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SARAH PALIN  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811 0001  
(907) 465-3500  
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WWW.GOV.STATE.AK.US

April 6, 2007

Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy  
U.S. Department of Energy  
Forrestal Building, Room 3E-042, FE-34,  
1000 Independence Avenue, SW.  
Washington, DC 20585

RE: OFE Application for Blanket Authorization to Export LNG from Kenai Alaska

To Whom It May Concern:

My administration supports conditional approval of the application for blanket authorization to export LNG from Kenai Alaska submitted by ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company. To this end, I have asked my Attorney General, working in conjunction with the Department of Natural Resources commissioner, to file a motion to intervene over the application. While I support an extension of LNG export, I have concerns that the interests of Alaskans may be jeopardized in granting the blanket authorization unless several critical conditions are met. They are:

- 1) All natural gas supply needs for domestic utilities are under contract;
- 2) Continued applicant investment in projects that target replacement gas reserves;  
and
- 3) Open access to Kenai LNG Plant gas purchases for third-party producers.

The Department of Energy's approval of the application for Blanket Authorization to Export LNG coupled with the adoption of these conditions will ensure a reliable and secure supply of energy to the utility ratepayers and other commercial gas users in Southcentral Alaska for the long run and maximize the benefits of the Cook Inlet natural gas resources for all stakeholders. These conditions achieve 1) sustainable gas supplies for local utility ratepayers, 2) reserves replacement under continued LNG exports, and 3) market access for potential exploration and development investment in the Cook Inlet.

U.S. Department of Energy

April 6, 2007

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Ensuring local public utility gas supply requirements are met is essential. But in addition, I also recognize that a diverse, large scale, and competitive oil and gas sector in the Alaska Cook Inlet basin is vital to the economy of Alaska's Southcentral region, where nearly two-thirds of the state's population resides. The Kenai LNG Plant is central to the strength and sustainability of the Cook Inlet basin's energy sector and regional economy. It provides critical deliverability backstopping services to public utilities that rely on Cook Inlet gas during winter peaking supply shortfalls. Further, the scale and stability of natural gas usage at the Kenai plant provides a vehicle to preserve the integrity of the existing resource base and functions as an enormous potential driver for exploration and development investment. This applies to both the Kenai plant owners, ConocoPhillips and Marathon, as well as to other basin producers and explorers that seek the opportunities to monetize investment in a closed basin with limited market opportunities.

The declining trend in the natural gas reserves and rising prices signal the basin's transformation from longstanding abundant natural gas supply to that of a tightened demand-supply gas balance. Naturally, these factors have raised widespread concerns over local energy costs and the sustainability of gas supply for local use under continued liquefied natural gas (LNG) exports beyond 2009. It is a priority of my administration to pursue policies that enhance competition and industry diversity, and seek balance in the mix of energy alternatives and opportunities. Success in achieving this balance should give rise to sustainable gas supply and price stability for all users.

It is in this context that any approval of the LNG authorization must be conditioned. The first condition speaks directly to the necessity of meeting local utility full requirements on a year-round, day-in/day-out basis. Cook Inlet producers must continue to treat the domestic need as first priority, even to the extent of curtailing their affiliated industrial plant operations during periods of peak local utility gas consumption. This requirement must be explicit and unequivocal, just as with the federal authorization to export natural gas.

The second condition is built on the notion that the basin's existing stock of proved reserves should, at minimum, be kept whole as a condition of extended LNG export. The privilege of continued LNG exports must be accompanied with the applicants' commitment to replenish the exported volumes of gas. Maintenance of the balance in production and reserves replacement should keep the Kenai LNG Plant in business for the longterm, which serves the interests of utilities, their ratepayers, and other commercial users.

U.S. Department of Energy

April 6, 2007

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Lastly, access to the LNG Plant and the markets it serves is essential for the growth and competitiveness of the gas market in the Cook Inlet. The importance of a competitive market applies not only to the sale of produced gas but also to the unimpeded flow of private investment into the basin to finance new exploration and development. The Kenai LNG Plant provides direct access to Pacific Rim markets and serves as a potential conduit linking other basin producers, including new entrants, to expanded market opportunities. Open access to the Kenai LNG plant will therefore function as an anchor for these many interrelated interests.

I recognize that a balance must be achieved to preserve gas supply surety for Southcentral utilities and their ratepayers with maintenance of industry investment and pricing outcomes consistent with efficient marketplace competition. It is my sincere hope that under the U.S. Department of Energy's authority, the applicants will respond constructively to the concerns raised by the state and recognize benefits from continued business success in the Cook Inlet basin. Thank you for your consideration in this important matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah Palin".

Sarah Palin  
Governor

cc: The Honorable Samuel Bodman, US Secretary of Energy  
ConocoPhillips  
Marathon Oil Company

March 22, 2007

Jason Brune, Executive Director  
Resource Development Council for Alaska  
121 W. Fireweed, Ste. 250  
Anchorage, AK 99503

Dear Jason,

Chugach Electric Association is aware that Marathon Oil and ConocoPhillips have asked the Resource Development Council to support their application for a 2-year extension of their export license for natural gas from Cook Inlet. We appreciate your solicitation of member comments as the RDC leadership debates what the organization's position should be on this issue.

This topic is critically important to Chugach. Chugach is a not-for profit, member-owned electric cooperative that happens to be Alaska's largest electric utility. Our purpose is to provide our members with safe, reliable, competitively priced electric service. Chugach provides power to Alaskans throughout the Railbelt through retail, wholesale and economy energy sales.

Natural gas is key to our operations and to our customers. In 2006, 90 percent of the kilowatt-hours Chugach sold came from burning natural gas, with the other 10 percent from hydroelectric resources.

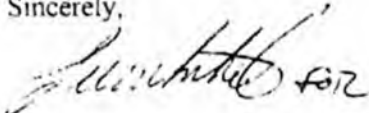
Chugach buys gas from four separate suppliers under four separate contracts, each negotiated in the late 1980s. Marathon and ConocoPhillips are two of our suppliers. Each contract is for a volume of gas rather than a finite period of time. Current consumption estimates indicate that our fuel needs will be unmet beginning in the year 2010. Chugach has been working for some time to secure new gas supplies - with our existing suppliers and others. These negotiations continue today.

We would like to be supportive, but the needs of Chugach customers must continue to be our highest priority. Chugach supported the last extension request, and recognizes that another extension could preserve valuable jobs and continued benefits to the economy. We also believe that the extension could promote additional exploration and lead to greater proven reserves in Cook Inlet.

However, until we have secured reasonably priced new supplies of gas on behalf of Alaska's electric customers, Chugach cannot support an extension of the LNG export license for Marathon and ConocoPhillips. Once our negotiations have been concluded, we will be glad to consider what our position on the issue should be at that time.

We would be happy to discuss this issue and our position further with the RDC Executive Committee or others if requested.

Sincerely,



William R. Stewart  
Chief Executive Officer

**adn.com**

Anchorage Daily News

[Print Page](#)[Close Window](#)**Save some gas for us, exporters****LIQUEFIED NATURAL GAS: Plant told to contract with local utilities.**

By ALAN BAILEY

Petroleum News

*(Published: April 24, 2007)*

Gov. Sarah Palin supports letting Conoco Phillips and Marathon export liquefied natural gas from their plant on the Kenai Peninsula for another two years, provided they set aside enough natural gas to supply Southcentral consumers.

Part of the reason for her decision might be an expectation of a major gas discovery in the area.

"While I support an extension of LNG export, I have concerns that the interests of Alaskans may be jeopardized in granting the blanket authorization unless several criteria are met," Palin told the U.S. Department of Energy's Office of Fossil Energy. The plant's export license is due to expire in 2009.

The LNG plant is a huge consumer of Cook Inlet's natural gas supply, taking more than one-third of the annual production, or as much as is used to create electricity and heat Southcentral homes and businesses combined.

The gas is superchilled into a liquid form, loaded onto tankers and shipped to Japan. Tokyo Electric Power Co. uses it to run its power plants.

Because gas supplies are tight in the Cook Inlet region, some have argued against extending the plant's export license as a way to ensure an adequate supply of gas for Anchorage, Mat-Su and Kenai Peninsula consumers. Short supply has driven up heating costs in recent years.

"The state has a compelling interest in ensuring that these public utilities have adequate supplies of natural gas under contract to meet these local needs," the state said in its motion to intervene in the application for the export license extension.

**UTILITIES NEED SUPPLIES**

Enstar Natural Gas Co. needs to find a substantial source of natural gas for home and business heating by 2009. Chugach Electric Association, the state's biggest power company, needs to secure new gas supplies in 2010, the state said.

The state wants to see firm contracts with the utilities, at least through 2011, when the proposed export license extension would expire. Such contracts must be approved by the Regulatory Commission of Alaska and must grant priority rights to the utilities for gas supplies to meet peak gas demand during the winter, the state said.

"Unless the producers present contractual opportunities to these utilities for gas supplies to meet their outstanding requirements, and do so under terms the RCA will approve, there can be no conclusion that local needs are met," the state said.

The state also wants to see the gas producers invest in exploration and development work that will maintain current levels of gas reserves.

"The need to require replacement of reserves as a condition is built on the notion that the basin's existing stock of proved reserves should, at minimum, be kept whole as a condition of extended LNG export," the state said.

"Maintenance of this balance in production and reserves replacement should act to keep the Cook Inlet industrial users in business for the long haul, as well as serve the long-term requirements of public utilities and their consumers."

## NEW DISCOVERY

In fact, Kevin Banks, acting director of the state's Division of Oil and Gas, thinks a sizable gas field might be discovered in the Cook Inlet basin soon and that the LNG plant in Nikiski could provide a way for gas from such a field to get to market.

Banks said there's a good chance a company will discover a major gas field -- with, say, 200 billion to 300 billion cubic feet of gas -- and the state wants a way for that producer to be able to market its gas.

"If somebody finds a gas field that big, they're not going to have a market to sell into easily unless LNG is an option. It's that kind of customer that we want to make sure is served," Banks said.

The state recognizes the importance of the LNG plant to the Kenai Peninsula economy as well as to the economics of the Cook Inlet gas industry.

An industrial gas consumer such as the LNG plant would also likely be necessary for a natural gas spur line to Southcentral from the North Slope to make financial sense.

"We recognize that the LNG role in the Cook Inlet gas market is important for new exploration and new development," Banks said.

However, the desire to keep the plant running should not result in the imposition of unacceptably high gas prices on Alaska gas consumers, he said.

"But if the price is right and that plant can be run and gas can be found within some reasonable price for consumers, by all means we should keep it running," Banks said. "We have to make sure we're at the table as the discussion about how this will work goes forward."

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**Rep. Berta Gardner**

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**To:** Scott Heyworth

**Subject:** RE: Comment period opens on extension for Kenai LNG plant

Web posted Thursday, March 8, 2007

## **Breaking News**

# **Comment period opens on extension for Kenai LNG plant**

**Tim Bradner**  
*Alaska Journal of Commerce*

The comment period has officially opened on a proposal to keep the Kenai liquefied natural gas plant operating until 2011.

Formal notice of the application by ConocoPhillips Alaska Inc. and Marathon Oil Co. for a two-year extension of a federal export permit for the companies' LNG plant was published in the Federal Register Thursday.

Publication of the notice kicks off a 30-day initial public comment period by the federal government, which closes April 9. It also makes information supporting the application available to the public.

The current export permit, which is issued by the U.S. Department of Energy, expires on March 31, 2009. The application requests a two-year extension to 2011.

Scott Jepsen, ConocoPhillips' manager for south Alaska assets, said his company and Marathon estimate they will have about 120 billion to 150 billion cubic feet a day of gas supply that is surplus to local utility contracts in 2009. That gas could be exported as LNG if the permit extension is obtained.

The companies have not yet asked for an extension of current LNG sales contracts with Tokyo Electric and Tokyo Gas, also set to expire in 2009, because the DOE does not require export license applicants to have contracts in place for a two-year extension, Jepsen said.

He also said ConocoPhillips and Marathon do not rule out a future application to extend the DOE export license beyond 2011 once the overall Alaska gas situation, including progress on a North Slope gas pipeline, becomes more clear. The pipeline is expected to go to the Lower 48 through Canada, but a state gas authority is investigating a possible spur line to the Cook Inlet area, which could make more gas available for the Kenai LNG plant.

"Keeping the plant in operation is important in retaining a base of gas demand in the region that would drive new investment in further reserve development," said John Barnes, Marathon's Alaska manager.

"It is also important as a backstop to local utilities in case of extreme cold weather," Barnes said. Some gas from the LNG plant was diverted to Enstar Natural Gas, the regional gas utility, during a recent cold snap.

Without the Kenai industrial plant in operation requiring a steady year-round supply, it could be costly for producers to meet the only remaining demand from local gas and electric utilities. The utilities have huge swings in supply requirements between summer and winter.

ConocoPhillips owns 70 percent of the LNG plant, while Marathon owns 30 percent and two LNG tankers which carry liquefied gas from Alaska to Tokyo. The Kenai LNG plant was built by Phillips Petroleum and Marathon in 1969 as a way to market surplus Cook Inlet gas.

The plant is near Kenai, south of Anchorage, and is supplied by gas from the ConocoPhillips-owned North Cook Inlet gas field in Cook Inlet and onshore fields on the Kenai Peninsula owned by Marathon. ConocoPhillips operates the LNG plant while Marathon operates the tankers.

# AARP Alaska

April 11, 2007

The Honorable Vic Kohring, Chair  
House Special Committee on Oil and Gas  
Alaska State Capitol, Room 24  
Juneau, AK 99801-1182

RE: HJR 13 (Gardner)--Support

Dear Chair Kohring:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the House Special Committee on Oil and Gas to support HJR 13, authored by Representative Berta Gardner and co-sponsored by Representatives Buch, Gara, and Crawford.

AARP claims no expertise in the sale of natural gas. What we do know is that many of our members are very concerned about increases in their utility bills. They are very aware that more rate "adjustments" are pending before the RCA and that their bills are likely to go even higher.

Utility costs for retirees are often higher than for younger people. Workers can turn down their thermostats when they leave the house. Retirees, on average, spend 90% of their time in the house and, for health reasons, should not be lowering the temperature of their homes. Older persons are also more likely to live in older homes with less insulation and suffer higher utility costs because of it.

Over the past fifteen years we turned the corner on the exodus of Alaskans upon retirement. They are now staying here and remaining close to their families and bringing substantial income to the state in the form of Social Security and pensions. We don't want to return to losing our retirees because they cannot afford utility costs with our Alaskan winters.

It is the intent of HJR 13 to help bring stability to utility costs, possibly even to reduce them or to minimize future increases. We certainly support that goal.

We urge an "AYE" vote on HJR 13.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

*Marie Darlin*

Marie Darlin, Coordinator  
AARP Capital City Task Force  
415 Willoughby Avenue, Apt. 506  
Juneau, AK 99801  
586-3637 (voice)  
463-3580 (fax)

CC: Vice-Chair Kurt Olson  
Representative Nancy Dahlstrom  
Representative Jay Ramras  
Representative Ralph Samuels  
Representative Mike Doogan  
Representative Scott Kawasaki  
Representative Berta Gardner

## Natural gas customers in Fairbanks will see price increase in May

### ALASKA DIGEST

*(Published: April 22, 2007)*

**FAIRBANKS** -- Fairbanks Natural Gas plans to increase rates next month. The rate increase comes after a decision by state regulators to change the terms of a contract between Fairbanks Natural Gas and the Anchorage-based Enstar Natural Gas Co.

The price increase will make the price of natural gas more expensive than heating oil in Fairbanks for the first time since the company began operations a decade ago.

Under the new rates, natural gas in Fairbanks will cost \$2.21 per hundred cubic feet for residential customers starting May 1, up from the current rate of \$1.71 per hundred cubic feet.

Because Fairbanks Natural Gas is not economically regulated, it only has to provide the state and its customers 30 days notice to change rates. Fairbanks Natural Gas rates began dramatically increasing last year after its former supplier, Aurora Power Resources Inc., terminated a supply contract on short notice forcing Fairbanks Natural Gas into an emergency contract with Enstar for Cook Inlet natural gas.

The contract runs through June 30, 2008, giving Fairbanks Natural Gas time to find a new supplier on the North Slope and build a new terminal there to liquefy natural gas and truck it down to Fairbanks. Since 2002, Fairbanks Natural Gas prices have increased 248 percent.

— The Associated Press

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Extras

» News

Web posted Friday, March 23, 2007

### Gas exports irk Agrium workers Kenai LNG supporters, Agrium employees square off over license extension

By PHIL HERMANEK  
Peninsula Clarion

A handful of Agrium employees were at odds with Kenai Liquefied Natural Gas facility executives over a resolution being considered by the Kenai City Council on Wednesday.

The proposed resolution threw city support behind an application by ConocoPhillips and Marathon for a U.S. Department of Energy two-year extension of the export license for the Kenai LNG facility.

Primary customers for LNG from Kenai have been two major Japanese utility companies in Tokyo. The current license ends March 31, 2009, and the application would extend the export license through March 31, 2011.

Seventy percent of the feedstock for the LNG plant comes from ConocoPhillips; 30 percent is from Marathon.

The Agrium workers said they were opposed to the export license extension and believed that any natural gas being liquefied for export meant less gas available to Agrium, which uses gas as a primary feedstock for its fertilizer products.

In addition to endorsing the two-year extension, the council's resolution supported the continued operation of the LNG plant, Agrium and the Tesoro refinery.

LNG Plant Manager Lindsey Clark thanked the city for the resolution and said, "It supports our entire industry."

Responding to a question from council member Rick Ross, Clark said the plant directed some gas to the local market this winter for home heating, and said, "Should we get down the road to where we are not able to export, the facility could turn around to import LNG."

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Local News

Updated March 26, 2007

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Ready to kick off park work  
Homer condo sale to benefit charity

**Community News**  
Peninsula Reflections  
Hawks soar at tourney  
Peninsula People Births  
A soldier's view  
Community Events Around the Peninsula

**Letters to the Editor**  
Snowmachiners riding high on community support  
Seavey fan club expands  
Snowmachine riders, organizers went way out of their way

# Neighbors

Kenai Peninsula ALASKA  
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PeninsulaWellness.com

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### Front Page



### Coming Soon



Robert Cox, who identified himself as an Agrium employee, said, "I do not support the extension of the LNG contract.

"If they sell to foreign customers, then turn around and import (LNG), it's gonna cost more to the community," Cox said.

Another Agrium worker, who identified himself as Chris Bouche, said he believed the natural gas supply issue was more a political shortage than physical.

"If Unocal still had a plant out there, there wouldn't be a gas issue right now," he said. "Are the oil and gas companies colluding to get a higher price ... I say they are."

Agrium employee Jim Cooper said Agrium has been trying to get natural gas from ConocoPhillips, but has been told all of ConocoPhillips' gas supplies are committed.

"We've lost a lot of jobs ... good jobs," Cooper said. "We still have 150 jobs.

"I'm pretty sure Agrium's people are working with ConocoPhillips, but I'm opposed to the extension," he said.

Jim Kauffman, Agrium employee, said he was against the city's "strong support" of gas exports.

"Are we going to continue shipping reserves out of state at a cheaper price when we don't have enough?" he asked.

Marathon executive Lynden Ibele said Marathon has an interest in the LNG plant and sells to all industrial users in Cook Inlet.

"If the industrial markets disappear, it would force Marathon to cut its employees by 50 percent," Ibele said.

Clark told the council that the Department of Energy "looks to see if we have enough reserves to meet utility and industrial contract obligations."

After Ross offered an amendment to the proposed resolution suggesting the city support the extension as long as the DOE determines the gas being exported is in excess of the residential, commercial and industrial needs of the community, the resolution passed unanimously.

*Phil Hermanek can be reached at [phillip.hermanek@peninsulaclarion.com](mailto:phillip.hermanek@peninsulaclarion.com).*

Tourneys brought tourism to Kenai  
SkiJor event was tail-wagging good time  
Teachers should get raises when working-class people do  
One pipeline good enough  
Kids entitled to teachers' best

Obituaries  
Albert 'Leo' Westcott

### Alaska News

- Updated 2:55 PM ET
- Clark won't be able to race in U.S. Alpine Championships
- New Fairbanks business license process deemed too slow
- Soldier from Benbrook killed in Iraq
- Elmendorf bids farewell to C-130 fleet
- Police investigate middle school in Juneau after violent threats
- Eagle River looks to expand building regulations
- Shame pole unveiled on anniversary of Exxon Valdez spill
- Fort Richardson soldier killed in Iraq
- Former stripper's older sister testifies at murder trial
- More News

### US & World

- Updated 7:40 PM ET
- Gonzales aide to invoke Fifth Amendment
- Military: Errors made in Tillman's death
- Israelis, Palestinians to resume talks
- Detainee arraigned during Gitmo hearing
- EU, Iran seek common ground on nukes
- Clinton opens up about attorney firings
- Most angioplasties unneeded, study finds
- Smith died from accidental drug overdose
- Eminem, ex-wife, agree to be agreeable
- More News

Barbara Williams  
Alaska Public Interest Research Group  
P. O. Box 101093  
Anchorage, Alaska 99510  
907-278-3661

March 20, 2007

RE: SJR 4, High Cost of Heating for Consumers

We appreciate the invitation to speak to you. We have heard from consumers that they are having a hard time adjusting to the high cost associated with natural gas. I know of one family in Palmer who has had no natural gas all winter and have resorted to other heating measures because they cannot afford to heat their home. They have been forced to make the choice of rent and food or natural gas. We have heard from disabled, impoverished, and seniors. The general message is that the high cost of gas is making many people and families make choices between food, rent, medicines, and other needs and sometimes resort to juggling expenses just to be able to afford the current heating costs.

Many people are not qualifying for the heating assistance programs that are disabled and poor. Welfare does not cover high fuel costs, and if they offer money for utilities it is on an emergency basis, and more red tape. We have had reductions in or longevity bonuses for the seniors, fluctuations in our permanent funds and other income sources. Many people who live paycheck to paycheck are struggling to keep up with the higher energy cost.

My own experience has been that my heating bills have doubled since last year. We live on a small income and we have also had to adjust our expenses to deal with our own costs doubling. Last year our bill was \$250.00 in the winter months and this year it has run well over \$500.00 per month most of the winter. It is true that our state needs to make money exporting the gas but we need to take care of our own supply and demand first before going to the market.

From: Robert Cox [mailto:RCox@agrium.com]  
Sent: Tuesday, March 27, 2007 1:22 PM  
To: Rep. Berta Gardner  
Subject: Lng Extension

Representative Gardner, My Name is Robert Cox I'm a citizen of the Kenai, and also The State of Alaska. I want to thank you for Resolution No. 13 because it addresses the needs of state and community first and foremost. I'm also an employe of Agrium. I understand the complexity of gas issues better than most because of its affect on my lively hood for the last four years. But disregaard the fact that I work for Agrium, and look at the the real issues of a depleting gas reserve. Conoco has stated they have 8 to 10 years left., and they could use the LNG plant to import gas into the state down the road. I'm sure you are aware of the higher cost that could bring to the state user, be it utilitys, commercial or industrial. International prices are considerably lower than domesic prices because of the stranded gas act which is tied to lower 48 prices which we deal with here. To answer the question of free enterprise all utilities are regulated for need. Other wise we could sell all our natural resources to the highest bidder and when we decided we need d some, buy them back at a higer price. And when jobs are mentioned Agrium employs, 152 working in good paying jobs where as Conoco LNG have about 50 and we are running only 2 plants where in the past we were able to run four with twice as manys empolyees. With this said we all support Industry on Kenai which Includes more than just Conco, there is C hevron, Tesoro, BP, Agrium, XTO, and many more I'am sure I haven't mentioned. So Thanks again for your support for the Great State of Alaska. Respectfully Robert L. Cox, a concerned citizen.

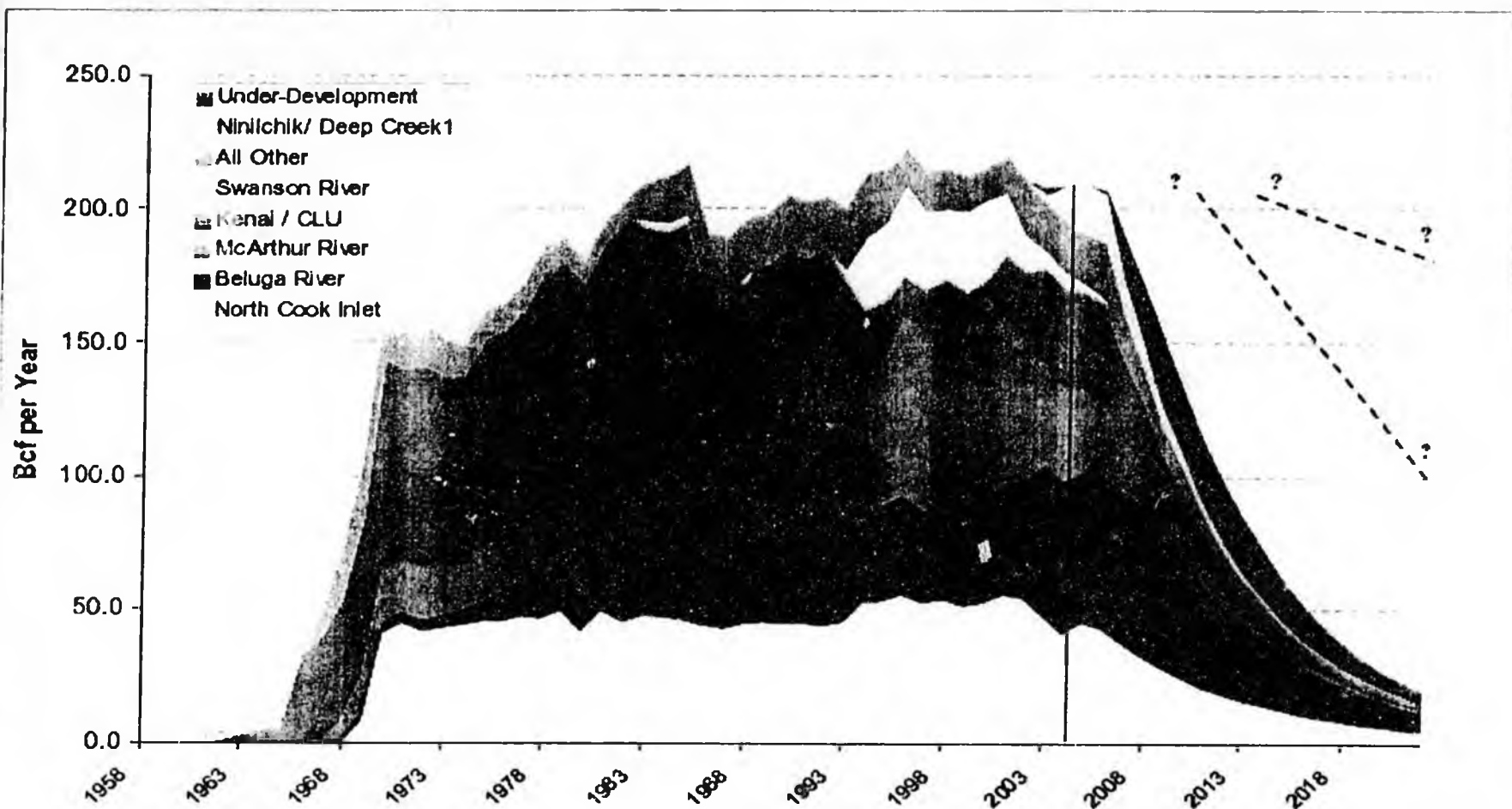
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**IMPORTANT NOTICE**

# Cook Inlet Historic & Forecasted Natural Gas Production, 1958-2025



Source: Division of Oil & Gas Feb. 2007 Report

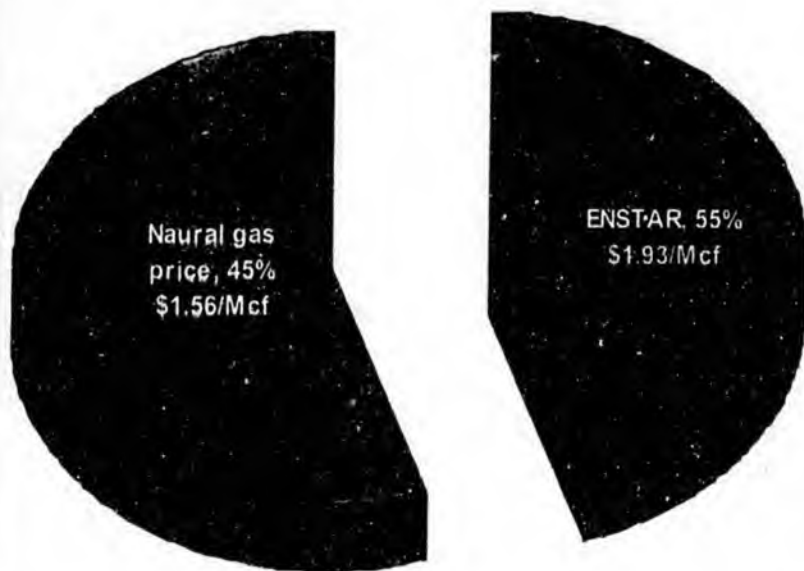
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Natural Gas Company

# Cost Comparison Percentage of Annual Bill

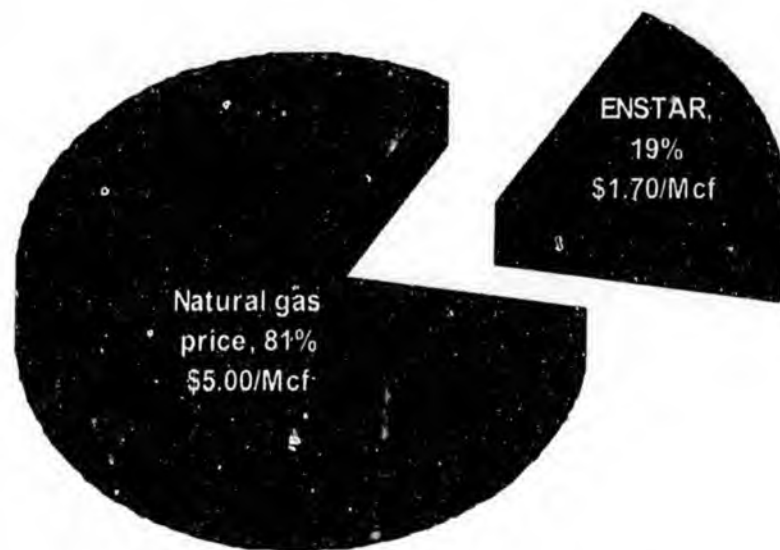
## Cost Comparisons 1996

Average bill = \$3.49/Mcf



## Cost Comparisons 2006

Average Bill = 6.70/Mcf



\*Average Consumption per household in 1996 = 188 Mcf

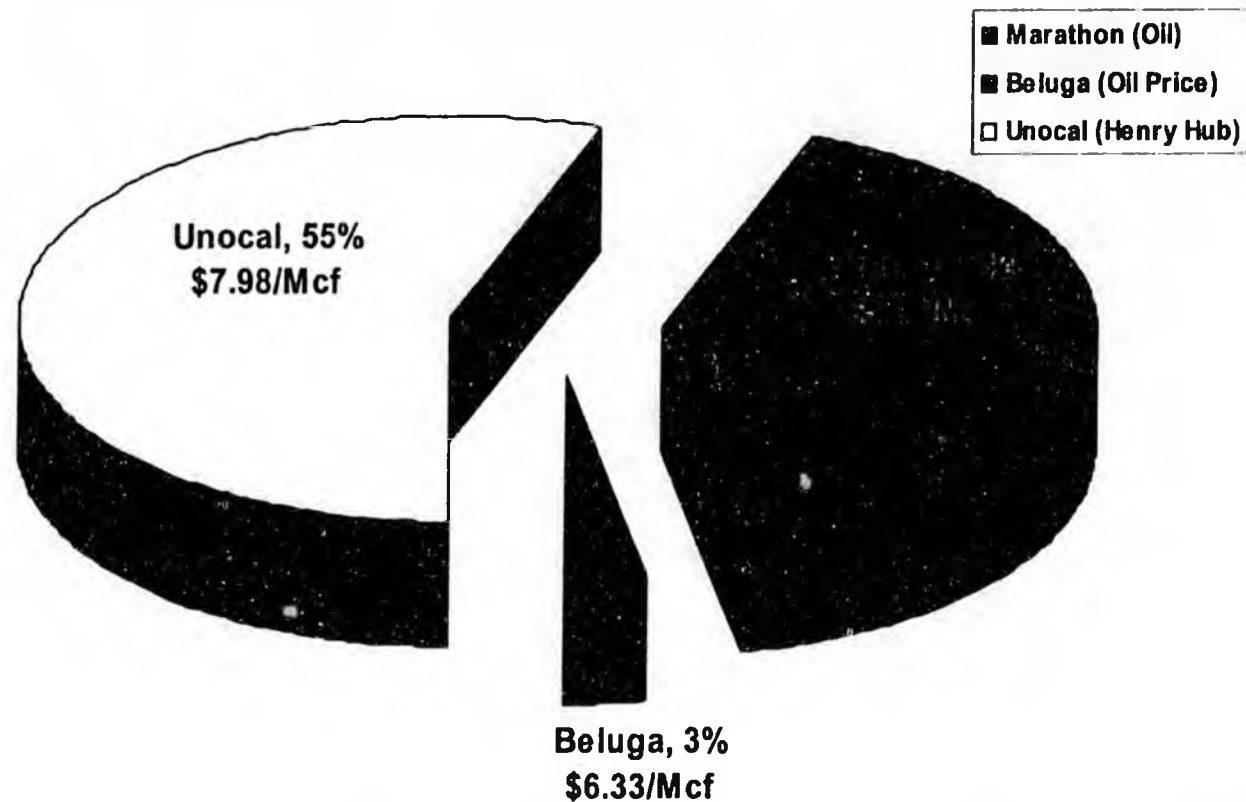
\*Average Consumption per household in 2006 = 177 Mcf

*All Our Energy Goes Into Our Customers*

**ENSTAR**  
Natural Gas Company

# Natural Gas Cost and Supply

Weighted Cost @ \$7.03/mcf  
Price/Mcf as of Nov. 2006



*All Our Energy Goes Into Our Customers*

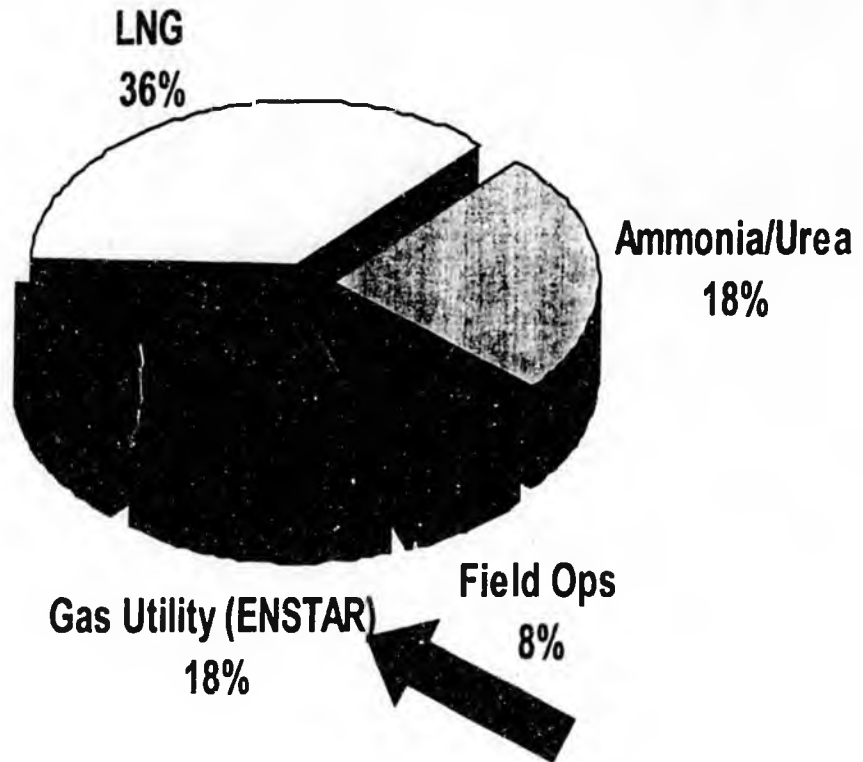
**ENSTAR**  
Natural Gas Company

# Cook Inlet Natural Gas Usage by %

473,000 Alaskans – 67%



Power Generation (ML&P  
&  
Chugach Electric)  
20%



340,000 Alaskans - 50%

Source: Division of Oil & Gas, Feb. 2007 Report

*All Our Energy Goes Into Our Customers*



## Exploration History

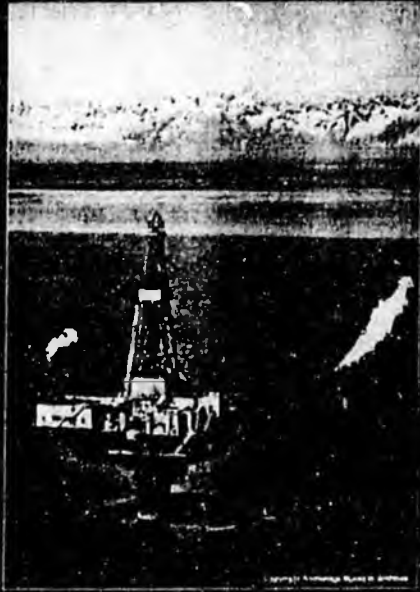
- Exploration of Cook Inlet, Katalla, Alaska Penin. in early 20<sup>th</sup> century
  - 9 oil exploration wells in CI by late 1940s
- Renewed interest in 1950s
  - 16 oil exploration wells
  - 2 discoveries
    - Swanson River oil field – 230 mbo
    - Kenai gas field – 2,700 bcf
- Boom years – 1960 to 1969
  - 149 oil exploration wells
  - 5 gas wells
    - 6 oil fields totaling 1.1 bbls oil
    - 12 gas fields totaling 5,400 bcf
- Through 2006 – 262 oil exploration wells
  - 73 gas exploration wells
  - 9 oil fields – 1.4 bbls
  - 22 gas fields – 8.9 tcf



Copyright Anchorage Museum Archives

Source: Steve Davies, AOGCC

Unocal Monopod  
Trading Bay Field - 1966



Cook Inlet Platforms  
1968



Copyright Anchorage Museum Archives

# Gas Supply VS Gas Demand

- Nearly all gas fields in CI discovered as by-product of oil exploration
- Very little exploration for gas
- Gas deliverability shortfalls as early as 2008
- Declining proven reserves combined with higher prices.....

# Remaining Potential

- Tertiary section un-explored for strat traps
- Coal is ubiquitous in Miocene through Pliocene strata – no major effort yet to explore for biogenic gas
- DOE estimates ~1.8 tcf of undiscovered gas remains in upper Cook Inlet
- Mesozoic plays are largely un-explored
- Discovered recoverable oil volume estimated to represent 4% of total generated (Magoon, 1994)

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF OIL & GAS

SARAH PALIN, GOVERNOR

550 WEST 7<sup>TH</sup> AVENUE, SUITE 800  
ANCHORAGE, ALASKA 99501-3580

PHONE: (907) 269-8800

FAX: (907) 269-8938

April 29, 2007

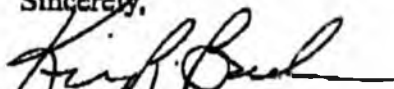
The Honorable Vic Kohring  
House of Representatives  
Chairman, House Special Committee on Oil and Gas  
State Capitol, Room 24A  
Juneau, AK 99801-1182

Dear Representative Kohring:

Thank you for taking up HCR 13 "Natural Gas for State Residents" in the House Special Committee on Oil and Gas. I appreciated the opportunity to testify at the committee hearing last Thursday, April 12, 2007 and to tell the committee about what the administration is doing with respect to the LNG export license application now before the U.S. Department of Energy.

The consideration of this resolution by the committee is helpful and I believe the resolution shows that State government is speaking with a unified voice to assure that natural gas will continue to be available to the domestic energy market in Southcentral Alaska.

Sincerely,



Kevin R. Banks  
Acting Director

cc: Thomas E. Irwin, Commissioner, DNR  
John Bitney, Legislative Liaison  
The Honorable Berta Gardner

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

HJR

16

# Alaska State Legislature

**Chairman**  
State Affairs Committee

**Vice-Chairman**  
Economic Development, Trade & Tourism  
Committee

**Member**  
Judiciary Committee  
Joint Armed Services Committee

**Finance Subcommittees**  
Corrections  
Labor and Workforce Development  
Military and Veterans' Affairs  
Public Safety



*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
District 31 Anchorage

**E-Mail:** Representative\_Bob\_Lynn@legis.state.ak.us  
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

**Session:**  
Alaska State Capitol  
Juneau, AK 99801-1182

Phone: (907) 465-4931  
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Anchorage, AK 99501-2133

Phone: (907) 269-0205  
Fax: (907) 269-0207

## Sponsor Statement

### HJR 16

HJR 16 makes a statement that the Alaska State Legislature stands firmly behind our Alaska Congressional Delegation, Alaska's Children and citizens in opposition to the imposition of the "Milk Tax".

The "Milk Tax" or "**Mandatory Dairy Promotion Assessment**" was established more than twenty years ago to help increase the sale of surplus milk in the Lower 48 States through a generic mass advertising, like the "Got Milk" campaign.

Alaska was and still is a milk deficit state. That means our dairy farmers don't produce enough milk to meet our own demand. As a result, Alaska was wisely exempted along with other milk deficit states like Hawaii and Puerto Rico from having to pay into the Milk Tax when it was created in 1983.

As Rachel Hecker, one of our dairy farmers from Blue Moon Dairy at Point McKenzie was quoted in *The Milkweed*, a national milk publication, "It makes absolutely no sense to burden Alaska with a new tax to promote outside milk when our struggling dairy farmers can't produce enough milk to keep up with our state's demand." Alaska won't benefit from the milk tax and shouldn't be forced to pay for the promotion of milk from the Lower 48 or elsewhere. This tax would be another death nail for an already troubled Alaska milk industry.

As if higher milk prices in Alaska weren't bad enough, the milk promotion establishment in Washington D.C. apparently wants to burden dairymen in the Lower 48 states by promoting foreign dairy imports along with American milk. But before that can happen, they've got to first impose the Milk Tax on Alaska, Hawaii, and Puerto Rico.

A milk tax for Alaska, for all these reasons, is bad policy. Please join me in standing up for Alaska's dairy farmers and Alaska consumers of all ages in saying NO to the "Milk Tax!"

# "Mushers Against The Milk Tax"

Sponsored by the Alaska Milk Coalition

Iditarod 2006 Special Edition

## Iditarod Mushers Join Fellow Alaskans In Rejecting Outside "Milk Tax" Scheme

Mushers in this year's Iditarod Trail Sled Dog Race are joining fellow Alaskans opposed to the costly Outside "Milk Tax."

Like other Alaskans, they understand that the proposed Milk Tax is pure foolishness. Comments like "Incredible!" "Dumbest thing I ever heard of!" and "Whose crazy idea was this?" were common as mushers prepared for the big ride of more than 1150 miles from Anchorage to Nome.

Outside interests are pushing to make Alaska's dairy farmers help fund milk promotion in the Lower 48 states. Promotion fees also fund a \$6 million study on cow flatulence and other dairy farm air emissions<sup>1</sup>. Alaska was excluded from the 1983 promotion law because it has always been a milk deficit state.

"Milk is already expensive in Alaska, especially in areas of the Bush along this year's Iditarod route," said Jiona Richey of the Alaska Milk Coalition. "The Milk Tax would make milk even more costly for Alaska's children, low-income families, senior citizens, native population, and Bush residents."

A bipartisan group of state lawmakers has sponsored CSHRJ-5, the "No Milk Tax" resolution, which is now pending before the Alaska State Senate. This resolution, approved unanimously by the Alaska State House last year, sends the strong message that the Alaska State Legislature is resolutely opposed to the Milk Tax.

"CSHRJ-5 will help Senators Ted Stevens and Lisa Murkowski, Cong. Don Young, and Gov. Murkowski in their efforts to stop the Milk Tax in Washington. It's time for all Alaskans to stand united against the Milk Tax!" Richey said.



Clockwise from top: Iditarod musher Glenn Lockwood; Iditarod musher and Yukon Quest 2006 Champion Lance Mackey; Lance Mackey and the Quest champion team race off to Nome! Photos courtesy of Jiona Richey.



©2006 Alaska Milk Coalition. For more information, please contact us at [admin@alaskamilk.org](mailto:admin@alaskamilk.org)  
Mushers Against the Milk Tax and Alaska Milk Coalition are not affiliated with The Iditarod Trail Sled Dog Race® or its sponsors.  
<sup>1</sup> <http://www.brownfieldnetwork.com/gestal/v/go.cfm?objectid=0D4268BB-C6D3-C424-5F78C67F3F909416>



Alaska Department of  
**NATURAL  
RESOURCES**

Office of the Commissioner  
& Division of Agriculture  
January 31, 2005

## **BRIEFING PAPER:**

### **Mandatory Dairy Promotion Assessment (Milk Tax)**

Alaska, as well as Hawaii and Puerto, was exempted from the mandatory dairy promotion assessment (known as a "Milk Tax") contained within the Dairy Stabilization Act of 1983. The exemption was correct in 1983 and remains so today. The rationale for that exemption has not changed.

First, Alaska is a milk deficit state. More milk is consumed in Alaska than is produced in the state. In total, Alaskan farmers supply less than 50% of the fluid milk consumed in Alaska. A national promotional effort to promote milk and dairy product consumption will not help Alaskan farmers since all of the milk they are producing, or will produce in the foreseeable future, will be purchased regardless of any national promotion.

Second, a "Milk Tax" will only raise costs and not lead to increased sales. Alaskan dairy farmers are producing on a very small margin, and any increase in costs is dangerous to their ability to continue production.

Third, a "Milk Tax" has the potential to lead to an increased milk price for consumers of Alaskan milk if the cost of the assessment can be passed on to consumers.

Fourth, the small amount of money that would be collected from Alaskan farmers would be relatively minor when compared with money from other states. The national promotional efforts are not impacted to any real degree as a consequence of two states and one territory being exempted from the "Milk Tax."

Lastly, Similar acts are under constitutional challenge. For instances, the Beef Act is currently before the U.S. Supreme Court on the issue of whether the mandatory assessment to support advertising campaigns violates free speech. Similar to "Beef - it's what's for dinner", the "got milk" campaign might not survive constitutional muster. Given the uncertain status of these types of programs, it may be prudent to wait and see what the outcome of the Beef Act case is.



## THE ALASKA DAIRY COALITION

Rachel Hecker, Director

c/o Blue Moon Dairy  
 P.O. Box 870349 • Wasilla, Alaska 99687  
 Tel: 907-357-9003 • Fax: 907-357-9004  
 E-mail: blumoo\_99yahoo.com

### *Members*

Blue Moon Dairy  
 Tracks of Alaska  
 Gingerbread House Day Care  
 Carousel Day Care

## STOP THE MILK TAX ON ALASKA'S DAIRY CONSUMERS!!

### The Issue

Alaska's consumers face an unfair new "tax" on milk, cheese, yogurt and other dairy products under legislation moving forward in Congress. The new tax is part of a bigger bill that expands the lower 48 states' milk promotion program to dairy farmers in Alaska to make the promotion fee compatible with global trade laws. This unfair new tax would drive up the already high cost of milk and dairy products for Alaska's consumers. It would reduce the consumption of nutritious dairy products, threatening the health of Alaskans of all ages. This new tax will become law unless concerned Alaskans of all ages and walks of life stand up together and **SAY NO TO THE MILK TAX!**

The milk tax is part of proposed changes to the dairy import assessment provisions included in the 2002 Farm Bill. In order for the milk promotion program to comply with the World Trade Organization (WTO) rules, the proponents seek to extend the assessment to Alaskan dairy farmers, who have always been exempted because Alaska is a milk-deficit state. As a result, Alaska's dairy producers would be taxed 15 cents per hundredweight to promote surplus milk produced in the lower 48 states. This milk tax would be passed on to Alaska's consumers, including the elderly, school children, native populations, and low-income families.

### The Impact on Alaskans

- **Already high milk prices would rise.**
  - Although 15 cents appears to be a small amount, greedy milk processors and other middlemen would use any excuse to increase their profit margins at the expense of hard working Alaskans.
  - Owners of businesses (e.g., bakeries, food stores, ice cream shops, restaurants, etc.) would likely have to pass this increase in price along to the consumers.
  - Alaskan consumers would be forced to pay higher costs for milk, cheese, butter, and all other dairy products, and baked goods and other foods containing dairy ingredients. In Alaska, milk is already more expensive to buy than unhealthy options, such as soda\*. This could force parents to choose unhealthier options over milk.

---

\*"Cost of Food at Home for a Week in Alaska, March 2000." University of Alaska, Fairbanks.

- **High milk prices could reduce dairy consumption and threaten the health of all Alaskans.**
  - Milk has the highest concentration per serving of highly absorbable calcium, necessary for proper growth and to prevent loss of bone mass, which leads to osteoporosis<sup>b</sup>.
  - Milk is the primary source of vitamin-D. Skin also produces this vitamin when it is exposed to summer sunlight. However, above 40 degrees latitude (north of San Francisco), the winter sunlight is not strong enough to promote vitamin D formation<sup>c</sup>. Milk is essential for Alaskans of all ages and occupations.
  - Calcium in milk prevents *bone loss* and *osteoporosis*. Native populations are also susceptible to this risk. It is estimated that among Native American women aged 50 and older, 58.9% have low bone densities and 9.5% suffer from osteoporosis<sup>d</sup>.
  - Studies indicate that a diet rich in low fat dairy foods is effective in reducing *blood pressure*, which can lead to serious health risks, including kidney failure<sup>e</sup>. Alaska natives are more likely than whites to suffer from high blood pressure and to develop kidney problems, even if their blood pressure is only slightly elevated<sup>f</sup>.
  - The intake of calcium, as well as potassium and magnesium (present in milk) reduces the risk of *stroke*<sup>g</sup>. Cardiovascular disease, including heart disease and stroke, is the leading cause of death for Alaska Natives<sup>h</sup>.

#### Action Required

The following action at the federal level by Alaska's Congressional delegation is required to prevent the implementation of this milk tax on Alaska's dairy farmers.

- Language (copy attached) could be included in upcoming appropriations Bills in Congress.
- A modified version of this language could be made part of the enabling language of the US-Australia Free Trade Agreement. This would permanently block any further attempts to extend the assessment to Alaska.

#### Alaskans Who Oppose the Milk Tax

- Blue Moon Dairy (Wasilla)
- Tracks of Alaska (Anchorage)
- Gingerbread House Day Care (Anchorage)
- Carousel Day Care (Anchorage)
- Mt. Sanford Tribal Consortium (Gakona)
- Council Annette Islands Reserve, Metlakatla Indian Community

<sup>b</sup> "Calcium and Milk." Nutrition Source. Harvard School of Public Health.

<sup>c</sup> "Calcium and Milk." Nutrition Source. Harvard School of Public Health.

<sup>d</sup> "Health Benefits of Dairy Foods for Minorities." Dairy Council Digest Archives. National Dairy Council.

<sup>e</sup> Ibid.

<sup>f</sup> "High Blood Pressure and Kidney Disease." National Kidney and Urologic Diseases Information Clearinghouse (NKUDIC), a service of the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH.

<sup>g</sup> "Health Benefits of Dairy Foods for Minorities." Dairy Council Digest Archives. National Dairy Council.

<sup>h</sup> "Health Problems in American Indian/Alaska Native Women." The National Women's Health Information Center, a project of the US Department of Health and Human Services, Office on Women's Health.

# United States Senate

WASHINGTON, DC 20510

April 24, 2007

The Honorable Michael O. Johanns  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250

Dear Mr. Secretary:

It is our understanding that a segment of the dairy industry may urge you to extend the mandatory 15-cent per hundred weight domestic dairy promotion assessment or "milk tax" to Hawaii, Alaska, and Puerto Rico, as a prerequisite for implementing the assessment on dairy products imported into the United States as authorized by the Farm Security and Rural Investment Act of 2002. We are writing to express our strong opposition to the possible extension of this assessment and urge you not to include this language in the Chairman's mark as the committee begins work on the 2007 Farm Bill. The Hawaii, Alaska and Puerto Rico congressional delegations also wrote to the leadership of the Senate Agriculture Committee in 2004 to express strong opposition to the extension of this amendment.

Alaska, Hawaii, and Puerto Rico were exempted from the domestic dairy promotion assessment created by the Dairy Production and Stabilization Act of 1983 due to our milk deficits and geographical distance from the contiguous United States. Neither factor has changed in the past twenty years. In fact, this exemption was maintained in the Farm Security and Rural Investment Act of 2002. As many of our constituents have told us, the milk tax will harm many Alaskan, Hawaiian, and Puerto Rican dairy producers and consumers of milk products including children, low income families, indigenous peoples, bakeries and other small businesses. It also has the potential to end dairy production in Alaska, Hawaii, and Puerto Rico.

The Honorable Michael O. Johanns

April 24, 2007

Page 2

For the aforementioned reasons, we strongly oppose any plan or scenario -- irrespective of its construction -- that would lead to the implementation of the milk tax in Hawaii, Alaska and Puerto Rico. Thank you for your consideration of our concerns.

Sincerely,



DANIEL K. AKAKA  
United States Senator



DANIEL K. AKAKA  
United States Senator



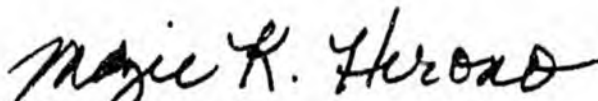
LISA MURKOWSKI  
United States Senator



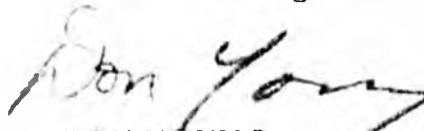
TED STEVENS  
United States Senator




NEIL ABERCROMBIE  
Member of Congress



MAZIE HIRONO  
Member of Congress



DON YOUNG  
Member of Congress



LUIS G. FORTUNO  
Member of Congress

## Mat Maid dairy looks for a way to stay alive

**POSTING LOSSES: Board asks government for \$600,000 to keep the milk flowing.**

By S.J. KOMARNITSKY  
Anchorage Daily News

(Published: April 26, 2007)

PALMER -- The Matanuska Maid dairy is struggling and could be shut down by the end of the year, according to the Alaska Board of Agriculture and Conservation.

The board asked the state this week for \$600,000 to help the state-owned dairy stay in business.

Members of the board said the money is needed because of more than \$700,000 in company losses the past two years and to fund an independent review to find a way to make the dairy profitable.

The board oversees the state Agricultural Revolving Loan Fund, the sole shareholder in Mat Maid dairy.

Local and national trends, from rising fuel costs and new federal homeland security requirements to competition from lower cost Outside milk brands, have cut into company sales and increased expenses in recent years.

Board chairwoman Rhonda Boyles said the \$600,000 could help the company cover operating expenses while officials try to find a "silver bullet" to reverse the losses.

Without a solution, the state would first try to sell rather than close the dairy, Boyles said. Closing the dairy would be a blow to Alaska's few remaining dairy farms, which rely on Mat Maid to purchase their milk.

The dairy, taken over by the state in the mid-1980s after it went bankrupt, is the largest buyer of local milk and purchases approximately 2,000 gallons of milk a day from five Point MacKenzie dairy farms, according to state officials.

The board, in a resolution passed Tuesday in Palmer, asked for the \$600,000 but at the time gave little explanation. In a statement released Wednesday, the board explained the dairy has lost more than \$700,000 in the past two years on revenues of about \$15.5 million a year.

### OPTIONS LIMITED

In a phone interview Wednesday, Boyles praised Mat Maid president Joe Van Treeck but said the company faces an increasingly challenging marketplace. The losses have drawn down the dairy's cash reserves and left it with few options, she said.

Van Treeck was out of state and could not be reached for comment.

Boyles said that besides an independent review of the company bottom line, state money could pay an independent expert to advise the dairy on maximizing its value.

The board in a written statement Wednesday indicated the dairy may close by Nov. 1, but Boyles said although the process of closing could begin in November, the dairy would not actually close until year's end.

Mounting problems at Mat Maid, which started in 1936 as a farmers cooperative in Palmer, have been well documented.

In June 2006, at a 75th anniversary party for the company, Van Treeck warned changing markets were cutting into profitability and recommended privatizing the operation.

State agricultural board members, however, had been mum on their plans to ask for state money.

At the meeting Tuesday, board members discussed the issue in executive session, then emerged to pass the request for funding after less than five minutes of discussion that shed little light on the need for the funding.

Boyles said she was prohibited from talking about the plans because of her seat on a state creamery board that oversees operation of Matanuska Maid. She also worried negative press would hurt the company, she said.

But secrecy and a lack of information didn't sit well with farmers and others dependent on the dairy for their livelihood. About a dozen people, including three Point MacKenzie dairy farmers and a Delta Junction grain grower, piled into the Palmer meeting Tuesday hoping to hear details of the status of the dairy.

Some said they had heard Mat Maid officials were threatening to shut down in the next month if they didn't get state funding -- a rumor Boyles discounted.

### **'THIS HAS GOT TO END'**

Merlene Baskin, a longtime Point MacKenzie dairy farmer, said other farmers told her it was critical she come. Dairyman Craig Trytten of Point MacKenzie said he needed information so he could make decisions about his farm.

"This has got to end," he said, clearly exasperated after the board's vote. "Why do you want \$600,000?"

Some farmers struck a more conciliatory tone Wednesday.

Wayne Brost of Point MacKenzie, a dairyman and frequent board critic, said he would support the funding request.

"Sure I support it," he said. "Why not, to keep them going."

Karen Olson, executive director of the Mat-Su chapter of the Alaska Farm Bureau, expressed relief the dairy was not closing immediately.

That allows time for two proposed projects -- an ice cream and cheese producer and all-local milk operation -- to get up and going and possibly replace the dairy as a purchaser of local milk, she said. Both projects were recently awarded federal grants totaling \$650,000.

Trytten, however, said he would oppose any funding for Mat Maid without more specifics.

"Why give them more money to lose money unless you have a solution?" he said.

What reception the Legislature would give the request was not clear Wednesday. State Department of Natural Resources spokesman Dan Saddler said the board request had been forwarded to the governor, the Office of Management and Budget and Valley legislators. Saddler said if the request goes through, the money will be added to the state's capital budget.

Jeff Turner, a spokesman for Senate President Lyda Green, R-Wasilla, said Wednesday that she was still researching the request. Meanwhile, Gov. Sarah Palin by e-mail expressed interest in helping the dairy but was noncommittal.

"Evidence shows that outside competition has undercut Mat Maid's ability to continue the way it has been operating," she wrote. "The Board of Agriculture's request provides the time it wants for corporate planning -- whether that means greater solvency or closing its doors."

---

Daily News reporter S.J. Komarnitsky can be reached at [skomarnitsky@adn.com](mailto:skomarnitsky@adn.com) or in Wasilla at 1-907-352-6714.

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## Breaking News

# New mail rates to push bush milk toward \$10 a gallon

By Rob Stapleton

*Alaska Journal of Commerce*

Publication Date: 03/30/07

A mail rate increase scheduled for May 14 will push the price of milk and staples sky high in rural Alaska, according to Alaska residents and businesses.

"This increase will definitely close the gap for using air freight over U.S. Mail", said Michelle Adams, logistics manager for the AC Company. "We are getting closer and closer to air freight rates."

The new rate will push a one ounce first class letter up to \$.41 cents, and a postcard will now cost \$.29 cents. The real increase in the mail rate will be felt harder by those in the rural Alaska, and will further add to the cost of living in Rural Alaska, according to Adams.

"This is huge, I really feel for the folks in the bush", said Adams.

Rates for per pound will increase to \$.12 cents per pound a 40 percent over current rates for bypass mail from Anchorage. Rates for Fairbanks to Barrow will jump to \$.13 per pound or 38 percent over current rates.

Overall the rate increase in 4th class parcel post, non-merchantable, ranges from 29.4% to 58.2% for packages that are not oversized.

Adams also noted that the rate for larger bundled packages above the 70 pound weight actually go up as the poundage goes up and will increase 58 percent.

"This will drive the cost of milk up at least a dollar more a gallon", said Adams.

Christopher Low, a management professor at Ilisagvik College in Barrow, noted that a gallon of milk is selling for \$7.95 a gallon at the AC Store there.

"But you can get milk cheaper now because the store is getting it later because of the bypass mail slow down," said Low. "Milk goes on sale for \$.99 cents a gallon because it gets in one day before it goes out of date, and AC is losing money on it."

USPS Service mail specialist Steve Deaton, did not return phone calls from the Journal for this story.

Michelle Adams says that the Alaska Congressional Delegation has been contacted to try to intervene, or to find help for rural residents.

"We are exploring all the avenues on how to keep prices down, we are even looking at barging in more dry goods this spring, and warehousing them at our stores", said Adams.

Click here to return to story:

[http://www.alaskajournal.com/stories/033007/hom\\_20070330077.shtml](http://www.alaskajournal.com/stories/033007/hom_20070330077.shtml)

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Anchorage Daily News

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**Got milk?****Struggling dairy industry looks for year-round production**

By S.J. KOMARNITSKY

Anchorage Daily News

*(Published: October 18, 2006)*

ANCHORAGE -- How bad off is Alaska's dairy industry? Consider that today the state has about 800 dairy cows, fewer than on some individual farms in the Lower 48.

But just what the state should do, if anything, to keep the industry afloat is far from clear.

This month, a state-appointed committee of business leaders, politicians and industry officials is tackling those questions with plans to pass their recommendations to the next governor.

The 11-member Dairy Industry Ad Hoc Committee has some high-powered members, including former state House Speaker Gail Phillips and retired Alyeska Pipeline Service Co. president David Wight. It also includes Alaska Mill and Feed president Ken Sherwood and Don Lintelman, who owns the Northern Lights Dairy in Delta Junction.

Like others before them, the group is finding no easy solutions.

At their first meeting last week in Anchorage, the group heard from a variety of presenters, including Matanuska Maid president Joe Van Treeck and Milan Shipka, a livestock specialist with the University of Alaska Fairbanks. The men painted a bleak picture.

Alaska farmers, paid the second highest price for milk in the nation, are nonetheless struggling to make ends meet, according to the state Agriculture Division. They are saddled with high feed costs, large debt loads and relatively poorly producing cows.

Nine dairy farms operate in Alaska, down from a peak of 72 in 1958. The remaining farms, most of them in the Matanuska-Susitna Borough, produce less than half the quantity of milk produced 20 years ago.

Meanwhile, state-owned Matanuska Maid, the main buyer of local milk, is facing its own crisis, brought on by stiff competition and dwindling support for its higher priced milk.

Van Treeck said rising costs, including fuel and employee health insurance, and shrinking sales have the company headed for its second straight year of losses. Despite that, company surveys show strong consumer allegiance to the Mat-Maid label, he said.

Bigger Outside dairies, including those who supply Carrs/Safeway and Fred Meyer, can afford to sell milk at lower prices than Matanuska Maid, he said. A typical gallon of Matanuska Maid costs



Cows at the Beus Dairy in the Point MacKenzie area feed in February 2004. There are fewer dairy cows in all of Alaska than on some single farms in the Lower 48. But what to do about the industry and whether the state should do more to help out are far from clear. *(Photo by MARC LESTER / Daily News archive 2004)*

\$4.39 retail, compared with an average of \$2.99 a gallon for the Outside milk, he said.

Reducing the cost of the milk from Alaska farmers could allow Matanuska Maid to reduce its prices, he said. But how to do that is unclear.

Shipka said the state's dairy farms -- almost all of them family run -- face numerous disadvantages that make milk more expensive to produce in Alaska than in the Lower 48.

In addition to paying more for feed, farms here lack many services available to Lower 48 operations, from experienced dairy veterinarians to good hoof trimmers. The last may sound silly, but if cows' feet hurt, they produce less milk, Shipka said.

"You have to give them manicures?" he said. "Yeah, you do."

Nationwide, dairy farmers have coped with rising costs by consolidating, noted committee member Wes Eckert, a former head of the Seattle-based Darigold Inc., said. His company once bought milk from thousands of farmers, he said. That has shrunk to about 600 farms today, which are far larger and produce far more milk than their predecessors, he said.

Committee members said they see many needs for Alaska farmers from more research on growing high-quality local feed to finding ways to lower the cost of transporting feed, even within state.

Many wondered about producing organic milk since farmers could charge more for their milk. But going organic would require buying organic feed, which is more expensive and isn't currently sold in the state.

Other possible solutions face similar hurdles.

Shipka said one big boost for farmers would be growing higher quality local feed to help cows produce more milk. But growing good hay and grain in Alaska's short growing season is a challenge, and other good sources of protein like fish meal aren't readily available or have limitations. Feeding too much fish meal produces milk with a fishy taste, he said.

One relatively low-cost option would be for farmers to institute a more intensive grazing routine that requires moving cows to a new pasture every 12 hours, he said. That keeps cows eating grass when it's short and has the highest protein content.

The downside, however, is that to maximize production, the cows would all need to calve in the spring. That would mean a wealth of milk in the summer, but no milk come winter, when the cows would dry up, he said.

Clearly, Shipka said, finding a solution that works for Alaska farms is going to take "unique thought."

Rhonda Boyles, a former Fairbanks mayor and chairwoman of the state agriculture board that oversees Matanuska Maid, said she pushed for the creation of the committee because the state lacks a plan for the dairy industry.

The state supports its dairies through state loans and through Matanuska Maid. Farmers also receive some federal subsidies.

Whether the committee can produce a viable plan for the beleaguered industry remains to be seen. At least some said they were hopeful.

Boyles said she expects specific recommendations from the committee and intends to forward its report, due in mid-November, to the new governor, legislators and the congressional delegation.

Van Treeck also said he was encouraged by the group's focus on the industry.

Still others were more circumspect. Point MacKenzie dairy farmer Craig Trytten, noting how support for agriculture in Alaska has varied depending on who is in charge in Juneau, answered a question about the committee's likely effects with his own question.

"I don't know," he said. "Who's going to be the next governor?"

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# Frontiersman

Monday, August 02, 2004

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## Milk debate a hot issue

By DANIEL SPOTH/Frontiersman reporter

MAT-SU -- Local dairy producers and activists continue to battle against a potential increase in the cost of milk production, while others insist there's no cause for such concern.

The fee, which amounts to 15 cents per hundredweight -- a unit of measurement equal to a hundred pounds -- of produced milk, has been in place in the lower 48 states since 1983, when the Dairy and Tobacco Adjustment Act instituted a national advertising and promotional campaign using funds garnered from its collection.

Alaska, Hawaii and Puerto Rico were originally exempted from the fee due to the fact that they don't have a surplus of milk, but the possibility of extending the increase to these three areas in the near future has raised a considerable amount of ire. The new fees would charge Alaskan dairy farmers the extra 15 cents per hundredweight, which would then go to fund Alaskan dairy advertising and promotional programs.

Christopher Galen, vice-president of communications for the National Milk Producers Federation, said the price hike wasn't as onerous as many make it out to be.

"The assessment amounts to about a penny a gallon," he said. "The amount of money we're talking about, proportionally, is very small."

The milk tax, as it's commonly called, might more properly be called a milk assessment, Galen said, since its collection isn't administered by the Internal Revenue Service and doesn't follow any of the typical routes taken by conventional tax dollars. The U.S. Department of Agriculture handles the collection of the funds.

Cash from the assessment goes to help fund Dairy Management Inc., a group that administers both local dairy-related events and promotions around the nation. David Pelzer, vice-president of industry relations for DMI, said the corporation runs a variety of programs, but they're all centered around increasing demand for dairy products.

"We think it's a very good thing for dairy producers," Pelzer said of the nationwide campaign funded by the 15-



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cent assessment.

DMI's programs include, among other things, a campaign to put milk on the menu at fast-food restaurants, an initiative to get schoolchildren to drink more milk, and the 3-a-Day-of-Dairy advertising campaign.

Galen said the increased price would be handled by the farmers who produce the milk, not the consumers who buy it, and that he therefore didn't anticipate any appreciable increase in milk prices.

"It's not a price that the farmer can pass along," he said. "Even if it were, this rhetoric about a 20- or 30-cents-per-gallon increase is just poppycock."

Pelzer agreed with this sentiment.

"I don't see any evidence of [the assessment] driving up milk prices. It's a wise investment for dairy farmers who really need to grow their markets," he said.

However, not all Alaskan dairy farmers are sold on the idea. Rachel Hecker, a Point MacKenzie dairy farmer and director of the Alaska Dairy Coalition, adamantly opposes the increase.

"I hear a lot of people saying 'Oh, it's only 15 cents per hundredweight, that's not so much,'" she said. "My response to that is: Welcome to reality." Hecker said she believes administrative and bureaucratic costs surrounding the tax could make it far more damaging than the 15-cent figure might lead some to believe.

Hecker said she views the new assessment as another proverbial straw heaped on the collective backs of Alaskan dairy farmers.

"We're being nicked and dined to death," she said. "We're treated horribly up here."

Galen said the milk Alaska imports from Outside has already been assessed the 15-cents-per-hundredweight increase, and that the new legislation would therefore apply only to milk the state produces itself.

The 2002 Farm Security and Rural Investment Act, Galen said, contains a stipulation that dairy products shipped into the United States from other countries be assessed the increase.

The inclusion of Alaska, Hawaii, and Puerto Rico in the plan, Galen said, is a gesture of equality, to ensure that the country doesn't come under fire from those exporters for granting assessment amnesty to some of its territories but not incoming dairy products.

"What they're going to say is: 'You're exempting some of your states, but not us?'" he said.

The bill didn't include a stipulation involving Alaska, Hawaii and Puerto Rico, but it might go back to Congress for amendment to include these areas. If this amendment passes muster, the three territories will be subject to the same assessment already common to the other 48 states. However, since the U.S. Department of Agriculture hasn't started collecting an assessment on imported dairy products yet, the timeline for this amendment is not yet static.

"The real issue here isn't Alaska or Hawaii, but imports," Galen said. "The issue with Alaska and Hawaii is really peripheral."

Galen said most agricultural commodities already have assessments applied to them. Beef, for example, takes a \$1-per-head assessment to handle the "Beef -- It's What's For Dinner" ads and other promotional programs. In most of those cases, he said, imports are also assessed the fee.

Galen also said that many states in the lower 48 don't have a dairy surplus, but they're required to handle the assessment anyway.

Alaska might be a special case, however.

Hecker said that all things considered, she felt that she and other Alaska dairy farmers weren't getting a fair shake from governing entities outside the state.

"Alaska doesn't need to be the United States' redheaded stepchild," she said. "I'm not paying for someone else's Ferrari."

Hecker's organization, the ADC, has adopted as its mission the immediate halting of the dairy price increase.

ADC Director of Government Relations Jiona Richey said the coalition was prepared to pursue the assessment's defeat to its conclusion.

"Our outstanding AK State Representatives and Senators helped take our fight to the highest levels. The ADC [and others] is watching closely to make sure that the milk tax is on its deathbed and isn't given life support by the Outside. No one is going to tax our children's milk and get away with it," Richey said in a press release.

The Blue Moon Dairy, Hecker's farm business, recently hosted a press meeting to protest the assessment, inviting a large group of children and state Rep. Bob Lynn, R-Anchorage. In addition, more than 1,000 signatures were gathered by the ADC in its anti-milk-tax petition drive and delivered to the Alaska congressional delegation.

However, farmers and concerned citizens aren't the only ones who have come out against the assessment.

U.S. Sen. Lisa Murkowski, among other Alaska legislators, has voiced strong opposition to the proposed increase.

"Imposition of the milk tax on Alaskan, Hawaiian, and Puerto Rico milk producers would harm their ability to produce milk at competitive prices and would result in price hikes for consumers of milk products including children, low-income families, Alaska Natives, bakeries, and other small businesses," said Murkowski in a June 22 letter to U.S. Trade Representative Robert Zoellick and U.S. Secretary of Agriculture Ann Veneman. "It could also potentially end dairy production in Alaska, Hawaii and Puerto Rico."

Murkowski's letter was signed by U.S. Sen. Ted Stevens, U.S. Rep. Don Young and representatives from Hawaii and Puerto Rico. Some other Alaska politicians who have spoken out against the increase include Reps. Ethan Berkowitz, D-Anchorage; Carl Gatto, R-Palmer; Bill Stoltze, R-Chuglak/Butte, and Vic Kohring, R-Wasilla, as well as state Sen. Lyda Green, R-Mat-Su.

Hecker said Sens. Murkowski and Stevens deserved special praise for their efforts against the tax.

"It makes absolutely no sense to burden Alaska with a new tax to promote outside milk when our struggling dairy farmers can't produce enough milk to keep up with our state's demand. Lisa and Ted made sure that this terrible tax idea is on its death bed," she said in a press release.

Galen said that despite accusations that the increase would be used to fuel Outside enterprises, the money garnered from the assessment would probably be used to promote dairy in Alaska.

"It would certainly make sense for us to send that money we'll get from Alaska back locally," he said.

Alaska produced roughly 17.6 million pounds of milk in 2002, making it one of the smallest dairy states in the union. California produced approximately 2.9 billion pounds in 2002, while Wisconsin produced approximately 1.8 billion, New Mexico produced approximately 534 million, and Florida, another state that has to import milk, produced 163 million.

The value of Alaska milk per hundredweight in 2002 was \$20.40.

Contact Daniel Spoth at [daniel.spoth@frontiersman.com](mailto:daniel.spoth@frontiersman.com).

### **History of help**

WASILLA -- What started as a small Wasilla satellite office of the Anchorage Community Mental Health Center in 1977 has grown into a 35-acre wellness campus that serves

## Alaska Fends Off Promotion Checkoff

by Pete Hardin

Jerry Kozak's grand scheme to hit dairy imports with a promotion assessment is getting baked in Alaska. Assessing a promotion fee against dairy imports required two moves to comply with global "Free Trade" rules:

- 1) Eliminate the legal requirement that the National Dairy Promotion and Research Board promote only U.S.-produced milk and milk products, and
- 2) Extend the mandatory dairy promotion fee to the teeny, tiny dairy industries of Alaska, Hawaii, and Puerto Rico. (The 1983 federal law that created the National Dairy Board mandatory check-off exempted those three, because they are dramatically deficit milk-producing areas.)

The first phase went smoothly. Kozak is CEO of National Milk Producers Federation (NMPF). Kozak and NMPF worked hard to eliminate the words "... produced in the United States ..." from the 2002 farm law. No matter to the nation's dairy co-op leaders that dairy's "Real Seal" would adorn "foreign" dairy products. NMPF's brain-dead member co-ops control the low-I.Q. national dairy promotion apparatus, so little dissent about deep-sixing "domestic content" portion emerged.

USDA has informed interested parties that any effort to assess dairy imports mandate that dairy farmers in all 50 states pay the dairy promotion fees, before the U.S. will defend assessing imports before the World Trade Organization.

But moves to include Alaska, Hawaii and Puerto Rico have been blocked, and are seen by Washington, D.C. insiders as politically dead. A small coalition of consumers, dairy farmers and dairy processors in Alaska have killed NMPF's scheme to assess

the 15-cent milk promotion fee against these small dairy states. The coalition used politics to trump politics.

Senator Ted Stevens (R-Alaska), chairman of the powerful Senate Appropriations Committee, has strenuously objected to making Alaska's few dairy farmers pay a federal milk promotion fee. Fellow Alaska lawmakers Senator Lisa Murkowski and Congressman Don Young have joined Stevens opposing the scheme. Murkowski was the lead author of a biting, July 22, 2004 letter to USDA Secretary Ann Veneman from several lawmakers, noting "... we will strongly oppose any plan or scenario—irrespective of its construction that would lead to the implementation of the milk tax [on Alaska's dairy farmers]."

Rachel Hecker, an Alaskan dairy farmer, helped form the Alaska Dairy Coalition (ADC). Hecker, whose Blue Moon Dairy is located at Point Mackenzie, enlisted help from day care centers and a local dairy processor. Their main argument: Alaska is by far a deficit milk-producing state and its farmers would not be served by paying a federal fee. "It makes absolutely no sense to burden Alaska with a new tax to promote outside milk when our struggling dairy farmers can't produce enough milk to keep up with our state's demand."

Alaskans, it seems, view with severe skepticism mandates from the "Lower 48." In an election year, politics won't force the "milk tax" on Alaskan dairy farmers ... not so long as key figures like Senator Ted Stevens have a say in the matter.

Failing to achieve a promotion assessment against dairy imports is a big blow to NMPF, which willingly killed the "produced in the U.S." requirement of the 15-cent producer assessment. One more time, it appears, NMPF is working against dairy farmers' legitimate interests.

**Mario Castillo**

**From:** "Butzlaff, Nathan (Murkowski)" <Nathan\_Butzlaff@murkowski.senate.gov>  
**To:** "Mario Castillo" <marlocas@aeglservices.com>; "Tracks of Alaska" <traxak@alaska.com>; "Rachel Hecker" <blumoo\_99@yahoo.com>  
**Cc:** "Heller, Pat (Murkowski)" <Pat\_Heller@murkowski.senate.gov>  
**Sent:** Wednesday, July 28, 2004 1:04 PM  
**Subject:** Milk Tax Article in the Fairbanks Daily News-Miner

**Milk Tax could Squeeze Alaska Producers**

Fairbanks Daily News-Miner 7-27-04

Sam Bishop

Sen. Lisa Murkowski wants Alaska, Hawaii and Puerto Rico milk producers to keep their exemption from a federal tax that pays for promotions such as the "Got Milk?" campaign. Murkowski said she is worried that the two states and territory soon may be forced to start paying the tax, which is currently 15 cents on every 100 pounds of milk.

She said some interests want Alaska and the other regions to be taxed so the U.S. Department of Agriculture can also start taxing foreign milk importers. Under World Trade Organization rules, the foreign imports can't be taxed unless all domestic sources are treated the same, according to the argument.

Murkowski said she and members of Congress from Hawaii and Puerto Rico will try to block the tax. Milk is already expensive in the state, she said, and it's not even available regularly in some remote communities.

"An assessment like this just hurts us even more," she said.

Only a fraction of Alaska's milk is produced in state. Most is imported from the Lower 48 and repackaged as an Alaska brand. The Lower 48 milk is already taxed. It would seem then Alaska consumers might not notice the tax much, but Murkowski spokesman Chuck Kleeschulte said the competitive pressure that Alaska producers exert against Outside producers actually helps keep milk prices from rising higher in the state.

Also adding the 15-cent tax to Alaska milk would be devastating for Alaska's dairy farmers, who number less than 10 Murkowski said.

"I think their margins are so thin now that they are panicked at anything that would increase their costs," Murkowski said.

Alaska, Hawaii and Puerto Rico were exempted from the promotion tax in 1983 because their farms produced such a small fraction of local demand, Murkowski noted. That's still the case, she said, so exempting them from the promotional tax shouldn't pose any serious competition to foreign importers who want to enter the Lower 48 market.

Also those importers aren't likely to move milk to the remote states and territories because of shipping costs, she noted. Murkowski outlined the arguments in a letter to U.S. Trade Representative Robert Zoellick and Secretary of Agriculture Ann Veneman.

7/28/2004

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## Court: 'Got Milk?' campaign illegally milks farmers

**PHILADELPHIA, Pennsylvania (AP) --**The catchy "Got Milk?" dairy promotion -- famous for plastering milk mustaches on celebrity faces -- violates the free speech rights of farmers forced to pay for the ads, a federal appeals court ruled Tuesday.

The unanimous 3rd U.S. Circuit Court of Appeals decision overturns a lower court ruling that dairy farmers Joseph and Brenda Cochran had to contribute to the National Dairy Promotion Board campaign even though the couple felt the ads did little to support sustainable agriculture products, such as milk from cows that are not injected with hormones.

"The court made clear that just because an industry is regulated, and even if it's heavily regulated, that doesn't mean the members of that industry lose their First Amendment rights," said the Cochrans' attorney, Steve Simpson, of the Washington, D.C.-based group Institute for Justice.

"Got Milk?" is the latest of clever industry promotions whose funding has been found in violation of the First Amendment.

A federal appeals court ruled in July that ranchers could not be forced to pay a \$1-per-head fee on cattle to support the marketing campaign that spawned the slogan "Beef: It's what's for dinner." And an appeals court struck down a similar fee in October that had supported the ads calling pork "the other white meat."

In the latest ruling, the 3rd Circuit said the government's interest in promoting the dairy industry wasn't substantial enough to justify an infringement on the Cochrans' free speech rights by requiring them to help pay for the ads.

Lawyers defending the law on behalf of the U.S. Department of Agriculture have said because dairy prices and distribution are tightly regulated, a joint marketing campaign is the only effective way to compete with other beverages.

Attorney Matthew M. Collette, who represented the Justice Department in the case, did not return a telephone message left Tuesday seeking comment.

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**Find this article at:**

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# The Dairy Trade Coalition

Saving the Spotted Cow for Generations to Come



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## Debunking the Myths of Import Assessments

**Myth:**

*There is nothing wrong with assessing importers. They have been getting a free ride for years from the promotion program. It is about time they paid into the promotion program.*

**Fact:**

While the idea of import assessments may be appealing, importers are not receiving a free ride. The point of the promotion program, according to the Dairy Production Stabilization Act of 1983 and the accompanying report (H. Rep. No. 98-237), is to expand markets for domestic products. However, most imported dairy products are under quota (that is, the amounts that can be imported into the U.S. are limited by trade agreements), which effectively prevents importers from receiving benefits from the promotion.

For example, if an importer has a quota for 100,000 pounds of a particular cheese and is filling that quota, all he can sell is 100,000 pounds regardless of how successful the promotion. This explains why the share of the U.S. market held by importers has declined from 6.5% to 5% since 1984 (the first year of the promotion program). As the size of the U.S. dairy market has increased, imports have not been able to share in its growth because of the quota system.

**Myth:**

*Importers will not be able to promote imports with the assessment funds. The National Dairy Promotion and Research Board (Board) will simply take the importers' money and add it to the general budget. Since importers will only have two seats on the Board, they will not have the representation necessary to influence the Board's activities.*

**Fact:**

While importers' representation on the Board is minimal and importer interests may be ignored, there would be some serious consequences if that were to happen. Primarily, refusal by the Board to permit the promotion of imports and the creation of qualified import promotion boards (similar to the state and regional promotion boards) may be inconsistent with U.S. obligations under the WTO.

Under WTO rules, the U.S. is obligated to give equal treatment to both domestically-produced goods and imported goods. This is known as the National treatment principle and is enshrined in Article III of the General Agreement on Trade and Tariffs (GATT). If the U.S. or any other country adds imports to an existing program, the U.S. is obligated to give equal treatment (such as promotion) to both domestic and imported products. For example, the Board would have to promote MPC, casein, and imported cheese without discrimination. Therefore, if requests by importers to promote imports and to create import promotion boards are denied, importers are likely to claim that their products are not being given equal treatment as domestically-produced products. They would also assert that the Board is collecting the importers' money without promoting their products and without providing any benefits. Once one or more countries bring a successful WTO action, they are entitled to compensation which can come in the form of granting additional market access to foreign countries, lower tariff-rate quota rates (which would result in more foreign dairy products entering the U.S.), and punitive tariffs on U.S. exports.

Importers will also be able to sue in U.S. Federal court to seek invalidation of the importer assessment on Afree speech@ grounds; that is, that they are being forced to contribute to a generic advertising program from which they do not benefit. Once an importer or a group of importers filed a lawsuit, disgruntled domestic producers who do not like the Acheck-off@ program may file suit by joining the importers thus leading to the invalidation of the entire promotion program.

**Myth:**

*Import assessments will have no effect on ,oreign demands for increased access to the U.S. dairy market through either increased quotas or reduced over-quota tariff rates.*

**Fact:**

Import assessments will place a major weapon into the hands of our trading partners (foreign countries) to demand increased access to the U.S. dairy market for their dairy products.

As stated above, the purpose of the promotion program is to expand the U.S. market. Importers are restricted from expanding their markets by numerical quotas or high tariff rate quota rates. Therefore, the only way for importers to benefit is for foreign countries (our trading partners) to gain more access to the U.S. dairy market either through increased quotas or lower tariff-rate quota rates.

In other words, the assessment presents a great opportunity for our trading partners to demand that our markets be opened for additional access for their foreign dairy products without limitations. If one had a conspiratorial mind, one might think that one or more foreign countries, knowing that the assessment will never be paid because it will be invalidated by a U.S. Federal Court based on a recent U.S. Supreme Court ruling, are secretly in favor of the scheme so that they can go to Qatar in November with a forceful justification for more access to the U.S.

**Myth:**

*Domestic dairy producers are frustrated and concerned about MPCs entering the U.S. and displacing their milk and reducing their incomes. The import assessment will stem the flow of MPC imports.*

**Fact:**

While MPC imports are problematic for U.S. dairy producers, the answer to the problem does not lie in assessing imports. Prior to the Uruguay Round, Section 22 of the Agricultural Adjustment Act of 1933 authorized the imposition of quotas on all dairy imports. However, in the Uruguay Round, the U.S. granted more dairy access to foreign countries than any importer ever dreamed possible. In addition, Section 22 was traded away, denying the U.S. the ability to impose quotas on MPCs. Furthermore, the assessment will not stop the importation of MPCs.

It is interesting to note that the very people who were advising U.S. trade negotiators at the Uruguay Round are the same people promoting the import assessment. Dick Groves, in an editorial in *The Cheese Reporter* on August 17, 2001, assessed the impact of the Uruguay Round and stated, AFrom 1974 through 1995, U.S. butter imports (including the butter equivalent of butter oil) never exceeded 5 million pounds. But since 1998, they=ve never been below 28 million pounds.@ Groves ends the editorial with a dire warning: AAnd for both producers and processors, it may mean there=s going to be less growth in the future, as imports grab a bigger share of the business, a share the domestic industry may never win back.@ Finally, it is important to note that the increased imports came about because of the increased market access granted as part of the Uruguay Round giveaway, and not because of the promotion activities.

The MPC issue is particularly problematic since there is no available record of what types of MPCs are entering the country and what they are being used for. Therefore, it would be advisable to further evaluate MPCs through public hearings and reports prepared by the U.S. Congress, the Department of Agriculture, the International Trade Commission and other appropriate government agencies. This would be consistent with comments made by Representative David Obey (D-WI) on March 16, 2001 on Wisconsin Public Television, in which he stated:

AI don=t think we know anything about these products [MPCs]. They couldn=t even tell us, for instance, what the exact volume of ultra-filtered milk products was or where they were coming in, because they don=t have B they don=t keep a paper trail. So there is very little that we know about these products in terms of their impact on the economy.@

Once we know what MPCs are coming in, we can give detailed and accurate instructions to U.S. negotiators to protect U.S. dairy farmers from MPC imports at the Qatar Round. We can also use the information gained from the hearings to craft a trade policy that will curb the huge surges of MPC imports (since import assessments will not) and is WTO-legal and more consistent with the needs of U.S. dairy farmers.

Additionally, we would be putting our negotiators in Geneva in a difficult position. Their counterparts could look at them and say, AThe U.S. is assessing dairy imports. That=s fine as it may make your market share bigger; however, the level of imports must be able to grow if importers are to benefit from the assessment. Therefore, you must remove all quotas and all impediments to dairy product imports so that we can have unlimited access to your market without barriers,@ Our negotiators may be backed into a corner and may be outvoted at all negotiating sessions, thus accomplishing nothing for U.S. dairy producers. Removal of import quotas will put all dairy products in a similar position as MPC. As a result, the current problem with MPCs would expand to a variety of other dairy products (i.e., cheddar cheese, butter, butter oil). This would lead to a flood of dairy product imports which will sharply reduce U.S. dairy prices and also reduce domestic dairy producer income.

**Myth:**

*Assessing importers will not jeopardize the benefits provided by the dairy promotion program.*

**Fact:**

Assessing importers will place in jeopardy the continuation of the entire dairy promotion program. In a recent Supreme Court case (*United States v. United Foods, Inc.*, 533 U.S. \_\_\_\_ (2001)), a mushroom grower refused to pay money to the mushroom promotion board. United Foods contended that their free speech rights were being violated since they were forced to pay money to fund a message they did not want to send. United Foods wanted to tell people that their mushrooms were better than anyone else=s mushrooms and they were being forced to fund generic advertising implying that all mushrooms are the same. The Court agreed with United Foods and declared the mushroom promotion program invalid.

Dairy importers will make the same claims, and their case will be even stronger since they will be forced to fund a message that is not only contrary to their desired message, but will also not provide any benefits. Some imported cheese is considered a specialty and of a higher-quality. Therefore, similarly to United Foods, importers try to differentiate imported cheese from domestic cheese and object to generic advertising which implies that they are equal. In addition to the previously discussed quota-based limitations, over half of the money, they will point out, goes towards fluid milk promotion and there are virtually no fluid milk imports. A legal analysis conducted by Robins, Kaplan, Miller, and Ciresi, LLP indicates that an assessment on imports would be unconstitutional.

The analysis goes on to state that an importer lawsuit could spur domestic producers who resent the assessment to join the lawsuit and challenge the entire dairy promotion program. For example, an organic producer who, like the mushroom producer in *United Foods*, wants to send a different message than the generic advertising provided by the promotion board could challenge the constitutionality of the assessment on domestic producers.

Prepared August 28, 2001

HJR

24

# NCOIL

National Conference of Insurance Legislators

*for the states*

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July 21, 2007

Senator John Sununu  
111 Russell Senate Office Building  
Washington, DC 20510

Senator Tim Johnson  
136 Hart Senate Office Building  
Washington, DC 20210

Dear Senators Sununu and Johnson:

As an organization of legislators whose primary purpose is sound insurance public policy, the National Conference of Insurance Legislators (NCOIL) would like to stress its strong opposition to proposed optional federal charter (OFC) legislation in the form of S. 40—the *National Insurance Act of 2007*. We would like to again voice our concerns regarding the negative consequences of any OFC initiative on businesses and consumers alike—as have other governmental organizations such as the National Governors Association (NGA), the National Conference of State Legislatures (NCSL), the Council of State Governments (CSG), and the National Association of Insurance Commissioners (NAIC).

NCOIL believes that creation of an OFC would allow insurance companies to opt out of state oversight and policyholder protections, and would ultimately impose the costs of a needless federal bureaucracy upon businesses and the public. It would result in a quagmire of federal and state directives and promote ambiguity and confusion. An OFC also would compromise state guaranty fund coverage, and employers could end up absorbing losses otherwise covered by these safety nets for businesses affected by insolvencies.

S. 40 would destroy carefully crafted protections resulting from years of consumer and business input and thoughtful consideration by state legislatures. The mechanism set up under S. 40 does not, and cannot by its very nature, respond, as state regulation does, to states' individual and unique insurance markets and constituent concerns.

While NCOIL vigorously advocates for the modernization of insurance regulation, creating a bifurcated system of insurance regulation is not the way to move forward. State legislatures and insurance departments are proactively modifying statutes, regulations and systems to streamline insurance regulation, promote competition, and improve efficiency.

As state and federal legislators, we have common goals—that of a healthy insurance marketplace and consumer satisfaction—but NCOIL must strongly disagree with an OFC approach, as it would prove counterproductive to these objectives. S. 40, though well-intentioned, is an ill-advised proposal that would bring more harm than good to the consumers we all serve.

We look forward to dialoguing further with you on this very important issue.

Sincerely,  
Members of the NCOIL Executive Committee

cc: Senate Committee on Banking, Housing and Urban Affairs

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version:           HJR 24            
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title           Opposing Federal Insurance Regulation           RDU \_\_\_\_\_  
 Sponsor           Rep. Coghill           Component \_\_\_\_\_  
 Requester           House Labor & Commerce Committee           Component Number \_\_\_\_\_

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

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
<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 (FY2008) cost: \_\_\_\_\_

**POSITIONS**

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time						
Part-time						
Temporary						

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

Prepared by:           Eleanor Wolfe           Phone           465-2693            
 Division:           Legislature           Date/Time           2/13/08 12:00 AM            
 Approved by:           Rep. Kurt Olson, Chair, Labor & Commerce Committee           Date           2/13/2008



## Alaska Independent Insurance Agents & Brokers, Inc.

The Alaska Independent Insurance Agents & Brokers (AIIAB) would like to submit the following comments in support of HJR 24.

AIIAB is one of the oldest and largest producer trade associations in Alaska. We represent over 360 independent business owners, agents, brokers and employees in the State of Alaska who sell and service the personal and business insurance needs of consumers. Independent agents and brokers provide a professional service to their clients regarding their property, casualty, life, health, employee benefit plans and retirement plans.

### **State Based Consumer Protections Must Remain Intact**

Alaska in particular has a difficult insurance environment at best. Alaska struggles to find adequate markets and the needs of Alaskan consumers vary greatly from consumers of other states. State Regulators understand the nuances of their own marketplace much better and can respond to market demands much quicker than a Federal Regulator.

It is imperative that the consumer protections at the state regulation of insurance provides remains intact. The creation of an Optional Federal Charter, we believe would decrease the current consumer protections.

### **Support for Targeted Federal Legislation**

AIIAB does support streamlining and modernizing the State system of insurance regulation through targeted and limited federal legislation which would act as "tools" to help establish reciprocity or uniformity to create interstate consistency. This would allow for a system that responds quicker to industry demands yet maintains the State based consumer safeguards which are critical. Examples of limited federal legislation that have worked include:

- Surplus Lines and Reinsurance Reform
- Agent and Company Licensing Reform

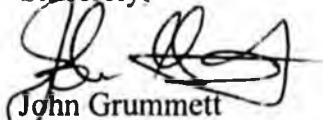
### **Federal Regulation is Not the Answer**

As stated previously, we do agree that there is a need for specific targeted regulation to improve efficiencies and uniformity in insurance regulation. It is our belief that an "optional" federal charter is not the answer and would increase confusion for both consumers and the agents and brokers that service consumers. AIIAB has many reasons for opposing Federal oversight of the Insurance Industry, here are just a few:

- Local insurance regulation works best for consumers and the state system ensures a level of responsiveness to consumers that could not be matched at the federal level.
- Agents and brokers would be required to become experts on both the state and federal regulations which apply to insurance.
- It would create a confusing environment whereby independent agents may have to deal with multiple insurance companies that could choose to follow state regulation or federal legislation. This would force agents who choose to be state licensed to know and understand a federal regulatory system they may prefer to not deal with but have no choice.
- Small insurance companies could be at a competitive disadvantage against larger companies that could afford to switch between the two systems. The smaller companies could get stuck in an unfavorable regulatory environment that they can't afford to get out of.
- By eliminating or drastically limiting regulatory review of policy language for the small commercial and personal lines markets, Federal Regulation would leave consumers unprotected.
- Federal Regulation would have a negative impact on revenue Alaska collects through a loss of licensing fees and could threaten state premium tax revenue – critical funding relied upon by the states for various purposes.

Federal Regulatory Oversight is not the answer and would only provide confusion to our consumers, brokers and agents. We urge you to support HJR 24.

Sincerely,



John Grummett

President

Alaska Independent Agents & Brokers

P.O. Box 112908

Anchorage, AK 99511-2908

**THE COUNCIL OF STATE GOVERNMENTS  
RESOLUTION OPPOSING FEDERAL INSURANCE CHARTERING**

**Resolution Summary**

State officials have supervised insurance for more than a century. Through this supervision, states have worked to promote the public interest, ensured the equitable treatment of consumers and promoted fair competition. Despite state success in this area, there has been congressional interest in "reforming" insurance by creating a dual insurance regime that would allow insurers and producers to elect state or federal regulation.

In the 109th Congress, Sen. John Sununu introduced legislation, S. 2509, the National Insurance Act. This legislation proposed to create an independent Office of National Insurance, which would be housed within the U.S. Treasury Department. This national office would oversee a separate system of regulation and supervision for insurers and producers that choose to be licensed or chartered at the federal level. A presidentially appointed national insurance commissioner would lead the office and the office would be funded by various fees collected from insurance companies, producers and agencies that elect federal regulation. While the Bush Administration has not taken a formal position on this legislation, the Treasury Department has stated that it is tracking developments in this arena.

Recently, Sen. Sununu and Sen. Tim Johnson reintroduced this legislation, S. 40, The National Insurance Act of 2007. The primary change to the current bill, as compared to last year's bill, is the ability of a surplus lines insurer to now opt for federal oversight. Surplus lines insurance is insurance for unique risks that the private market doesn't cover. In the House of Representatives, Rep. Ed Royce has indicated interest in reintroducing the House companion to Sen. Sununu's bill that he introduced last year.

State insurance supervision enforces laws developed by state governments to protect the rights of consumers where they live. The legislation introduced by Sen. Sununu contains very little language on consumer protection, but rather relies on the creation of an office of consumer affairs, which would be tasked with producing rules for the regulation of insurance sales and marketing. This is the only language in the proposed legislation that deals with consumer protection issues, thus allowing insurers to opt out of state standards and oversight. Also, this legislation pre-empts laws pertaining to credit scoring, senior discounts, genetic testing, redlining and other insurer practices. The absence of specific regulatory standards in the federal legislation, combined with a heavy reliance on industry self-regulation to implement the National Insurance Act, in all likelihood could lead to regulatory arbitrage between the federal and state systems, with a negative impact on consumer protections and solvency enforcement.

Federal insurance chartering stands to threaten protections that states have put in place for consumers, and also stands to put much-needed state revenues at risk from the loss of fees and assessments. This resolution seeks to educate state legislative leaders about the

potential ramifications of a federal insurance charter, and how this dual scheme could lead to market disruption and policyholder confusion.

#### **Additional Resource Information**

National Association of Insurance Commissioners: [www.naic.org](http://www.naic.org)

The National Insurance Act, S. 40: <http://thomas.loc.gov>

National Conference of Insurance Legislators: [www.ncoil.org](http://www.ncoil.org)

#### **Federal Insurance Chartering Opposition Management Directives**

**Management Directive #1:** Support state efforts to raise awareness of the attempts to establish federal insurance charter legislation and the potential consequences of these attempts.

**Management Directive # 2:** CSG staff will post approved resolution on CSG's Web site and make available through its regular communication venues at the state and local level to ensure its distribution to the state government and policy community.

**THE COUNCIL OF STATE GOVERNMENTS  
RESOLUTION OPPOSING FEDERAL INSURANCE CHARTERING**

**WHEREAS,** state insurance protection safeguards individual and commercial policyholders, and thereby galvanizes the strength of the U.S. insurance markets through diversity addressing unique local concerns; and

**WHEREAS,** state officials are effective stewards of the insurance marketplace and can preserve these unique and diverse consumer protections; and

**WHEREAS,** insurance is a unique industry apart from banking and securities and presents issues that state officials are best able to address; and

**WHEREAS,** federal chartering would disrupt insurance markets and harm consumers; and

**WHEREAS,** federal chartering would create a bifurcated regime which would only add an additional layer of bureaucracy whereby companies would be able to "opt out" of consumer protections and state oversight; and

**WHEREAS,** federal chartering threatens state revenues of nearly \$14 billion a year in lost state insurance premium tax revenues, fees and assessments; and

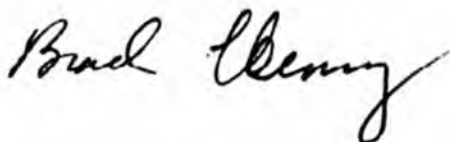
**WHEREAS,** Optional Federal Charter legislation stands to threaten the consumer safeguards that have been put into place by enabling and encouraging the outsourcing of enforcement of insurance industry consumer protections; and

**WHEREAS,** federal chartering will result in policyholder confusion and market disruption due to the separate and overlapping systems that would be created; and

**WHEREAS**, an optional federal regulatory system would only be optional for insurers, not for consumers, taxpayers, businesses and local economies.

**BE IT THEREFORE RESOLVED**, that The Council of State Governments supports and encourages state actions to preserve the pre-eminence of state insurance systems and seeks to educate state elected officials on the potential ramifications of a bifurcated scheme on consumers and state revenues.

Adopted this 13<sup>th</sup> day of June 2007, at the  
CSG 2007 Spring Committee & Task Force Meetings  
in Puerto Rico



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Governor Brad Henry  
2007 CSG President



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Representative Deborah Hudson  
2007 CSG Chair



*Independent Insurance Agents*

*Brokers of America, Inc.*

August 28, 2007

The Honorable Tim Pawlenty  
Chairman  
National Governors Association  
444 N. Capitol St., Suite 267  
Washington, DC 20001-1512

Dear Governor Pawlenty:

On behalf of the Independent Insurance Agents and Brokers of America (IIABA) and our 300,000 members nationwide, I want to thank you and the National Governors Association for your strong support of state insurance regulation. Your unequivocal commitment to the state system and opposition to proposals calling for the creation of a federal insurance regulator are welcomed by our broad membership, by many others within the industry, and, most importantly, by insurance consumers.

For over 150 years, states have ensured the solvency of this nation's insurers, maintained a comprehensive and effective consumer protection framework, and supervised other areas of the insurance business. State regulation has been successful because governors and state officials are more responsive to consumers and more aware of the unique characteristics of individual states, and regulators today collectively respond to more than three million inquiries per year. State insurance regulation is not perfect, but it has a proven track record. The vibrant and evolving nature of the current system allows states to update insurance laws as marketplace conditions dictate, and efforts are currently underway to remedy unnecessary differences in state laws and eliminate requirements that can make it challenging for insurers and agents to serve the needs of insurance policyholders quickly and efficiently.

Despite the long success of state insurance regulation, the system is once again under attack from opponents who would like to establish an unprecedented and untested federal insurance bureaucracy. Legislation creating such an entity has once again been introduced in Congress, and the well-funded proponents of this concept are aggressively pursuing its adoption. However, as the National Governors Association has previously recognized, such proposals would undermine the state system of consumer protections and financial surveillance, create substantial consumer confusion, and result in a regulatory race to the bottom. In addition, bifurcating insurance regulation between the states and the federal government would inevitably produce a loss of jobs, taxes, fees, and other vital state resources needed to effectively regulate the insurance market and support other state obligations. Such proposals are unnecessary and do not serve the best interests of America's consumers.

Establishing a federal insurance regulator would threaten the continued viability of state insurance regulation and the important consumer protections currently in place, and we thank the National Governors Association and other organizations of state officials for your continued opposition to such ideas and for your leadership in this arena. Our organization joins you in your principled opposition to these ill-conceived proposals and looks forward to working with you to preserve and improve the state system.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Rusbuldt". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert A. Rusbuldt  
CEO

Cc: The Honorable Edward G. Rendell, Vice Chair, National Governors  
Association  
The Honorable Jennifer M. Granholm, Chair, NGA Economic Development and  
Commerce Committee  
The Honorable M. Michael Rounds, Vice Chair, NGA Economic Development and  
Commerce Committee



*Independent Insurance Agents  
& Brokers of America, Inc.*

**STATEMENT OF ALEX SOTO  
ON BEHALF OF THE  
INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA**

**BEFORE THE**

**SUBCOMMITTEE ON CAPITAL MARKETS, GOVERNMENT SPONSORED  
ENTERPRISES, AND INSURANCE**

**COMMITTEE ON FINANCIAL SERVICES**

**UNITED STATES HOUSE OF REPRESENTATIVES**

**October 3, 2007**

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Good afternoon Chairman Kanjorski, Ranking Member Pryce, and Members of the Committee. My name is Alex Soto, and I am pleased to be here today on behalf of the Independent Insurance Agents and Brokers of America (IIABA). Thank you for the opportunity to provide our association's perspective on insurance regulatory reform. We welcome an open discussion and debate on this very important topic. I am the Immediate Past Chairman of IIABA, and I am also President of InSource, which is an agency that was formed from a merger of three of Miami's oldest insurance agencies. Through our practice specialties, InSource has made a long-term and total commitment to our South Florida community.



IIABA is the nation's oldest and largest trade association of independent insurance agents and brokers, and we are a network of more than 300,000 agents, brokers, and employees nationwide. IIABA represents small, medium, and large businesses that offer consumers a choice of policies from a variety of insurance companies. Independent agents and brokers provide a variety of insurance products – property, casualty, health, life, employee benefit plans and retirement products.

### Introduction

It is clear that there are inefficiencies today in the regulation of insurance, and there is growing consensus that the state system of insurance needs to be modernized. There is disagreement, however, on the most effective and appropriate way to achieve reform. Some support pursuing reform in the traditional manner, which is to seek legislative and regulatory improvements on an ad hoc basis in the various state capitals. Another approach, that some international and large domestic insurance companies advocate, would establish a federal insurance bureaucracy to regulate the insurance industry through "optional" federal chartering. Others, such as IIABA, support a pragmatic middle-ground approach that uses targeted federal legislation only where necessary, while maintaining and improving the existing system of state insurance regulation.

As we have for over 100 years, IIABA supports state regulation of insurance – for all participants and for all activities in the marketplace – and we oppose any form of federal regulation, optional or otherwise. Yet despite this historic and longstanding support of state regulation, we do not believe the state system can appropriately and effectively address certain of its problems on its own. That is why we feel that there is a vital role for Congress to play in helping to modernize the state regulatory system and overcome the obstacles to reform that currently exist; however, such an effort need not replace or duplicate at the federal level what is already in place and working well at the state level. Through targeted federal legislation along the lines of H.R. 1065, the Nonadmitted and Reinsurance Reform Act, which the House passed by voice vote this summer, we can streamline and

modernize the state-based system without having to take the drastic step of creating a new federal agency.

During this discussion of potential insurance regulatory reform, we must recognize, and we ignore at the marketplace's peril, that the current state system of insurance regulation does have significant strengths – particularly in the area of consumer protection. State insurance regulators have done an excellent job of ensuring that insurance consumers, both individuals and businesses, receive the insurance coverage they need and that any claims they may experience are paid. These and other aspects of the state system are working well. The “optional” federal charter concept proposed by some would displace the components of state regulation which work well and, in essence, “throw the baby out with the bathwater.”

To explain the rationale for our support of targeted legislation to achieve insurance regulation reform, I will first offer an overview of both the positive and negative elements of the current insurance regulatory system. I will then provide a more complete explanation of the approach that we believe offers the most appropriate vehicle to modernize and improve the state-based regulatory system. I will then outline the reasons for our strong opposition to proposals to create an “optional” federal charter for insurance.

### **The Current State of Insurance Regulation**

From the beginning of the insurance business in this country, states have carried out the essential task of regulating the insurance marketplace to protect consumers. The current state insurance regulatory framework began in 1851 when New Hampshire appointed the first insurance commissioner. Insurance regulators' responsibilities have grown in scope and complexity as the industry has evolved.

State regulation of insurance has been reaffirmed as recently as 1999 through the Gramm Leach Bliley Act (GLBA). Specifically, Title III of GLBA unequivocally provides that “[t]he insurance activities of any person (including a national bank exercising its powers to act as agent . . .) shall be

functionally regulated by the states," subject only to certain exceptions which are intended to prevent a state from thereby frustrating the affiliation policy adopted in GLBA. The GLBA provisions collectively ensure that state insurance regulators retain regulatory authority over all insurance activities, including those conducted by financial institutions and their insurance affiliates. These mandates are intended in large part to draw the appropriate boundaries among the financial regulators, boundaries that unfortunately continue to be challenged.

Most observers agree that state regulation works effectively to protect consumers, largely because state officials are positioned to be responsive to the needs of the local marketplace and local consumers. Unlike most other financial products, which are highly commoditized, the purchaser of an insurance policy enters into a complex contractual relationship with a contingent promise of future performance. Therefore, the consumer will not be able to determine fully the value of the product purchased until after a claim is presented – when it is too late to decide that a different insurer or a different product might make a better choice. When an insured event does occur, consumers often find themselves in a crisis, facing many challenging issues and perplexing questions; as a result, they must have quick and efficient resolution of any problems, and a local call works best.

Unlike banking and securities, insurance policies are inextricably bound to the separate legal systems of each state, and the policies themselves are contracts written and interpreted under the laws of each state. Consequently, the constitutions and statute books of every state are thick with language laying out the rights and responsibilities of insurers, agents, policyholders, and claimants. State courts have more than 100 years of experience interpreting and applying these state laws and judgments. The diversity of underlying state reparations laws, varying consumer needs from one region to another, and differing public expectations about the proper role of insurance regulation require local officials "on the beat."

Protecting policyholders against excessive insurer insolvency risk is one of the primary goals of state insurance regulation. If insurers do not remain solvent, they cannot meet their obligations to pay

claims. State insurance regulation gets high marks for the financial regulation of insurance underwriters. State regulators protect policyholders' interests by requiring insurers to meet certain financial standards and to act prudently in managing their affairs. The states, through the National Association of Insurance Commissioners (NAIC), have developed an effective accreditation system for financial regulation that is built on the concept of domiciliary deference (the state where the insurer is domiciled takes the lead role). When insolvencies do occur, a state safety net is employed: the state guaranty fund system. States also supervise insurance sales and marketing practices and policy terms and conditions to ensure that consumers are treated fairly when they purchase products and file claims.

### **Targeted Insurance Regulatory Reform**

Despite its many benefits, state insurance regulation is not without its share of problems. As I mentioned earlier, there is general agreement among both policymakers and the private sector that insurance regulation needs to be updated and modernized. While the existing system does have many benefits, it also has been rightly characterized as slow and inefficient with different laws and regulations in some areas that add unnecessary expense. These criticisms are accurate, and there is a desperate need for a common-sense solution. Therefore, while we do continue to strongly support the state system, we question whether the states will be able to resolve their problems on their own. For the most part, state reforms must be made by statute, and state lawmakers inevitably face practical and political hurdles and collective action challenges in their pursuit of improvements on a national basis.

We believe that congressional legislative action is necessary to help reform the state regulatory system. We propose that two overarching principles should guide any such efforts in this regard. First, Congress should attempt to fix only those components of the state system that are broken. Second, no actions should be taken that in any way jeopardize the protection of the insurance consumer, which is the fundamental objective of insurance regulation and of paramount importance to IIBA and its members.

IIABA believes that the best method for addressing the deficiencies in the current system is a pragmatic, middle-ground approach that utilizes targeted legislation or federal legislative "tools" to establish greater interstate consistency in key areas and to streamline the often redundant oversight that exists today at the state level. By using targeted and limited federal legislation on an as-needed basis to overcome the structural impediments to reform at the state level, we can improve rather than dismantle the current state-based system and in the process produce a more efficient and effective regulatory framework. Rather than employ a one-size-fits-all regulatory approach, a variety of legislative tools could be employed on an issue-by-issue basis to take into account the realities of today's marketplace. This can be accomplished through enactment of a number of bills dealing with particular aspects of insurance regulation starting with those areas in most need of reform where bipartisan consensus can be established.

Congress's work in this area need not jeopardize or undermine the knowledge, skills, and experience that state regulators have developed over decades. While IIABA believes such a proposal must modernize those areas where existing requirements or procedures are outdated, it is important to ensure that this is done without displacing the components of the current system that work well. In this way, we can assure that insurance regulation will continue to be grounded on the proven expertise of state regulators at the local level. Targeted federal legislation addresses limited aspects of state insurance regulation only where uniformity and greater consistency is truly necessary and is the least intrusive option. Unlike other ideas, such as an "optional" federal charter, this approach does not threaten to remove a substantial portion of the insurance industry from state supervision and effectively preempt all application of state law.

Some have criticized the targeted federal legislative approach because of enforcement concerns. The reality, however, is that court enforcement of federal preemption occurs regularly and would occur under both the federal tools approach and in other proposals such as the "optional" federal

charter. As long as federal reform legislation is properly crafted and clear, enforcement of national standards would not create more burdens for the court system.

As evidence of the viability of this approach, targeted legislation to reform an aspect of the insurance industry has already passed the House of Representatives. In June of this year, H.R. 1065, the Nonadmitted and Reinsurance Reform Act of 2007, introduced by Reps. Dennis Moore and Ginny Brown-Waite passed the House by voice vote. Similar legislation was passed by this Committee and by the full House in a unanimous vote last year. This legislation would apply single-state regulation and uniform standards to the nonadmitted and reinsurance marketplaces and give sole regulatory and enforcement authority to the insured's home state for the placement of non-admitted insurance. Unlike other reform proposals, this legislation has near-unanimous industry support and, as evidenced by the vote in the House in June, strong bipartisan congressional support. We applaud the cosponsors for introducing this legislation and the full House for its prompt passage of this important bill. This model, federal legislation modernizing state regulation, can be used to reform other aspects of the insurance market.

An additional area where targeted reform could be achieved is in the area of agent licensing. One of the most significant elements of GLBA for the insurance marketplace is the inclusion of the National Association of Registered Agents and Brokers (NARAB) Subtitle, which was intended to produce meaningful producer (i.e., agent and broker) licensing reform in a timely manner. Agents and brokers across the country hoped effective reform was imminent following GLBA's passage and the subsequent adoption of the NAIC's Producer Licensing Model Act (PLMA) by most jurisdictions, but we are still awaiting the promised benefits more than seven years later. Congress's action in 1999 certainly had the intended effect of spurring state action, but critical problems remain because the standards were not sufficiently clear, the bar is not high enough, and many states are not complying with the GLBA and PLMA standards.

While the NAIC has cited the "progress" made in the licensing arena as one of its most notable success stories, our members remain frustrated by the many challenges and burdens they face and are increasingly impatient with the lack of progress. The most serious challenges facing agents are the redundant, costly, and sometimes contradictory requirements that arise when seeking licenses on a multi-state basis, and the root cause of these problems is the failure of many states to issue licenses on a truly reciprocal basis. The PLMA and the GLBA clearly outline the limits of what may be required – *a nonresident in good standing in his/her home state shall receive a license if the proper application or notice is submitted and the fees are paid* – yet states continue to impose additional conditions and requirements.

The current licensing system is cumbersome, confusing, burdensome, and time-consuming, and it hinders the ability of agents and brokers to responsively address the needs of insurance purchasers. In most states, a nonresident must obtain three separate licenses – an individual license, an agency license, and a foreign corporation registration in each jurisdiction – in order to engage in insurance producer activities in a particular state, and these duplicative and redundant layers of licensing requirements do not benefit consumers in any meaningful respect. These and other challenges make producer licensing an area ripe for renewed congressional action. Targeted federal legislation that would ensure a completely reciprocal licensing process for producers would provide a more competitive insurance market and improve the state-based system of insurance. Additionally, such federal legislation would preserve the rights of states to license, supervise and discipline insurance producers. We look forward to working with the Committee on such legislation.

An additional area ripe for targeted reform is the product approval process. For life products, federal legislation could build upon the NAIC's interstate compact for approval of life, disability, and long-term care products. For property/casualty products, targeted legislation could facilitate the establishment of a coordinated electronic system for nationwide single point of filing, common filing

nomenclature to reduce unnecessary forms filings and deviations, eliminate all unpublished desk-drawer rules, and expedite review of forms through established and enforceable time deadlines.

As I have mentioned, while there are areas of the insurance marketplace that are in need of reform, there is not a wholesale national crisis that requires such a drastic remedy as optional federal regulation (which is discussed in detail below). In addition to targeted reform, where there are significant market problems we welcome measures such as H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act, and H.R. 3355, the Homeowners' Defense Act. These bills address specific problems, terrorism and natural disaster insurance issues - two areas where there has been market failure. Addressing specific problems where necessary without disrupting the entire insurance market is the appropriate way to handle such problems, and we applaud the Committee for passing both of these bills.

I want to again thank the sponsors for introducing the Nonadmitted and Reinsurance Reform Act and the House for taking such prompt action in passing this legislation. We are hopeful that this approach will be used in the near future to facilitate additional reforms in the state-based system of insurance regulation, particularly in the area of producer licensing.

#### **"Optional" Federal Charter**

I would be remiss if I did not discuss briefly our strong opposition to another suggested method to achieve insurance regulatory reform - the proposal to create a parallel and duplicative federal system of regulation by providing for an "optional" federal charter (OFC) for insurance. We are very concerned about this proposal for full-blown "optional" federal regulation of the insurance industry and believe that it would not reform the current system but would supplant and eviscerate the state system of insurance regulation.

Creating an industry-friendly "optional" regulator, as current OFC legislation provides, is at odds with one of the primary goals of insurance regulation, which is consumer protection. The best characteristics of the current state system from the consumer perspective would be lost if some insurers

were able to escape state regulation completely in favor of wholesale federal regulation. As insurance agents and brokers, we serve on the front lines and deal with our customers on a face-to-face basis. Currently, when my customers are having difficulties with claims or policies, it is very easy for me to contact a local official within the state insurance department to remedy any problems. If insurance regulation is shifted to the federal government, I would not be as effective in protecting my consumers, as I have serious reservations that some federal bureaucrat will be as responsive to a consumer's needs as a local regulator.

This is because the federal regulatory model proposes to charge a distant (and likely highly politicized) federal regulator with implementation and enforcement. Such a distant federal regulator may be completely unable to respond to insurance consumer claims concerns. As a consumer, personal or business, there would be confusion as to who regulates policies, the federal government or the state insurance commissioner, and how coverages apply. I could have a single client with several policies with one company regulated at the federal level, while at the same time having several other policies which are regulated at the state level. As an agent representing clients with policies regulated at the federal and state level, though, I would be forced to understand both regulatory systems and deal with the federal government, even if I wanted to remain licensed only in my home state.

Although the proposed "optional" federal charter regulation arguably could correct some deficiencies, the cost is incredibly high. A new federal regulator would add to the overall regulatory infrastructure – especially for independent insurance agents and brokers selling on behalf of both state and federally regulated insurers – and undermine sound aspects of the current state regulatory regime. Even though it is commonly known as "optional," current federal legislative proposals to allow for such a federal insurance charter would not be at all optional for agents. Independent agents represent multiple companies, and, under this proposal, presumably some insurers would choose state regulation and others would choose federal regulation. In order to field questions and properly represent consumers, independent agents would have to know how to navigate both state and federal systems,

therefore making them subject to the federal regulation of insurance – meaning OFC would not in any way be optional for insurance producers. Even more importantly, “optional” federal charter would not be optional for insurance consumers. The insurance company, not the insurance consumer, would make that determination.

Again, IIABA believes that local insurance regulation works better for consumers and the state-based system ensures a level of responsiveness to both consumers and the agents who represent them that could not be matched at the federal level. OFC proposals attempt to address this concern by providing for the establishment of federal regional offices. However, to match the local responsiveness of state regulators, a federal office would have to be established in every state, and in many cases, multiple offices within each state. This would create an entirely new and completely redundant federal regulatory layer. Why duplicate the current state-based system when you can build off its strengths and modernize it? There is no way out of this predicament for the supporters of OFC – either you significantly increase the size of the federal government to match state regulators’ responsiveness to consumers or rely upon a distant federal regulator in Washington, D.C. to meet consumer needs – and they will fail to meet those needs. Additionally, an OFC would weaken the authority of state officials to protect consumers in their state. These officials tend to be more responsive to individual complaints than Washington, D.C. bureaucrats.

Ultimately, though, we believe that OFC proposals create an environment in which the state system could not survive. OFC supporters believe that this proposal would create a healthy regulatory competition that will force state regulators to cooperate and be more receptive of the role of market forces. However, when state resources are siphoned off by a new federal bureaucracy, state insurance departments could be prevented from functioning at their current capacity and the ability of state insurance departments to function and approve products in a timely manner could be diminished. Thus, companies who continue to operate under the current system might be forced to become federally chartered. Additionally, much of state insurance fees and taxes are important sources of

general use revenues used for state treasuries to fund various state proposals. In 2006, state governments received almost \$2.75 billion from non-premium tax revenues (e.g. fees and assessments) and \$13 billion in premium taxes. Current legislative proposals would fund a new federal regulator from industry fees and assessments, so examination and other fees for federally-regulated entities will shift from state to federal coffers resulting in a significant loss of state revenue. We also believe that eventually a significant portion of state premium tax revenue will be lost to the federal government.

OFC supporters like to point to the dual banking system as an example of how regulatory competition could work, but this is an analogy that should raise many concerns. As we have seen in recent years, with the Office of the Comptroller of the Currency's (OCC) forceful assertion of preemption, federal regulatory schemes can do grave harm to state consumer protection regulations. Current OFC proposals also would create a confusing patchwork of solvency/guaranty regulation, and would not replicate the significant structural (and prudential) improvements that were made in the banking model in the aftermath of the S&I and banking bailouts. The dual structure proposed under current OFC could have disastrous implications for solvency regulation by largely bifurcating this key regulatory function from guaranty fund protection. In essence, these proposals would create an insurance version of the OCC without the integration of an FDIC into that supervisory system. Such proposals cherry-pick the features from several of these federal banking laws to come up with a model which lacks the consumer protections found in any one of them, and which ignores the problems it would create for state insurers, guaranty funds, and their citizens.

Proponents of OFC assert that a federal regulator also is important if the U.S. is to remain a global financial services leader, in that an OFC would allow insurers to compete more freely and effectively. IIABA believes that the purported decline of U.S. capital markets competitiveness for insurance companies does not stem from supposed burdensome state-based regulation, but from other U.S. competitiveness concerns such as disparate tax treatment, diverse financial reporting standards,

and the costs of excessive litigation. OFC will not guarantee less restrictive regulation than that of foreign competitors (or even current state regulation).

In the end, IIABA feels that an OFC would lead to a needless federal bureaucracy and unnecessarily infringe on states' rights. Unlike GLBA which effectively empowers the states through uniform regulatory standards, an OFC fails to give any assistance except through the threat of regulatory competition. Thankfully there is another way to reform insurance regulation to the benefit of consumers, agents & brokers, and insurance companies: targeted federal legislation already proven successful through the Nonadmitted and Reinsurance Reform Act.

### **Conclusion**

IIABA has long been a supporter of reforming the insurance marketplace. We worked closely with this Committee in support of GLBA and in early 2002, IIABA's Board took a formal policy position to support federal legislation to modernize state insurance regulation. While GLBA reaffirmed state functional regulation of insurance, some large insurers continue to push for an "optional" federal charter. State regulators and legislators, many consumer groups, independent insurance agents and brokers, some life insurance companies, and many property-casualty companies are strongly opposed to federal regulation. The state system has proven that it best protects consumers and can be modernized to work effectively and efficiently for the entire insurance marketplace with the right legislative pressure from Congress.

Targeted, federal legislation to improve the state-based system presents Members of Congress with a pragmatic, middle-ground solution that is achievable – something we can all work on together. The enactment of targeted federal legislation to address certain, clearly identified problems with state regulation is not a radical concept, as evidenced by prompt passage of the Nonadmitted and Reinsurance Reform Act by this Committee last year and the full House this summer. We encourage the House Financial Services Committee to continue to pursue targeted reform, specifically in the area

of agent licensing reciprocity. It is the only approach that can bring the marketplace together to achieve reform.



1 that prevent insurers and agents from serving the needs of  
2 insurance consumers in an effective and timely manner; and

3 WHEREAS, The 109th Congress considered, and the 110th  
4 Congress is expected to consider, legislation that would establish  
5 an entirely new insurance regulatory system at the federal level  
6 and threaten the continued viability of the state system in the  
7 process; and

8 WHEREAS, A new and untested federal insurance regulatory  
9 system would almost certainly be more remote and politicized and  
10 less accessible and responsive to consumers than the current state  
11 system; and

12 WHEREAS, If enacted by congress, these proposals would  
13 bifurcate insurance regulation between the states and the federal  
14 government, conflicting with the state system of consumer  
15 protections and financial surveillance, as well as inevitably  
16 causing a loss of jobs, taxes, fees, and other vital and necessary  
17 state revenues needed to effectively regulate the insurance market  
18 and provide revenues to support residual market programs; and

19 WHEREAS, Insurance companies paid \$13.8 billion in annual  
20 premium taxes to the states in 2004, and a federalization of  
21 insurance regulation could put these payments and other fees and  
22 revenues at risk; now, therefore, be it

23 RESOLVED, That the 80th Legislature of the State of Texas  
24 hereby respectfully declare to the Congress of the United States  
25 the legislature's commitment to maintaining the states as the sole  
26 regulators of the business of insurance and to supporting state  
27 efforts to streamline, simplify, and modernize insurance

1 regulation; and, be it further

2           RESOLVED, That the 80th Legislature of the State of Texas  
3 hereby respectfully urge the Congress of the United States to  
4 oppose any proposed law that would establish a federal insurance  
5 regulatory system or otherwise alter the McCarran-Ferguson Act;  
6 and, be it further

7           RESOLVED, That the Texas secretary of state forward official  
8 copies of this resolution to the president of the United States, the  
9 speaker of the house of representatives and the president of the  
10 senate of the United States Congress, to the members of the United  
11 States House Financial Services Committee, to the members of the  
12 United States Senate Banking, Housing, and Urban Affairs Committee,  
13 to the United States secretary of the treasury, and to all the  
14 members of the Texas delegation to the congress with the request  
15 that this resolution be officially entered in the Congressional  
16 Record as a memorial to the Congress of the United States of  
17 America.

S.C.R. No. 60

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.C.R. No. 60 was adopted by the Senate on May 8, 2007, by the following vote: Yeas 28, Nays 3.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.C.R. No. 60 was adopted by the House on May 23, 2007, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

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The Honorable Kurt Olson, Chair  
Labor & Commerce Committee  
Alaska State Legislature  
State Capitol, Room 408  
Juneau, Alaska 99801

February 12, 2008

Re: HJR 24

Dear Representative Olson:

I am writing to you on behalf of State Farm in opposition to HJR 24, which is essentially a blanket opposition to "any law that would establish a federal insurance regulatory system."

State Farm has long maintained that the situs of insurance regulation is much less important than its efficacy, and has continually sought to improve the state-based regulatory system by supporting uniformity and competition-based regulation. These efforts have met with limited success. And while various initiatives have been well-intentioned, they have produced little tangible impact. The current patchwork system of inconsistent state laws and regulations confuses consumers and results in insurance products that vary greatly among the states. These differences provide little, if any, benefits to consumers and add administrative costs to the price of insurance products. They have dampened innovation and delayed product introductions.

Although State Farm still advocates improvements to the current state-based system, we have concluded that an optional federal charter system (OFC) that promotes competition among insurers offers the best opportunity for improvements in the regulatory system on a countrywide basis. Such an approach would clearly provide important consumer benefits in Alaska and across the United States by establishing a regulatory framework that allows insurers to serve their customers efficiently and meet their needs in a timely manner.

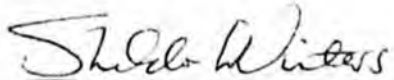
One such proposal is the "National Insurance Act of 2007." (S. 40; H.R. 3200), which would establish an OFC system for the regulation and supervision for insurers. The Act would apply to both property/casualty insurers and life insurers, and would establish a system similar to the banking regulatory system under which companies can choose either a state or federal charter. The regulator of federally chartered companies would be an independent Office of National Insurance within the Department of Treasury. Many of the concerns addressed in HJR 24 are addressed in the Act. Under this system, federally chartered companies would be primarily subject to federal law, but they would continue to be subject to state laws related to taxation; and would also be required to participate in state residual market mechanisms and state guaranty associations. Federally chartered companies would be subject to the full application of the antitrust laws. Insurance agents and brokers who obtain a federal producer license would be legally permitted to solicit insurance customers and provide service throughout the United States on behalf of either a federally or state chartered insurer. Federal regulators would well-serve consumer protection concerns, just as they have in other areas such as the Securities and

Exchange Commission, the Office of Thrift Supervision, and other federal regulators of financial services.

There is little argument that the current state-based system is an expensive one to the industry and consumers, both in terms of direct compliance and filing requirements, and the costs of delay. A 2004 study by the American Council of Life Insurers found that an optional federal charter would reduce overall regulatory costs for life insurers by 55%. Given the more extensive regulation of personal lines property and casualty insurance, the savings would likely be even greater.

In sum, State Farm believes an OTC is in the best interest of both consumers and industry. Before issuing a resolution from the Alaska Legislature that declares opposition to any federal regulation in any form, we encourage and invite you to study the issues carefully, for as noted above, there are many advantages to an OTC which at the same time can address many of the concerns addressed in HJR 24. Please let me know if I may provide any additional information or answer any questions or concerns you may have.

Sincerely,



Sheldon Winters  
State Farm Lobbyist

cc: Members of the House Labor & Commerce Committee:  
Representative Mark Neuman, Vice Chair  
Representative Carl Gatto  
Representative Gabrielle LeDoux  
Representative Jay Ramras  
Representative Bob Buch  
Representative Berta Garnder

And the Honorable Representative John Coghill

# HJR 24

## Opposing a Federal Insurance Regulatory System



Enacted into Law (30):

AK, CO, GA, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, NC, NE, NH,  
OH, OK, PA, PR, RI, TN, TX, UT, VT, VA, WA, WV, WY

Representative John Coghill  
State Capitol, Room 214

