$15.5 million in FY2002 was not sufficient to pay the "full formula" requirement, so PCE benefits were prorated by an amount equivalent to 85.83% over the entire year.

#### **A. Power Cost Equalization (PCE) program**

PCE is governed by Alaska Administrative Code 3 AAC 94.305-330 and 3 AAC 52.600-690 and by Alaska Statutes 42.45.110-170.

<http://www.aidea.org/PDF%20files/FY03PCEREport.pdf>

Legislation enacted in 2000 established the PCE Endowment Fund and appropriated \$100 million into the Endowment Fund from the Constitutional Budget Reserve. In addition, AEA executed a Memorandum of Understanding in April 2000 with the Four Dam Pool purchasing utilities that deposited the \$81 million in proceeds from the sale of the Four Dam Pool projects into the

Alaska is blessed with some of the best renewable energy resources in the world, with wind, geothermal, tidal, hydro, and biofuels that all have commercial potential. Though solar is a proven application for small-scale use, there is currently no large-scale potential. Below is a short description of some of Alaska's renewable energy resources.

### Wind

Alaska's wind resources are world class, with much of western Alaska and the Aleutians having the best wind in North America, according to the Department of Energy's wind atlas. The wind resource includes places like Kotzebue, which has proven that today's advanced technology works well even above the Arctic Circle. Last year Kotzebue Electric Association's turbines were available to make electricity 98% of the time and displaced over 100,000 gallons of diesel use. Kotzebue's success has led many other villages to look into the possibility of wind power to offset rapidly rising diesel costs. In 2004 the Denali Commission and the Alaska Village Electric Cooperative (AVEC) installed a wind system in Selawik. Over 50 other villages have been identified by the Alaska Energy Authority as having viable wind resources.

On the railbelt, Chugach Electric Association has been investigating wind near Anchorage for almost five years, and has found an excellent resource off the coast on Fire Island. The Fire Island wind development could eventually generate 100 megawatts of power. (To put that in perspective, the total peak electricity load on the entire railbelt is about 700 megawatts). In the U.S., wind energy is the fastest growing segment of the energy market, swelling at an average annual rate of 28% over the last five years. The highly efficient wind turbines that are being installed around the United States today can produce electricity for about the same cost as coal and natural gas fired plants.

Producing power from wind at Fire Island would provide a hedge against increasing natural gas prices which utilities currently rely on to generate power. Because there are zero fuel costs with renewable energy resources like wind, it's relatively easy for a utility to predict exactly how much power will cost for the 25 year life of the wind project. This allows utilities to plan well into the future. If the price of natural gas continues to increase rapidly, wind power could be cheaper than gas fired electricity relatively soon.

Municipal Light and Power (ML & P), Golden Valley Electrical Association, and Homer Electric Association are also all interested in the Fire Island wind development.

### Geothermal

Alaska's geothermal resources are spread all over the state. The state has about 140 hot springs and over 40 active volcanoes. Chena Hot Springs Resort is in the process of building the state's first geothermal plant, which will generate 400 kilowatts and provide enough power for the resort 365 days a year. Private developers are also considering investments to produce geothermal electricity at Akutan and Dutch Harbor in the Aleutians, and Pilgrim Hot Springs near Nome. Besides interior hot springs like Chena, there is also geothermal activity in Southeast Alaska and the Wrangell Mountains. Mt.

Spurr could perhaps be the most promising prospect of all because of its close proximity to Southcentral's large electricity demand. The volcano is only about 40 miles from the transmission grid at Beluga. More exploration near Mt. Spurr could pay significant future returns.

### Biofuels

Alaska has enormous untapped potential to make fuel from biological resources like fish oil, wood waste, and municipal garbage.

Perhaps the greatest potential source is the "biodiesel" being produced by collecting fish oil at fish processing plants. Last year the seafood producer UniSea, Inc., at Dutch Harbor displaced 1.25 million gallons of diesel by burning a 50/50 fish oil-diesel blend in its diesel generators and boilers. Fish oil requires minimal processing to be usable as fuel—an additional mechanical filtration step is all that is needed. Locally produced fish oil biodiesel blend fuels have the potential to create a cost-effective, sustainable energy supply for use in remote regions of Alaska, yielding cost savings and reducing dependence on imported diesel.

Advanced bioethanol technology turns ordinary low-value plant materials such as sawdust or waste paper into fuel ethanol. In 2004 Nova Fuels, Inc. announced that it would like to build an ethanol plant in Ketchikan that will convert wood waste and garbage into about 15 million gallons of ethanol per year. The company would take over the old Wards Cove site. The plant, which will cost an estimated \$60 million, would employ between 35 and 50 people. The project could take garbage and wood waste from communities around the region and make it into a liquid transportation fuel.

Another potential biofuel project would capture the methane that is currently escaping from the Anchorage landfill. Today it's estimated that the gas has an energy potential equivalent to about 57,000 gallons of diesel per day. By the end of the landfill's life around 2045 it would be producing the energy equivalent of about 135,000 gallons of diesel per day.

REAP is investigating the potential for other biofuel projects around the state.

### Tidal

Also known as marine power because energy can be captured from either tides or waves, this technology is in its infancy. It is currently being tested in Europe. Last year a wave project successfully brought power to 500 homes in Scotland. This spring six underwater turbines will be placed at the bottom of the East River in New York City to provide power to a food market on Roosevelt Island. San Francisco is also studying how it can tap into the energy of the waves and tides that surge under the Golden Gate Bridge. As the technology matures and becomes cost competitive, Alaska has enormous potential to develop tidal electricity projects in areas of great tidal fluctuation like Cook Inlet. REAP is following this technology and any proposals to test projects in Alaska.

### Hydrogen

Many believe that using hydrogen in fuel cells to produce electricity for homes, industry, and vehicles is the future of power production. If this scenario develops, Alaska could use its renewable energy resources to make hydrogen through electrolysis. Electrolysis using electricity generated with gas or coal produces little net energy gain because of the fuel that is consumed in the process. However, if Alaska uses its vast wind and geothermal potential in the Aleutians to generate electricity to produce hydrogen from water, Alaska could become an exporter of hydrogen to Asia. Iceland is already positioning itself to use its geothermal resources and expertise to make hydrogen for Europe.

In the short term, if Fire Island is developed, Anchorage could elect to join a handful of cities in the world that are demonstrating fuel cell vehicles. (In 2003 Shell Oil built a "filling station" in Reykjavík, Iceland that dispenses hydrogen made through electrolysis into the city's fuel cell buses). Anchorage's hydrogen could be made through electrolysis fueled by wind-generated electricity. Fire Island could bring Anchorage to the forefront of changes in energy and transportation that are currently re-shaping the world.

## Economic Development Benefits of Renewable Energy

*From a Report by the Union of Concerned Scientists at  
[http://www.ucsusa.org/clean\\_energy/renewable\\_energy/page.cfm?pageID=98](http://www.ucsusa.org/clean_energy/renewable_energy/page.cfm?pageID=98)*

Renewable energy technologies can not only keep dollars in this country, but also create significant regional benefits through economic development. Many states are dependent on energy imports. Iowa and Massachusetts, for example, each import about 97 percent of the energy they use.[33] Renewable technologies create jobs using local resources in a new, "green," high-tech industry with enormous export potential. They also expand work indirectly in local support industries, like banks and construction firms. As the table shows, during the 1990s, the US renewable electricity industry employed nearly 117,000 people.[34]

TABLE 1  
**Employment in the Renewable Electricity Industry**

|                      | <b>Direct<br/>Employ-<br/>ment</b> | <b>Indirect<br/>Employ-<br/>ment</b> | <b>Total<br/>Employ-<br/>ment</b> |
|----------------------|------------------------------------|--------------------------------------|-----------------------------------|
| Wind (1992)          | 1,260                              | 4,350                                | 5,610                             |
| Biomass (1992)       |                                    |                                      | 66,000                            |
| Photovoltaics (1994) |                                    |                                      | 15,000                            |
| Solar Thermal (1994) | 250                                | 250                                  | 500                               |
| Geothermal (1996)    | 10,000                             | 20,000                               | 30,000                            |
| <b>Total</b>         |                                    |                                      | <b>116,860</b>                    |

Some renewable technologies, like biomass, are relatively labor intensive, which is one of the reasons they are slightly more expensive than their fossil fuel counterparts. For example, growing, harvesting, and transporting biomass fuels all require labor, as does maintaining the equipment. This means that much of the revenue for installing, fueling, and operating renewable power plants remains within the region where the power is used.

Renewables can mean increased revenues for local landowners. A Union of Concerned Scientists (UCS) analysis found that farmers could increase their return on land by 30 to 100 percent from leasing part of it for wind turbines while continuing to farm.[35]

Another study found that adding 10,000 MW of wind capacity nationally would generate \$17 million per year in land-use easement payments to the owners of the land on which the windfarms are situated, and \$89 million per year from maintenance and operations.[36]

Renewables can contribute heavily to local taxes. Wind farms in California pay \$10 million to \$13 million in property taxes. And manufacturing capital-intensive renewables technologies can also be done domestically. According to the American Wind Energy Association, at least 44 states are involved in manufacturing wind energy system components.[37]

A UCS analysis for Wisconsin found that, over a 30-year period, an 800-megawatt mix of new renewables would create about 22,000 more job-years than new natural gas and coal plants would.[38] A New York State Energy Office study concluded that wind energy would create 27 percent more jobs than coal and 66 percent more than a natural gas plant per kilowatt hour generated.[39] A study of energy efficiency and renewable energy as an economic development strategy in Colorado by Economic Research Associates found an energy bill savings of \$1.2 billion for Colorado ratepayers by 2010 with a net gain of 8,400 jobs.[40]

The California Energy Commission estimates that the 600 MW of new renewables that will be built using \$162 million in public benefits funding in the state restructuring law will induce

- \$700 million in private capital investment
- 10,000 construction jobs, with over \$400 million in wages
- 900 ongoing operations and maintenance jobs with \$30 million in long-term salaries
- gross state product impacts of \$1.5 billion during construction and \$130 million in annual ongoing operations.[41]

In addition to creating jobs, renewables can improve the economic competitiveness of a region by enabling it to avoid additional costly environmental controls on other industries, as well as by stabilizing long-term energy prices.

Renewables can also contribute to economic development by providing opportunities to build export industries. In developing countries that do not have electricity grids, pipelines, or other energy infrastructure, renewable energy technologies can be the most cost-effective options for electrifying rural villages. The American Wind Energy Association has estimated that global markets for wind turbines alone will amount to as much as \$400 billion between 1998 and 2020.[42]

Other industrial countries are leaping ahead of the United States in renewable energy production, however, because they value the environmental benefits more highly and because they recognize the opportunity to supply export markets. In fact, Japan and various European nations are encouraging the development of renewables by providing

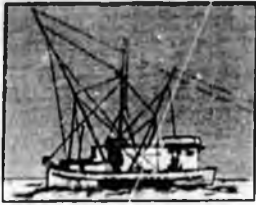
greater subsidies than does the United States.[43]

33. US Department of Energy, *Dollars from Sense: The Economic Benefits of Renewable Energy*, 1998, online at [www.eren.doe.gov/utilities/pdfs/dollars.pdf](http://www.eren.doe.gov/utilities/pdfs/dollars.pdf). Includes many excellent examples of renewables/economic development synergy.
34. The US geothermal industry as a whole employs about 40,000. According to the National Corn Growers Association the corn-to-ethanol industry employs about 55,000 people (5,800 direct and 48,900 indirect).
35. Michael Brower, Michael Tennis, Eric Denzler and M. Kaplan, *Powering the Midwest: Renewable Electricity for the Economy and the Environment*, Union of Concerned Scientists, 1993.
36. Jamie Chapman, OEM Development Corp. and Steven Wiese, Planergy, Inc., *Expanding Wind Power: Can Americans Afford it?*, Renewable Energy Policy Project Research Report No. 6, October 1998. Available online at [www.repp.org/index\\_ar.html](http://www.repp.org/index_ar.html).
37. *The Effect of Wind Energy Development On State and Local Economies*, National Wind Coordinating Committee, Wind Energy Series No. 5, January 1997.
38. Brower et al., *Powering the Midwest*, Union of Concerned Scientists, 1993, pp. 107-108. The study assumed 400 MW of wind, 110 MW conventional biomass, and 300 MW advanced biomass. Energy-employment studies are necessarily resource- and region-specific.
39. A.K. Sanghi., *Economic Impacts of Electricity Supply Options*, New York State Energy Office, July 1992.
40. Skip Laitner and Marshall Goldberg, *Energy Efficiency and Renewable Energy Technologies as an Economic Development Strategy*, April 1996, online at <http://solstice.crest.org/renewables/era/index.html>. Similar conclusions were found for the US and for nine other states studied.
41. Jan Smutney-Jones and John Stewart, San Jose Mercury News, November 22, 1998.
42. American Wind Energy Association, *Wind Energy and Climate Change: A Proposal for a Strategic Initiative*, October 1997, online at [www.igc.org/awea/pol/ccwp.html](http://www.igc.org/awea/pol/ccwp.html).
43. For an overview of international renewables policies, see Christopher Flavin and Seth Dunn, *Climate of Opportunity: Renewable Energy after Kyoto*, Renewable Energy Policy Project, July 1998.

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April 4, 2005

Representative Tom Anderson, Chair  
House Labor & Commerce  
Alaska State Legislature  
Juneau, AK 99811

Dear Representative Anderson and Committee Members:

ATA supports SB25 and the labeling of genetically modified (GMO) seafood products.

Cold water fish is rich in Omega-3 fatty acids, vitamins and minerals, and eating it is believed to decrease risk of heart disease, cancer, and other ailments. Nationally, the USDA expects Americans to increase their consumption of seafood roughly 30% in coming years, as part of a growing health trend. Many Alaskans are ahead of the curve and we're known for a consumption of salmon and other seafood which exceeds the national average of 15 pounds per year.

Mad cow disease, E Coli, and a host of other food safety issues have captured media attention in recent years. So it just stands to reason that consumers will increasingly want information about where their food comes from, and assurances with regard to its wholesomeness. Specific GMO labeling requirements will accommodate informational needs and provide for public health and well-being.

Fast expansion of the global aquaculture industry has put a great deal more fish on the market. Production is expected to increase even faster if farmers from around the globe are permitted to raise and sell genetically modified fish.

The U.S. Food and Drug Administration (FDA) is now reviewing a petition to allow transgenic Atlantic salmon for commercialization. If approved, the fish could become the first genetically modified animal product on the market for human consumption. This, despite a near total lack of understanding about the human health and ecological effects of the new technology.

In making genetically modified organisms (GMO), scientists change genetic structures to alter select characteristics. For example, a plant may be given a gene that makes it more tolerant to drought, or resistant to an herbicide that kills other species. It might interest you to know that they've even use the gene of a flounder (the fish) to make corn more tolerant to cold weather.

So how big is GMO? Big - and growing.

The United States has about 100 million acres of biotech crops under cultivation and is the largest producer of biotech foods in the world. Over 75 percent of U.S. soybeans and 34 percent of American corn are genetically modified. And, according to a New York Times report in June 2001, nearly all the available seeds for those crops - worldwide - is genetically modified and has been reduced to just a few strains controlled by a handful of companies.

To give you one example of the impact GMO products can have when raised in open spaces, consider Mexico. Despite that country's moratorium on the use of genetically altered corn, scientists in 2001 detected genetically modified DNA in wild maize in the mountains of the state of Oaxaca. Up to 70% of wild Mexican maize now carries transgenes that could only have come from genetically engineered crops. Scientists regularly borrow transgenes from viruses and bacteria, to engineer GMO crops (Nature, Nov. 29, 2001)

Now, through the wonders of technology, scientists have discovered a way to make Atlantic salmon grow twice as fast by inserting genes of other fish species into them. Do you know what the recipe is? Last I heard, a Canadian company named Aqua Bounty was using an Atlantic salmon and inserting the genes of Chinook salmon and Arctic pout. But broad consumer acceptance for this and other GMO food stuffs might not come easy. At least one Canadian province is considering a GMO-free zone. Several countries in the European Union, Africa, South America and elsewhere have banned genetically modified organisms altogether.

With GMO fish, farmers are likely to cut both production time and costs, because genetically modified salmon convert food to energy more efficiently than wild fish. It could mean better profitability for farmers and/or cheaper prices for consumers. Proponents hail the new technology as a way to feed the growing world population.

But there is a raft of questions.

Is this a food product that people want to eat? Will it harm us? Are there hidden costs to the environment and society? How is the public engaged in the

decisions to allow genetically modified foods? Will we be allowed to choose? How will we know them when we see them in the marketplace?

The prospects get particularly worrisome when one considers some of the crops being engineered in the lab. For a worthy medical goal, a U.S. firm is working on corn that includes an anti-spermidicidal, but what are the consequences if that ever spreads to food crops?

So, what will be added to GMO salmon? Antibiotics, growth hormones, coloring additives, genes to make them undesirable to nuisance pests? We won't know what's in there unless we ask. And without labeling, it's likely we won't ask, because we won't be able to tell GMO salmon from "real" fish at the seafood counter.

Obviously, the issue of genetically modified organisms, or GMO, has deep and far-reaching implications. The environmental issues surrounding the production of GMO salmon in ocean net pens is of significant concern to Alaska fishermen and has been highlighted by ADFG and groups ranging from environmental watchdogs to the National Academy of Scientists (NAS).

But today we are discussing food labeling, so I will set aside the detailed specifics of those issues and leave you with just a few thoughts about why you should consider supporting GMO labeling here in Alaska.

Credible scientists have stated that human health issues associated with GMO foods are unknown. However, the lack of adequate policy and data is often cited, with the following questions and concerns echoed repeatedly in most reports and articles:

1. There could be an enhanced genetic ability of transgenic fish to absorb environmental toxins, such as mercury which causes nerve damage (Paulson, University of Minnesota).
2. Increased risk of unsafe chemical or biologic agents might enter the food chain through genetically modified organisms (National Academy of Science (NAS), Report to the FDA, 2002).
4. Increased risk of allergic reaction due to ingestion of unknown substances (Food and Agriculture Association (FAO) and World Health Organization (WHO), 2001; NAS, 2002).

5. GMO molecules used to enhance a trait, such as growth or disease resistance, could retain bioactivity after consumption (NAS, 2002).
6. Research suggests strong evidence of antibiotic resistance (New Scientist, Jan. 30 1999).
7. Potential generation of "prions", which are disease producing proteins thought to be responsible for Mad Cow Disease (Commoner, Queens College, City University of New York).
8. GMO foods might violate some religious or cultural dietary rules (NAS, 2002).
9. Regulation and enforcement of animal biotechnology is difficult due to a lack of ethical and regulatory framework for addressing issues unique to GMO foods (NAS, 2002).
10. The responsibilities of federal agencies for regulating animal biotechnology and data collection are unclear, and no established regulatory framework exists for the oversight of scientific research and the commercial application of biotechnology. Nor have the technical capacities of the agencies been identified with respect to addressing potential hazards (NAS, 2002).

The list goes on...

The bottom line is that many scientists, consumers, and even some of our trade partners say not enough is known about genetically modified salmon to OK it for human consumption. ATA agrees.

The FDA is the public body charged with evaluating and approving GMO products. Ironically, because drug laws require secrecy to protect the applicant from competition, the public is excluded from the debate. The FDA does not even reveal what products are being considered for approval, so the public knows about GMO Atlantic salmon only because Canadian firm Aqua Bounty announced it was seeking FDA approval to sell this product in the US.

It's fair to say that genetic modification could be beneficial in some cases, through changed nutritional attributes and improved safety of food products. However, the National Academy of Science has stated that this can only be true IF ...*the changed products [are] labeled in order to appeal to targeted consumers and identifiable to those who might have medical or other reasons to avoid such foods.*

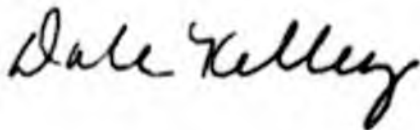
As it stands now, we get more information about what's in a Snicker's bar than what's in farm raised GMO products. Obviously, until recently, most of us didn't even think we needed to ask.

Now we know, and some of us are asking.

I encourage you to support SB 25 and require labeling of all GMO seafood sold in the state.

Thank you for your consideration of this important topic and ATA's point of view. Please feel free to contact me if I can provide additional information or help in any way.

Sincerely,

A handwritten signature in cursive script that reads "Dale Kelley".

Dale Kelley  
Executive Director

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 25  
(S) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
Title Genetically modified fish RDU Environmental Health  
Component Food Safety and Sanitation  
Sponsor Senator Elton  
Requester (S) Labor & Commerce Component No. 2343

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

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

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

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|-------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES ( )</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|-------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

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

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

Under current federal rules, genetically modified fish and fish products cannot be used or sold in the United States. Under the current FDA rules, this bill will have no fiscal impact on the department. Should the FDA allow the sale and use of genetically modified fish and fish products in the future, increased inspection and compliance resources will be required to comply with the provision of this bill.

Prepared by: Kristin Ryan, Director Phone (907) 269-7644  
Division Environmental Health Date/Time 1/28/05 4:04 PM  
Approved by: Kurt Frinksson Date \_\_\_\_\_  
Agency Department of Environmental Conservation

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 25  
 (S) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title: "An Act relating to labeling and identification of RDU CIVIL  
genetically modified fish and fish products." Component: Environmental  
 Sponsor: Senator Elton  
 Requester: Senate Resources Committee Component No. \_\_\_\_\_

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

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

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

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

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

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

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

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill amends the Alaska Food, Drug, and Cosmetic Act, AS 17.20.040 by adding genetically modified fish or fish product to the list of misbranded food, unless conspicuously labeled or identified as such. Legislation at the federal level already prohibits the sale of any genetically modified foods.  
  
 Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division: Administrative Services Division Date/Time 2/2/05 3:07 PM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/2/2005  
 Agency: Department of Law

# Alaska State Legislature

Senator Kim Elton  
State Capitol, Room 115  
Juneau, Alaska 99801-1182  
465-4947 phone ♦ 465-2108 fax



Senator Gary Stevens  
State Capitol, Room 103  
Juneau, Alaska 99801-1182  
465-4925 phone ♦ 465-3517 fax

## SB 25 Sponsor Statement

*"An Act relating to labeling and identification of genetically modified fish and fish products."*

Transgenic foods are those in which the genetic structure has been altered at the molecular level by means that are not possible under natural conditions or processes. There has been widespread concern throughout the world over the largely unknown effects of transgenic, or genetically modified (GM) products on human and environmental health.

In an effort to address concerns raised by consumer, environmental, health, and Alaska fish marketing groups, SB 25 requires Alaska retailers to identify and label foods containing fish and shellfish, or fish and shellfish products that have been genetically modified.

The message that Alaska seafood is more natural than seafood that has been engineered or bred is a highly important marketing tool. This bill, by requiring a differentiation between GM and wild seafood helps highlight Alaska seafood as distinct from GM seafood, thereby doing away with any vagueness that may exist to the consumer when purchasing seafood without labeling, and reinforcing the natural message.

Many GM agricultural products are currently allowed on the U.S. market, and an application submitted by an aquaculture company for the use of a GM, growth-enhanced salmon is pending before the Food and Drug Administration's Center For Veterinary Medicine. The Pacific Fisheries Legislative Task Force *Fish Review* dated December 2004 reports that Aqua Bounty, a biotechnology company with offices in the United States and Canada, is planning to ask Canadian authorities for approval to use GM fish in Canada's fish farms.

Currently, legislation in the European Union, Japan, New Zealand, and Australia requires labeling on foods made from, or containing GM products. SB 25 is similar to legislation introduced in other states, such as Oregon and California, and it comes with the unanimous support of the Joint Legislative Salmon Industry Task Force, a committee comprised of legislators, seafood harvesters and seafood processors.

# Alaska State Legislature

Senator Kim Elton  
State Capitol, Room 115  
Juneau, Alaska 99801-1182  
465-4947 phone ♦ 465-2108 fax



Senator Gary Stevens  
State Capitol, Room 103  
Juneau, Alaska 99801-1182  
465-4925 phone ♦ 465-3517 fax

## SB 25

### Recommended Witness/Interested Party/Teleconference request

Denny Kelso, assistant professor of environmental studies at UC Santa Cruz.  
Will call in offnet from either (831) 459-3685 or (831) 477-0758.



THE CENTER FOR  
FOOD SAFETY

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(202) 547-9359 ☎ FAX (202) 547-9429

1009 GENERAL KENNEDY AVE., #2, SAN FRANCISCO, CA 94129

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WWW.CENTERFORFOODSAFETY.ORG

January 31, 2005

Senator Kim Elton  
State Capitol, Room 115  
Juneau, AK 99801-1182

Dear Senator Elton:

The Center for Food Safety is pleased to endorse Senate Bill No. 25 and your efforts for a mandatory labeling requirement to identify genetically engineered (GE) fish and shellfish. Because GE fish are being developed for commercial use, the potential release into the environment and the use of these fish as food is imminent. Therefore, Senate Bill No. 25 would give Alaskan consumers the right-to know whether their seafood is genetically altered.

GE fish present a host of serious risks to humans and the environment. Human health effects include the potential for toxicity, allergenicity, and antibiotic resistance. As for the environmental impacts, the risk of biological contamination from GE fish is particularly acute, since GE fish may be raised in net pens from which they can easily escape and breed with native strains. The harm of such interbreeding would be severe. A Purdue University study concluded that the release of GE fish could cause the extinction of an entire fish species in a matter of a few generations. The National Academy of Sciences also issued a report warning that GE fish that escape could wreck havoc on the environment.

Despite these potentially irreversible human health and environmental risks, there is a profoundly disturbing lack of federal regulation of marine biotechnology. As such, we applaud your leadership on this issue and hope the Alaskan legislature can step into the void by ensuring that consumers are aware of genetically engineered seafood products through a mandatory labeling requirement.

Sincerely,

*Tracie Letterman*

Tracie Letterman  
Fish Program Director



**United Southeast Alaska Gillnetters**

P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247 2471 Email: usa\_gillnetters@att.net

January 29, 2005

The Honorable Gary Stevens  
The State Senate  
State Capitol, Room 103  
Juneau, Alaska 99801

Send Via Fax to: 465-3517

Dear Senator Stevens,

The United Southeast Alaska Gillnetters (USAG) is an association of about 150 small business owners who catch salmon by drift gillnetting in Southeast Alaska and market salmon throughout the United States. Many of our members also participate in other fisheries such as crab, shrimp, longline, and dive fisheries. USAG strongly supports SB 25 which requires the labeling of genetically modified (GM) fish and fish products sold in the State of Alaska. We believe the Alaskan consumer wants to know and has the right to know if the fish and seafood products they are considering buying for their families have been genetically modified. This is in part a marketing issue as we believe that Alaska wild-caught seafood is the best and most healthy in the world and the Alaska consumer will choose it over a genetically modified product if they are given that information about the respective products. More than that, some GM fish may have attributes that allow those fish to be raised and brought to market at a price point with which quality wild fish cannot compete. If these GM fish are not labeled, the cost conscious consumer may choose the GM product on the basis of price, whereas if that consumer knew it was a GM product, they may not purchase it.

Thank you for introducing this legislation and for your continuing support for our seafood industry.

Yours truly,

Kenneth Duckett  
Executive Director

cc: Senator Elton Via Fax to: 465-2108  
Senator Bunde, Chair Senate Labor & Commerce Via Fax to: 465-3871

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-523-1168

E-mail: [seafa@gci.net](mailto:seafa@gci.net)

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January 31, 2005

Senate Labor & Commerce Committee  
Senator Con Bunde, Chair  
Alaska State Legislature, State Capitol  
Juneau, AK 99801-1182

RE: Support for SB 25

The Southeast Alaska Fishermen's Alliance supports SB 25, which would require genetically modified fish or fish products to be labeled. The Joint Legislative Salmon Industry Task Force offered unanimous support for this legislation last year although it failed to make it through the process.

It is important that Alaska have this type of labeling law in place prior to the advent of genetically modified fish or fish products make it into the marketplace. Aqua Bounty has already applied to the United States FDA and Canadian officials for the permits to grow genetically modified fish in fish farms. By being proactive on labeling requirements you help differentiation between genetically altered fish or fish products and our natural wild Alaskan fish in the marketplace. This allows us the use of an important marketing tool.

The Southeast Alaska Fishermen's Alliance is a non-profit membership organization located in Juneau representing our members involved in salmon, crab, shrimp and longline fisheries of Southeast Alaska.

Respectfully,

A handwritten signature in cursive script that reads "Kathy Hansen".

Kathy Hansen  
Executive Director

## The Seattle Times

seattletimes.com

Tuesday, June 08, 2004, 12:37 A.M. Pacific

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### Research fuels fear of gene-altered fish

By Sandi Doughton

Seattle Times staff reporter

In a head-to-head battle for food, normal coho salmon lose out to their genetically engineered cousins, says a new study that adds to the controversy over what critics call "frankenfish."

Not only did the aggressive, gene-modified salmon gobble up most of the feed when raised in tanks with ordinary salmon, but they also gobbled up their weaker competitors — including their own type, British Columbia scientists reported in yesterday's online edition of the Proceedings of the National Academy of Sciences.

The results were often dramatic population crashes, with only one or two of the genetically modified fish surviving in tanks that originally held 50 animals, said lead author Robert Devlin of Fisheries and Oceans Canada.

"When food supplies are low, transgenic (genetically modified) fish have a very significant effect on the population," he said, adding the caveat that laboratory experiments may not predict what would happen if bioengineered salmon escaped into the environment.

But that's a question that needs to be answered soon.

Massachusetts-based Aqua Bounty Farms has asked the U.S. Food and Drug Administration for approval to market what could be the first transgenic food fish: Atlantic salmon that grow twice as fast as normal fish. Aqua Bounty hopes to raise its transgenic salmon in coastal net pens in the United States and market the eggs around the world, said Joseph McGonigle, vice president for external affairs. "We are constantly hearing from companies that are interested in it," he said.

Faster-growing salmon would cut costs dramatically for fish farmers and lead to lower prices in the supermarket, McGonigle said.

Consumer groups, commercial fishermen and some scientists say studies such as Devlin's show the potential ecological consequences of unleashing man-made breeds of fish.

"We should not be taking a risk like this at a time when native salmon stocks are already in trouble," said Doug Gurian-Sherman, senior scientist at the Center for Food Safety, a consumer group based in Washington, D.C.

A 2002 National Academy of Sciences report expressed moderate concern that genetically engineered fish might pose risks to consumers if, for example, a person who was allergic to scallops ate fish with a scallop gene spliced into its DNA. But experts agreed that the biggest danger is that some of the gene-modified fish would inevitably escape into the environment.



enlarge STEVE RINGMAN / THE SEATTLE TIMES

Although gene-modified fish grow much faster than normal coho salmon, they don't get much bigger at maturity, researchers say.

Hundreds of thousands of Atlantic salmon have escaped into Northwest waters from salmon farms over the past several years when floating pens were ripped apart by storms or marauding sea lions.

The worst-case scenario involving transgenic fish is the "Trojan gene" hypothesis proposed by Purdue University geneticist William Muir: Genetically engineered salmon outcompete normal fish for food and mates, leading to less-hardy hybrids and the eventual extinction of the entire wild population.

McGonigle says the net pens would hold only sterile females, eliminating the possibility that escapees could breed in the wild. Several other studies, including some in Devlin's lab, have shown that the genetically engineered fish aren't likely to survive well outside of captivity because they're more susceptible to disease and oblivious to predators.

"We realize we have no chance of getting approval unless we can clearly demonstrate these fish are completely sterile, and they represent no genetic threat and no behavioral threat, in terms of competition for resources," he said.

Washington's Fish and Wildlife Commission banned genetically engineered fish from marine net pens, but the state has no rules that bar them from land-based tanks or fresh water, said John Kerwin, who manages the state's hatchery program. Oregon has similar restrictions, while California bans the creatures entirely — including the fluorescent Glo Fish, a genetically engineered aquarium fish that went on sale last year.

Devlin's research for the Canadian government is attempting to unravel the possible impacts of genetically engineered food fish before they're approved.

"We're just starting to gather the kinds of laboratory information which we hope will provide us with understanding about these animals," he said.

He works with coho salmon that overproduce growth hormone as a result of genetic tinkering. Aqua Bounty's Atlantic salmon were engineered in a similar way, using genes from chinook salmon and a species called ocean pout.

In both cases, the genetically engineered fish grow much faster than ordinary fish but don't get much bigger at maturity.

At 1 year of age, Devlin's gene-engineered fish are 10 times the size of ordinary coho.

For the study reported yesterday, Devlin and his colleagues manipulated the amount of food available to the fish. When food was abundant, normal and genetically modified fish coexisted well. It was only when

food was scarce that competition turned deadly for the normal fish.

While populations made up only of normal fish were able to ride out food shortages, mixed populations invariably crashed.

But the experiments also revealed another wrinkle: Populations made up of only genetically engineered fish also crashed when food supplies were low.

Does that mean transgenic fish might pose little risk if they escaped into the environment because they would die out when food supplies drop?

It's possible, Devlin said.

"If you had a small population, where the fish couldn't migrate out of the area, transgenic fish might eat themselves out of house and home and there would be no risks," he said.

But on the other hand, if numbers boomed when food was plentiful, the bioengineered fish could devastate normal fish in the cutthroat competition that would ensue.

McGonigle says he hopes to have an FDA ruling within the next two years, but the target date has been pushed back repeatedly.

Because of regulations to protect businesses, the agency's evaluation process is largely secret, leading critics to call for a new system that is open and gives more authority to environmental and wildlife agencies.

"FDA has absolutely no experience with these kinds of issues," said Gurian-Sherman, the Center for Food Safety scientist. "And we know nothing about what they're doing."

*Sandi Doughton: 206-464-2491 or [sdoughton@seattletimes.com](mailto:sdoughton@seattletimes.com)*

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[washingtonpost.com](http://washingtonpost.com)

### Salmon Spawn Rainbow Trout

Scientists in Japan have engineered Asian salmon to produce the eggs and sperm of North American trout, an unprecedented bit of reproductive manipulation that may someday allow researchers to recruit common critters to replenish dwindling endangered species.

The team dissected newly hatched embryos of rainbow trout and removed small batches of "primordial germ cells." Those eventually become eggs or sperm in response to signals they receive from the developing fish.

The researchers, from the Tokyo University of Marine Science and Technology, injected those germ cells into newly hatched Pacific salmon embryos. Some of the cells made their way into the developing ovaries and testes of the recipient salmon, where they matured into rainbow trout eggs and sperm.

A year later, the team collected the milt – the cloud of sperm that male fish release into the water at maturity – of one of those salmon and mixed it with trout eggs. The result was a crop of purebred baby trout, sired by a salmon. (That salmon also produced salmon sperm, which when mixed with trout eggs created hybrid fish that did not survive.)

Other scientists have transplanted primordial germ cells from one fly species to another and from one bird species to another, resulting in the growth of sperm and eggs of one species inside the sex organs of the other. But the new experiment, described in the Aug. 5 issue of the journal *Nature*, marks the first such success in fish and the first to create progeny in any species.

Rainbow trout are plentiful, but the technique could help rare species. For example, salmon take one year to become sexually mature while trout take two, suggesting endangered species may be aided through reproductive by faster-breeding species.

-- Rick Weiss

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### Both sides in fight over genetically modified fish are hoping this big one does not get away

By MARK HUME

UPDATED AT 2:21 PM EST

Friday, Dec 10, 2004

VANCOUVER — They are swimming lazily in a few fish tanks right now, but Atlantic salmon that were developed in Canada may soon be the focus of the next big fight over genetically modified food.

To critics, the salmon designed to grow up to six times as fast as ordinary farmed salmon, are freaks of nature — Frankenfish that shouldn't be allowed out of the lab.

Proponents say they're a remarkable creation that will help feed an increasingly hungry world and can reduce the environmental impact of fish farming by producing bigger fish, in less time, with less food.

"There's no question that this is the way things will go . . . this is the way salmon and many other fish will be grown in the future," Joseph McGonigle, the vice-president of Aqua Bounty Technologies, said yesterday.

His company, which has offices in the United States and Canada, has developed a fish that has trademark protection. Aqua Bounty has applied to the U.S. Food and Drug Administration for approval to market the salmon and is preparing to make a similar application in Canada, perhaps next year.

The first genetically modified fish approved in North America appeared on the market last year. The GloFish™, a pet that glows in the dark, was cleared for sale in the United States with little opposition. Some shipments were made to Canada but have stopped pending a review by Environment Canada.

But the AquaAdvantage salmon is a more complicated product; it is meant for human consumption, and it could survive in the wild.

"If these salmon get into fish farms, it will only be a matter of time before they get out," the Sierra Club's Vicky Husband said. "All you need is to have one escape and then they are interbreeding with the wild populations. It's horrific. We say absolutely no way to these fish."

Theresa Rothenbush of the Raincoast Conservation Society, said "consumers would be in shock if this fish was to ever get to market."

Mr. McGonigle said much of the criticism he hears is unfair and the Frankenfish label makes him bristle. "It's just silly. This is professional spin-doctoring going on."

AquaAdvantage salmon are like any other Atlantic salmon, except for the genetic change that allows them to grow more rapidly, he said.

Has he ever eaten one?

"I have. I've had them smoked. They are absolutely indistinguishable from any other farmed fish. . . They are perfectly good-looking fish. I mean they are normal."

The AquAdvantage salmon were developed by Canadian scientists trying to help farmed Atlantic salmon survive winter. Those experiments, which involved introducing fish anti-freeze protein genes into Atlantic salmon from flounders, led to a growth breakthrough when genes from Chinook salmon (a Pacific species) and pout (a type of cod) were introduced.

In the early stages of life, the AquAdvantage salmon grow four to six times as fast as unaltered fish. They then slow down and approach the normal rate of growth. The early growth spurt could allow fish farmers to get fish to market size in 18 months rather than 36 months.

AquAdvantage salmon are found only in experimental fish tanks in the company hatchery in Prince Edward Island and at Memorial University in Newfoundland. A similar type of genetically modified salmon is also under study in a federal government lab in Vancouver.



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# Industry leery of genetically altered fish

■ **SALMON:** Would fast-growing "Frankenfish" imperil wild stocks?

By **MATT VOLZ**  
The Associated Press

JUNEAU — Producers of a genetically modified salmon that would speed the fish's growth to maturity expect their nine-year federal application to sell the fish in the United States to be decided within a year.

That has renewed concern among commercial fishermen who, competition aside, wonder what would happen if the genetically modified fish escaped their pens and mingled with wild salmon.

"They show up in rivers in Alaska, they show up in our fishing nets and already we fear Atlantic salmon as an invasive species in our productive salmon spawning waters," said Mark Vinsel of the United Fishermen of Alaska. "When you add in the genetically modified fish, I think the concerns are multiplied."

Genetically modified, or transgenic, fish are already being denounced by fishermen and anti-fish-farming states such as Alaska as unhealthy, uneconomic and dangerous to native species of salmon.

See Page B-2, DESIGNER FISH

## DESIGNER FISH: *Altered salmon*

*Continued from B-1*

"I'd prefer if you'd call it Frankenfish," said Alaska Sen. Kim Elton, a Democrat from Juneau. "We don't know what additional challenges might accrue because people are changing the genetics of fish."

A transgenic fish's genetic structure is changed at the molecular level, in this case to allow a mature salmon to grow from an egg in 14-16 months instead of the 22-30 months it takes wild salmon to grow. If approved, it would be the first genetically modified animal allowed for food consumption in the United States.

The earliest that genetically modified salmon could hit U.S. and Canada markets would be the next decade, after permits for selling and raising the fish in both countries are approved.

Aqua Bounty Technologies, based in Waltham, Mass., is nine years into the application process with the Food and Drug Administration, and spokesman Joe McGonigle said he expects a decision within a year.

FDA spokeswoman Rae Jones acknowledged by e-mail Aqua Bounty's pending application, but said: "We cannot provide any information about if or when it will be approved, nor can we provide any information about where it is in the approval process."

Aqua Bounty plans to sell genetically modified fish eggs to fish farms. McGonigle said the concerns of interbreeding with wild salmon are unfounded — sterilized transgenic fish could actually reduce the chance of an invasive species hurting the wild salmon populations of the Pacific Northwest.

"You're sitting at the epicenter of hostility to salmon farming," McGonigle said of Alaska: "The single most significant issue is the risk of interbreeding. The only way you can control that is to sterilize the fish."

Sterile or not, Vinsel said, an escaped transgenic fish would still be competing with wild fish for food and to mate.

"I can't honestly take that seriously," McGonigle said, saying the number of wild salmon that

return to native streams outnumber the farmed fish many times over.

McGonigle said he does not expect the genetically modified salmon to compete directly with wild salmon in the market, but contends the products can coexist. Consumer and price tiers will likely be established, with wild salmon at the top and the less expensive and more plentiful transgenic fish at the bottom.

"The genetically modified salmon would make it easier for fish farmers to have better control of their stocks and even out periods of gluts and scarcity," McGonigle said.

"Nobody wants to see the prices fall, not to where it becomes difficult for people to make a living," he said.

In Alaska, lawmakers are already preparing for the introduction of genetically modified fish to the market. A bill by Elton and state Sen. Gary Stevens, a Republican from the fishing community of Kodiak, would require labeling genetically modified fish.

Elton says his proposal is complementary to past legislation that required farmed fish to be labeled in Alaska restaurants and shops. Those bill were products of a legislative salmon task force for which the goal was to protect one of the state's biggest industries.

"Hopefully, it sets a pattern," Elton said. "As frequently happens, if one state does something, another state says, 'That's a good model.'"

Elton and Stevens' bill has passed the state Senate and is being considered by the state House.

Aqua Bounty says foods produced through biotechnology are not required to be labeled unless an allergen is introduced, the nutritional content is altered or the result of modification is a new food item.

But the company plans to require its licensees to label their fish, saying consumers are more likely to accept the fish if they have the facts, and for brand recognition.

"Branding is essential for our fish, or for Alaska or for anyone else," McGonigle said.



"THAT MUST BE ONE OF THOSE FARMED SALMON  
WE'VE BEEN HEARING ABOUT."

*R. ...*

**Southeast Alaska Fishermen's Alliance**

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Juneau, AK 99801



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April 4, 2005

House Labor & Commerce  
Representative Anderson, Chair  
Alaska State Legislature, State Capitol  
Juneau, AK 99801-1182

RE: Support for SB 25

The Southeast Alaska Fishermen's Alliance supports SB 25, which would require genetically modified fish or fish products to be labeled. The Joint Legislative Salmon Industry Task Force offered unanimous support for this legislation last year although it failed to make it through the process.

It is important that Alaska have this type of labeling law in place prior to the advent of genetically modified fish or fish products make it into the marketplace. Aqua Bounty has already applied to the United States FDA and Canadian officials for the permits to grow genetically modified fish in fish farms. By being proactive on labeling requirements you help differentiation between genetically altered fish or fish products and our natural wild Alaskan fish in the marketplace. This allows us the use of an important marketing tool.

The Southeast Alaska Fishermen's Alliance is a non-profit membership organization located in Juneau representing our members involved in salmon, crab, shrimp and longline fisheries of Southeast Alaska.

Respectfully,

A handwritten signature in black ink, appearing to read "Kathy H.", with a long horizontal flourish extending to the right.

Kathy Hansen  
Executive Director

**Josh Applebee**

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**From:** Kay McGrath [kmcgrath@bio.org]  
**Sent:** Friday, April 01, 2005 1:01 PM  
**To:** Rep. Tom Anderson; Rep. Pete Kott; Rep. Gabrielle LeDoux; Rep. Bob Lynn; Rep. Harry Crawford; Rep. David Guttenberg  
**Subject:** Testimony Opposing Alaska Senate Bill 25  
**Importance:** High  
**Attachments:** 050401 BIO testimony re SB 25.pdf

Attached is the testimony of the Biotechnology Industry Organization in opposition to Alaska Senate Bill 25, which is being heard by the House Labor & Commerce Committee on April 4, 2005.

Please do not hesitate to contact us if you have any questions or would like additional information. Thank you for your consideration of our position on this important issue.

Sincerely,

Kay McGrath  
Director, State Government Relations  
Biotechnology Industry Organization  
202-962-9513



BIOTECHNOLOGY  
INDUSTRY  
ORGANIZATION

**Testimony Opposing Senate Bill 25  
"An Act relating to labeling and identification of  
genetically modified fish and fish products"**

**Submitted by the Biotechnology Industry Organization  
to the Alaska House Labor & Commerce Committee**

**April 4, 2005**

On behalf of the Biotechnology Industry Organization (BIO), we appreciate the opportunity to submit testimony in opposition to Senate Bill 25, "An Act relating to labeling and identification of genetically modified fish and fish products." BIO strongly supports existing federal requirements for accurate and informative food labels. These labeling requirements communicate information that is relevant to health, safety and nutrition of all food products sold in the United States. State-based labeling requirements that differ from previously established, stringently enforced federal guidelines, provide no value for consumers and only serve to disparage biotechnology foods. In addition, Senate Bill 25 is contrary to existing Alaska state law that calls for conformity with federal food labeling guidelines.

**The requirements of Senate Bill 25 contradict existing Alaska state and federal laws.** Title 17 of Alaska Statute Law (Sec. 17.20.010) states, "the definitions and standards adopted [by the State] shall conform as far as practicable to the definitions and standards adopted under authority of the Federal Food Drug and Cosmetic Act (FDCA)." The U.S. Food and Drug Administration (FDA) does not require labeling of foods derived from biotechnology (genetically modified food) unless that food differs significantly in terms of safety, nutrition, how the food is used, or the consequences of its use. Senate Bill 25 would establish a threshold for labeling that does not exist in federal statute.

**Senate Bill 25**

**April 4, 2005**

**Page 2**

The U.S. Food & Drug Administration's labeling guidance requires that a food label must reveal all *material* facts about that food. For instance, the FDCA requires that if a biotech food differs significantly from a conventional food in its nutritional or allergenic properties that fact must be disclosed on the label. The FDA has taken a science-based approach in developing this guidance and decided biotech foods do not inherently "present any different or greater safety concern than foods developed by [conventional methods]." FDA uses the principal of "substantial equivalence"—focusing on the final product, not the process used to develop a food product, to determine how it should be labeled. In addition, mandatory labeling requirements that vary from state-to-state would not only conflict with FDA guidelines, but would be costly and confusing to consumers.

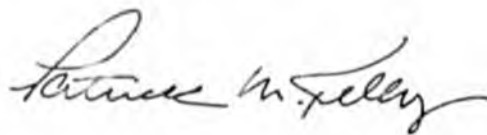
**Proposals similar to Senate Bill 25 have been struck-down in federal court.** In 1996, the Second Circuit Court of Appeals overturned a Vermont law requiring the labeling of milk products from cows treated with biotechnology-derived growth hormone. The Court ruled mandatory labeling of this kind to be unconstitutional forced speech. Following that decision, a number of states, including Alaska (Alaska Stat. § 17.20.013), adopted laws to regulate the voluntary labeling for milk from cows that were not treated with growth hormones. Consistent with FDA policy, these voluntary labeling guidelines require that such labels clearly state that no significant difference has been shown between milk derived from cows that are treated with the growth hormone and those that are not.

**Senate Bill 25 proposes a solution to a situation that does not yet exist in Alaska, or in any state.** There has yet to be single biotech fish product approved for human consumption by the FDA. Therefore, this legislation proposes to regulate a food product that does not yet exist. Alaska should not preempt federal decision-making on this issue. Rather, if sellers of conventionally-bred fish wish to label their products as such, they are free to do so in a truthful and non-misleading way according to FDA guidelines ([www.cfsan.fda.gov/~lrd/biototechm.html#label](http://www.cfsan.fda.gov/~lrd/biototechm.html#label)). Alaska should not force fish breeders to make disclosures that FDA has deemed are not relevant to the health and safety of consumers.

**Senate Bill 25**  
**April 4, 2005**  
**Page 3**

**We strongly encourage the House Labor and Commerce Committee members to oppose Senate Bill 25.** If you have any questions or would like additional information on this topic, please feel free to contact Patrick Kelly at 202-962-9503 [pkelly@bio.org](mailto:pkelly@bio.org) or Dr. Barbara Glenn, Director of Animal Biotechnology at 202-962-6697 [bglenn@bio.org](mailto:bglenn@bio.org). Thank you for your consideration of this important matter.

Respectfully submitted,



Patrick M. Kelly  
Vice President  
State Government Relations  
Biotechnology Industry Organization

*The Biotechnology Industry Organization (BIO) represents more than 1,000 biotechnology companies, academic institutions, state biotechnology centers and related organizations in 46 U.S. states and 33 other nations.*

*BIO members are involved in the research and development of health care, agricultural, industrial, and environmental biotechnology products.*