

12279

HOUSE RES

**Table 1: Summary of Major Energy Appropriations, 1976-2005**  
(In thousands)

Year	Comments	Amount
<b>Major Railbelt Projects</b>		
	Susitna	\$134,000.0
	Bradley Lake (\$163 million in grants, \$165 million in GO bonds)	\$328,000.0
	Alaska Intertie	\$144,300.0
	Northern Intertie	\$65,000.0
	Southern Intertie (project cancelled--funds remain with AEA until repealed or reappropriated)	\$47,300.0
	Transmission line upgrades	\$43,300.0
	Total	\$761,900.0
	Southern Intertie interest returned to the General Fund	\$28,500.0
<b>Major "Off-Railbelt" Projects</b>		
	Four-dam Pool (Solomon Gulch [Valdez/Glennallen], Swan Lake [Ketchikan], Terror Lake [Kodiak], Tye Lake [Wrangell/Petersburg])	\$498,800.0
	Power Cost Equalization--FY1981-2005	\$378,000.0
	Larsen Bay	
	Total	\$876,800.0
	PCE Endowment Fund <sup>3</sup>	\$192,200.0

**Notes:** 1. "Southern" intertie: Kenai to Anchorage (project cancelled, participating utilities withdrew). "Northern" intertie: Healy to Fairbanks (owned by the Golden Valley Electric Association). "Alaska" intertie: Willow to Healy. "Southeast" intertie: Swan Lake to Tye Lake (being constructed by the Four Dam Pool Power Agency as a condition of the sale of the Four Dam Pool).  
2. The fund is not included in the total of "off-railbelt" projects because the PCE Endowment funds the PCE & Rural Electric Capitalization fund, from which appropriations are made to the PCE program. Including it would duplicate the amounts.

**Sources:** Alaska Energy Authority, Alaska Railroad Corporation, Legislative Finance Division, Office of Management and Budget, operating budgets. *Session Laws of Alaska*.

**Table 2: Power Cost Equalization Program Expenditures**

<b>Fiscal Year</b>	<b>Amount<sup>1</sup></b>	<b>Fiscal Year</b>	<b>Amount</b>
1981	\$2,658.6	1994	\$17,679.9
1982	\$9,300.0	1995	\$18,620.5
1983	\$8,300.0	1996	\$19,329.7
1984	\$8,298.2	1997	\$17,967.9
1985	\$14,128.2	1998	\$18,664.2
1986	\$17,532.0	1999	\$18,050.0
1987	\$13,787.5	2000	\$14,562.2
1988	\$15,000.0	2001	\$16,091.6
1989	\$16,823.6	2002	\$15,619.7
1990	\$19,715.5	2003	\$15,700.0
1991	\$16,747.1	2004*	\$15,700.0
1992	\$15,029.6	2005*	\$15,700.0
1993	\$17,533.0	2006**	\$20,730.0

**Total PCE 1981-2006****\$399,269.0**

**Notes:** 1. Amounts for FY1981-2003 are actual expenditures. Amounts for FY1981-1984 include administrative costs; FY1985-2006 are grants only.

\* FY2004 and 2005 are authorized budget amounts.

\*\* FY2006 is the Governor's Requested Budget.

**Sources:** Legislative Finance Division, Historical Budgets online and Operating Budget Books ("shortforms"); Office of Management and Budget, 2006 Governor's Request.

**Table 3: APPROPRIATIONS TO THE RAILBELT ENERGY FUND**

Ch.	SLA	Sec.	Comments	Amount
29	1986	1	Create the Railbelt Energy Fund (REF).	--
41	1986	4	From the General Fund <sup>1</sup>	\$200,000,000
		10	Reappropriations of unexpended, unobligated, and unencumbered prior year appropriations for the Susitna Hydroelectric Project to capitalize the Railbelt Energy Fund	\$89,481,023
		12		
		13		
		15		
		16		
		17		
		18		
117	1989	217(b)	Appropriation from GF to the REF for the Healy cogeneration project (contingent upon sec. 217(a) which appropriated \$30 million from the REF to the GF).	\$30,000,000
117	1989	219(b)	Appropriation from the GF to the REF for the Winter Sports Training Facilities reserve (contingent upon 219(a) which appropriated \$5 million from the REF to the GF).	\$5,000,000
19	1993	3	Balance of Railbelt intertie reserve.	\$30,882,941
19	1993	4(b)	Authorization to receive repayments of principal & interest on loans from the Power Project Fund for the Sutton-Glennallen intertie project. <sup>2</sup>	--
19	1993	5(b)	Authorization to receive repayments of principal & interest on loans from the Power Project Fund for the Swan Lake-Tyee Lake intertie project. <sup>2</sup>	--
19	1993	7(1)-(7)	Various reappropriations from the Bradley Lake Hydroelectric project.	\$11,500,000
19	1993	8(a)	From the General Fund.	\$13,200,000
19	1993	8(b)	From the General Fund.	\$66,900,000
60	2000	3	Authorization to receive interest earnings (as of 03/31/05) <sup>3</sup>	\$21,293,354
<b>TOTAL APPROPRIATIONS INTO THE FUND</b>				<b>\$468,257,318</b>

**Notes:** 1. Sections 1 and 2 of Ch. 41 repealed prior appropriations for the Susitna Hydroelectric Project (\$200 million) and the Bradley Lake Hydroelectric Project (\$50 million) and returned them to the General Fund. Section 4 then reappropriated the \$200 million from the Susitna project from the General Fund to the REF. Sections 10, 12, 13, and 15-18 all repealed prior Susitna appropriations and reappropriated them to the REF. 2. Sections 4(a) and 5(a) of Ch. 19, SLA 1993 appropriated \$55 million from the REF to the Power Project Fund for loans for these projects. 3. Approximate earnings and interest income as of March 31, 2005. Includes total FY2005 year-to-date interest earned of \$1,112,997, according to the Division of Finance.

**Sources:** Legislative Finance Division; Division of Finance; Department of Administration; *Session Laws and Resolves of Alaska*

**Table 4: APPROPRIATIONS FROM THE RAILBELT ENERGY FUND**

<b>Fiscal Year</b>	<b>Session Law</b>	<b>Comments</b>	<b>Appropriated To<sup>1</sup></b>	<b>Amount</b>
1987	Sec. 1, Ch. 42, SLA 1986	Preparing a review and evaluation of Railbelt electric power alternatives.	APA	\$2,500,000
1988	Sec. 2, Ch. 96, SLA 1987	Amending the funding source for the Bradley Lake Hydroelectric Project from General Fund (GF) to Railbelt Energy Fund (REF).	APA	\$50,000,000
1989	Sec. 6, Ch. 172, SLA 1988	Bradley Lake Hydroelectric Project	APA	\$7,000,000
1989	Sec. 293, Ch. 173, SLA 1988	Authorization to use REF monies for any GF shortfall in FY89, only in the amount needed to pay outstanding obligations and not to exceed \$50 million. Such a transfer was not necessary.		\$0
1990	Sec. 217(a), Ch. 117, SLA 1989	Appropriation to the General Fund (contingent upon 217(b), which appropriated GF to the REF for the Healy cogeneration project).		\$30,000,000
1990	Sec. 219(a), Ch. 117, SLA 1989	Appropriation to the General Fund (contingent upon 219(b), which appropriated of GF to REF for the Winter Sports Training Facilities reserve).		\$5,000,000
1991	Sec. 139, Ch. 208, SLA 1990	Various capital appropriations as Grants to Municipalities (AS 37.05.315), Grants to Unincorporated Communities (AS 37.05.317), and to state agencies		\$18,732,942
1991	Sec. 139, Ch. 208, SLA 1990	Various capital projects		\$6,085,500
1991	Sec. 141, Ch. 208, SLA 1990	McLaughlin Youth Center Cottage/School Replacement	H&SS	\$2,500,000
1991	Sec. 143, Ch. 208, SLA 1990	Healy cogeneration project	AIDEA	\$25,000,000
1991	Sec. 144, Ch. 208, SLA 1990	City of Seward for transmission line from Lawing to Fort Raymond substation	DOA	\$9,500,000
1991	Sec. 145, Ch. 208, SLA 1990	Purchase of locomotives, rolling stock, and associated equipment costs (for development of Wishbone Hill coal project)	ARC	\$9,000,000
1991	Sec. 146, Ch. 208, SLA 1990	Grant to the Municipality of Anchorage for the Ship Creek development project	DOA	\$2,500,000

**Table 4: APPROPRIATIONS FROM THE RAILBELT ENERGY FUND--Continued (2)**

<b>Fiscal Year</b>	<b>Session Law</b>	<b>Comments</b>	<b>Appropriated To<sup>1</sup></b>	<b>Amount</b>
1991	Sec. 147(a), Ch. 208, SLA 1990	Weatherization, energy conservation, and energy efficient residential housing incentive program	DCRA	\$1,600,000
1991	Sec. 147(b), Ch. 208, SLA 1990	Weatherization and energy conservation federal match	DCRA	\$600,000
1991	Sec. 148, Ch. 208, SLA 1990	Alaska home craftsman program	DCRA	\$600,000
1991	Sec. 149, Ch. 208, SLA 1990	Alaska energy efficiency and retrofit program	DCRA	\$2,200,000
1991	Sec. 150, Ch. 208, SLA 1990	Grant to the Mat-Su Borough for job corps facility construction	DOA	\$1,700,000
1991	Sec. 151, Ch. 208, SLA 1990	Phase I design and construction of UAF natural sciences facility	UAF	\$23,000,000
1991	Sec. 152, Ch. 208, SLA 1990	Phase I design and construction of UAA classroom building and land purchase	UAA	\$16,500,000
1991	Sec. 153, Ch. 208, SLA 1990	Grant to the Municipality of Anchorage to reconstruct and upgrade the Alyeska Utilities water and sewer system	DOA	\$2,300,000
1991	Sec. 154, Ch. 208, SLA 1990	Anchorage Economic Development Corporation	DCED	\$3,800,000
1991	Sec. 155, Ch. 208, SLA 1990	Kenai Peninsula Borough solid waste disposal facility	DOA	\$1,100,000
1991	Sec. 156, Ch. 208, SLA 1990	Fire training facility on the Kenai Peninsula	UAA	\$1,000,000
1991	Sec. 157, Ch. 208, SLA 1990	City of Kenai for construction of a congregate housing facility	DOA	\$3,300,000
1991	Sec. 158, Ch. 208, SLA 1990	Anchorage Neighborhood Housing Services for neighborhood revitalization	DOA	\$1,700,000
1991	Sec. 159, Ch. 208, SLA 1990	To the General Fund, Railbelt intertie reserve, for the Soldotna-Anchorage and Healy-Fairbanks interties		\$100,000,000
1994	Sec. 4(a), Ch. 19, SLA 1993	To the Power Project Fund for a loan for the Sutton to Glennallen power transmission intertie.	PPF <sup>2</sup>	\$35,000,000

**Table 4: APPROPRIATIONS FROM THE RAILBELT ENERGY FUND--Continued (3)**

Fiscal Year	Session Law	Comments	Appropriated To <sup>1</sup>	Amount
1994	Sec. 5(a), Ch. 19, SLA 1993	To the Power Project Fund for a loan for the Swan Lake to Tyee Lake power transmission intertie.	PPF <sup>2</sup>	\$20,000,000
1994	Sec. 8(c), Ch. 19, SLA 1993	To Power Cost Equalization and Rural Electric Capitalization Fund to capitalize the fund.	PCE/RECF	\$66,900,000
2001	Sec. 1(a), Ch. 75, SLA 2000	Appropriations made in secs. 4 and 5, Ch. 19, SLA 1993, lapse into the Railbelt Energy Fund.		(\$55,000,000)
2001	Sec. 24(a), Ch. 135, SLA 2000	<p>Reappropriates unspent balance of Sec. 145(a), Ch. 208, SLA 1990, as amended by sec. 55, Ch. 100, SLA 1997 (Alaska Railroad Corporation--\$9,000,000), as follows:</p> <p>(1) one-half for a grant to the Mat-Su Borough for the Point MacKenzie port development and associated rail line improvements within the borough;</p> <p>(2) one-half to the Alaska Railroad Corporation for the purchase of locomotives, rolling stock, and associated equipment, and rail line improvements to facilitate the development of coal deposits in the Matanuska-Susitna Borough.</p>		
2001	Sec. 24(b), Ch. 135, SLA 2000	<p>Reappropriates unspent balance of Sec. 145(b), Ch. 208, SLA 1990, added by Sec. 56, Ch. 100, SLA 1997 as amended by Sec. 40(b), Ch. 2, FSSLA 1999 (Alaska Railroad Corporation), as follows:</p> <p>(1) one-half for a grant to the Mat-Su Borough for the Point MacKenzie port development and associated rail line improvements within the borough;</p> <p>(2) one-half to the Alaska Railroad Corporation for the purchase of locomotives, rolling stock, and associated equipment, and rail line improvements to facilitate the development of coal deposits in the Matanuska-Susitna Borough.</p>		
2001	Sec. 24(c), Ch. 135, SLA 2000	Appropriates the interest earned on 24(a)(2) and 24(b)(2) to the General Fund on July 1 of each fiscal year.		\$0

**Table 4: APPROPRIATIONS FROM THE RAILBELT ENERGY FUND--Continued (4)**

<b>Fiscal Year</b>	<b>Session Law</b>	<b>Comments</b>	<b>Appropriated To<sup>1</sup></b>	<b>Amount</b>
2003	Sec. 78(a), Ch. 1, SSSLA 2002	Grants to Homer Electric Association (replacement power supply for Seldovia--\$2 million), Golden Valley Electric Association (Parks Highway line extension--\$872.0), and Matanuska Electric Association (Lucas substation and Pioneer line extensions--\$500.0)	DCED	\$3,372,000
2003	Sec. 78(b), Ch. 1, SSSLA 2002	Grant to the Municipality of Anchorage for the Eklutna project transmission line	DCED	\$19,300,000
2003	Sec. 78(c), Ch. 1, SSSLA 2002	Upgrade and extend the Anchorage-Fairbanks power transmission intertie to the Teeland substation.	DCED/AEA	\$20,300,000
<b>Total Appropriations from the Fund<sup>3</sup></b>				<b>\$437,090,442</b>
<b>Fund Balance</b>				<b>\$31,166,876</b>

**Notes:** 1 The legend for these abbreviations is as follows: AEA, Alaska Energy Authority, AIDEA, Alaska Industrial Development Authority, APA, Alaska Power Authority, ARC, Alaska Railroad Corporation, DCED, Department of Commerce & Economic Development, DCRA, Department of Community & Regional Affairs, DOA, Department of Administration, PCE/RECF, Power Cost Equalization and Rural Electric Capitalization Fund, PPF, Power Project Fund; UAA, University of Alaska Anchorage, UAF, University of Alaska Fairbanks

2 These appropriations were made to the Power Project Fund, from which loans were made for the intertie projects (Section 4, Chapter 1, SLA 1993)

3 This amount does not include the "CBR sweep"--general fund subaccounts (one of which is the Railbelt Energy Fund) are automatically "swept" into the Constitutional Budget Reserve Fund (CBRF) to meet the requirements of Article IX, Sec. 17(d) of the Alaska Constitution, which requires that withdrawals from the CBRF be repaid. The FY2004 sweep was transferred back to the subaccounts from which it came by Section 61(d) of Chapter 159, SLA 2004

**Sources:** Legislative Finance Division, Division of Finance, Department of Administration, *Session Laws and Resolves of Alaska*

## **Estimate for Susitna Hydro-electric Feasibility Study**

In response to House Bill No. 336 "directing the Alaska Energy Authority to conduct a study of and to prepare a proposal for an appropriately sized Susitna River hydroelectric power plant" this estimate and scope of work has been prepared.

The Susitna Hydro project has been subject to over 60 years of study and analysis, culminating in a \$135 million dollar engineering study and application to the Federal Energy Regulatory Commission (FERC) for a license to construct in 1984. At that time the project was estimated to cost \$5.3 billion for 1,620 MW of generation capacity. Concerns about the ability to finance this project in conjunction with the collapse of crude oil pricing resulted in the termination of this project.

Higher fuel costs, potentially dwindling natural gas resources, more stringent environmental restrictions including mercury and carbon emissions, and an energy infrastructure that is reaching the end of service life require a review of potential energy projects of which the Susitna Hydro project is one important candidate.

One key concern of the existing Susitna design is that the generation capacity of 1,620 MW far exceeds the current size of the Railbelt grid (approximately 1,000 MW) which results in significant concerns on load balancing and reliability.

### Objectives

The objective of this study is update previous study estimates to determine if the Susitna Hydro project is a feasible alternate generation source for the Railbelt Electrical Grid. To support this objective estimates will have to be made on potential sizing options (and costs) as well as reviewing environmental and socio-economic impacts. To aid in decision making cost of power for generic alternative generation sources (coal, gas, wind, geothermal) will be developed, and finance options will be considered.

### Assumptions

The cost estimates for this work and the scope of work to evaluate the Susitna project are based on the following three assumptions.

First, the estimates and information that will be generated are for the purpose of understanding the feasibility of this potential energy generation source, they will answer the question – is the cost of power from this source competitive with other energy sources and should we proceed to more detailed analysis. The accuracy of the study estimates should not be considered to be better than (+/-) 30%.

Secondly, it is important to understand that this is only one potential option in an Alaskan Energy Portfolio. A separate strategic energy plan for the State is necessary to be able to put these options into perspective. For example, for a project of this magnitude it is important that an appropriate industrial energy load anchor the demand. While examples of potential demands will be used in this

study, no significant analysis of those demands will be done. In a similar fashion the cost of upgrading the Railbelt Interties is not included in this study as those upgrades will be required for any significant change in Railbelt generation.

Third, to minimize a long lead time that an RFP would require, AEA will be using a qualified engineering design contractor and environmental consultant from the qualified list of term contracts. Requests will be made of three contractors to provide assurance that scope of work and estimates are appropriate.

#### Work Tasks and Estimates

The following work tasks and goals are envisioned to complete the study objectives. They are organized in order of priority and in doing so allow a phased approach to be taken on this study. If at any point in the work process it would appear that the project is non-viable, work will be halted and a summary completed.

##### Work Task 1: Feasibility study and estimate of plant and of generated power costs

The 1984 estimates for construction of the Susitna Hydro project will be updated for current costs as well as current construction and design technology. Constructability and logistics will be key components of this update. Additionally a review of engineering and technical risks including seismic design will be identified. The design of this power is such that there are minimal size reductions that can be done. While there may be a need for 700 MW of generating capacity the constraints of the Susitna site may allow for options of 300 MW, and a 1000 MW. The study therefore will examine the possible size options that are inherent in the 1984 estimate and provide capital costs and costs of power over the lifetime of the facility for those options.

Estimated Cost: \$1,000,000

##### Work Task 2: Environmental/Socio-economic Impact Study

Environmental permitting and the socio-economic impact on the affected area is a key component of this study and will have the most impact on the feasibility of this study. A review of necessary permits and an analysis of potential impacts to the area will be done.

Estimated Cost: \$500,000

##### Work Task 3: Cost of Power for Selected Alternatives

An estimate of approximate costs of alternative power generation that would be accessible to the Railbelt will be made. Options will consider the appropriate use of coal, natural gas, wind, geothermal, tidal and an alternate source of hydro. These estimates will be used to compare the reasonability of power generation from Susitna.

Estimated Cost: \$800,000

#### Work Task 4: Financing Options

The size of this single generation will be in excess of \$5 billion and while it may provide appropriately cost of power, the ability to finance the costs may be the limiting factor. An analysis of potential financing options will be developed.

Estimated Cost: \$200,000

#### Field Work

Limited field work is envisioned; however there may be need for helicopter access to the location of the proposed dam sites as well as limited amount of field work including terrain, river conditions and potential construction camp sites and lay down areas.

Estimated Cost: \$250,000

**Total Estimated Study Cost: \$2,750,000**

#### Schedule

It is anticipated that this work will take approximately two years. Over the course of the project interim reports and decisions on whether to proceed will be issued.

July 2008: Start of Project

December 2009: Completion of Estimates and Hydro generation options:

February 2010: Draft Final Report:



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Year End Election: Energy Cooperative

## RESOLUTION NO. 102-08

### A RESOLUTION OF THE BOARD OF DIRECTORS TO SUPPORT THE STUDY OF A SUSITNA HYDRO ELECTRIC PROJECT

**WHEREAS**, the Golden Valley Electric Association, Inc. ("Golden Valley") Board recognizes that renewable energy plays an important role in Alaska's energy supply, and

**WHEREAS**, the Railbelt relies heavily on fossil fuel, which is subject to high and volatile pricing; and

**WHEREAS**, the electric production from hydro electric projects emit no CO<sub>2</sub>; and

**WHEREAS**, the Susitna Hydro Electric Project was studied extensively in the 1970s and substantial progress was made on the project; and

**WHEREAS**, the size and financing of the project need to be determined;

**BE IT RESOLVED** that the Board of Directors of Golden Valley hereby supports efforts to further advance the Susitna Hydro Electric Project.

### CERTIFICATION

I, William D. Digan, do hereby certify that I am the Secretary of Golden Valley Electric Association, Inc., an electric non-profit cooperative membership corporation organized and existing under the laws of the State of Alaska; that the foregoing is a complete and correct copy of a resolution adopted at a regular meeting of the Board of Directors of this corporation, duly and properly called and held on the 28<sup>th</sup> day of January, 2008; that a quorum was present at the meeting; that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the corporation this 28<sup>th</sup> day of January, 2008.

(SEAL)



William D. Digan, Secretary

**Attachments:** 01-28-08 Resolution 102-08 (2).pdf

**From:** Corinne A. Bradish [mailto:CABradish@gvea.com]

**Sent:** Wednesday, January 30, 2008 11:37 AM

**To:** Rep. David Guttenberg; Rep. Jay Ramras; Rep. John Coghill; Rep. John Harris; Rep. Mike Kelly; Rep. Scott Kawasaki; Sen. Gary Wilken; Sen. Gene Therriault; Sen. Joe Thomas

**Cc:** Rep. Craig Johnson

**Subject:** GVEA Board Resolution - Susitna

At this week's GVEA Board of Director's meeting, the attached resolution was passed in support of studying a Susitna Hydro Electric Project.

Best regards, Corinne

Corinne A. Bradish  
Public Relations Officer  
Golden Valley Electric Assn.  
758 Illinois St.  
Fairbanks AK 99701  
Phone: 907-451-5676  
Fax: 907-458-6368

2/11/2008

2/26/08

**TESTIMONY OF ELIZABETH VAZQUEZ ON HB 336**

**HOUSE RESOURCES COMMITTEE HEARING**

**JANUARY 28, 2008**

**GOOD AFTERNOON.**

**MY NAME IS ELIZABETH VAZQUEZ. I AM CHAIR OF THE  
CHUGACH ELECTRIC ASSOCIATION BOARD OF DIRECTORS. I  
AM HERE TO SPEAK IN SUPPORT OF HB 336.**

**CHUGACH IS A MEMBER-OWNED ELECTRIC COOPERATIVE  
HEADQUARTERED IN ANCHORAGE. IT IS THE LARGEST  
ELECTRIC UTILITY IN ALASKA. WE PROVIDE RETAIL  
ELECTRIC SERVICE TO APPROXIMATELY 80,000 METERED  
LOCATIONS. CHUGACH ALSO PROVIDES POWER FOR  
ALASKANS FROM HOMER TO FAIRBANKS THROUGH  
WHOLESALE AND ECONOMY ENERGY SALES TO OTHER  
UTILITIES.**

**TODAY ABOUT 90 PERCENT OF THE KILOWATT-HOURS CHUGACH SELLS ANNUALLY ARE PRODUCED BY NATURAL GAS-FIRED UNITS. THE OTHER 10 PERCENT COMES FROM HYDROELECTRIC PROJECTS. CURRENTLY ALL OF OUR NATURAL GAS COMES FROM THE COOK INLET BASIN.**

**CHUGACH BELIEVES FUEL DIVERSITY IS IMPORTANT FOR CUSTOMERS. AS YOU CAN SEE, WE ARE HEAVILY DEPENDENT UPON COOK INLET GAS AS A GENERATION FUEL. NATURAL GAS PRICES HAVE RISEN DRAMATICALLY IN RECENT YEARS – DOUBLING BETWEEN 2003 AND 2006. AS GAS PRICES HAVE RISEN, SO TOO HAVE THE BILLS PAID BY ELECTRIC UTILITY CUSTOMERS.**

**WE VERY MUCH VALUE THE THREE HYDROELECTRIC PROJECTS WE CURRENTLY HAVE IN THE RAILBELT. THEY PROVIDE CLEAN, RENEWABLE, RELATIVELY FLAT-PRICED POWER. THESE THREE PROJECTS – EKLUTNA, COOPER LAKE AND BRADLEY LAKE – GENERALLY PROVIDE THE LOWEST COST GENERATION FOR THE CHUGACH SYSTEM.**

**THE ONLY REAL PROBLEM WE HAVE WITH THEM IS THEIR LIMITED CAPACITY. WE ARE EXTRACTING ALL THE POWER WE CAN FROM THESE PROJECTS TODAY.**

**WE BELIEVE THE TIME IS RIGHT FOR THE STATE TO STUDY GENERATION ALTERNATIVES, INCLUDING THE IDEA OF A MAJOR REGIONAL HYDROELECTRIC PROJECT ON THE SUSITNA RIVER. MUCH WORK WAS DONE STUDYING THE CONCEPT OF A VERY LARGE SUSITNA PROJECT BACK IN THE 1980S. WE ARE NOT SUGGESTING A REBIRTH OF THAT PROJECT PER SE, BUT RATHER A FRESH LOOK AT THE RESOURCE, AND A REALISTIC APPRAISAL OF A PROJECT THAT IS THE RIGHT SIZE FOR THE RAILBELT REGION.**

**IT WOULD TAKE YEARS TO BRING A MAJOR NEW HYDROELECTRIC PROJECT ONLINE. THEREFORE, THE RIGHT TIME TO BEGIN A PROCESS LIKE THIS IS NOW. CHUGACH IS PLANNING FOR A NEW, EFFICIENT GAS-FIRED POWER PLANT THAT WILL PROVIDE A BRIDGE TO THE FUTURE. HOWEVER, AROUND 2020 WE FORESEE THE NEED**

**FOR THE NEXT MAJOR GENERATION PROJECT. THIS IS A  
GOOD TIME TO STUDY THE POTENTIAL OF A SUSITNA  
PROJECT AND THE BENEFITS IT COULD PROVIDE FOR  
ALASKANS THROUGHOUT THE INTERCONNECTED RAILBELT  
REGION.**

**CHUGACH BELIEVES HB 336 MAKES SEVERAL GOOD POINTS.**

**WE BELIEVE THIS STUDY SHOULD BE LED BY THE ALASKA  
ENERGY AUTHORITY.**

**WE VERY MUCH AGREE THE EFFORT SHOULD BE  
COLLABORATIVE AMONG THE ENERGY AUTHORITY AND  
THE RAILBELT ELECTRIC UTILITIES.**

**WE BELIEVE THE EMPHASIS SHOULD BE ON CONSIDERING A  
PROJECT APPROPRIATELY SIZED FOR THE RAILBELT.**

**AT THIS POINT, IT IS PRUDENT TO REVIEW AND BUILD ON THE WORK THAT HAS ALREADY BEEN DONE IN PRIOR STUDIES.**

**IN CONCLUSION, WE'D LIKE TO THANK REPRESENTATIVE JOHNSON FOR SPONSORING THIS BILL – AND CO-SPONSORS SPEAKER HARRIS AND REPRESENTATIVES RAMRAS AND KELLY FOR THEIR SUPPORT OF THIS IMPORTANT ISSUE.**

**I APPRECIATE THE OPPORTUNITY TODAY TO SHARE THESE COMMENTS WITH THE COMMITTEE.**



# Chugach Consumers

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e-mail: [execdir@chugachconsumers.org](mailto:execdir@chugachconsumers.org) • website: [www.chugachconsumers.org](http://www.chugachconsumers.org)

## Susitna River Hydroelectric Power Project — HB 336 Testimony of Chugach Consumers January 28, 2008 – Anchorage Alaska House Resources Committee Hearing

Good afternoon. My name is Ray Kreig and I am testifying here as Chairman of Chugach Consumers, an advocacy group for electric utility customers. I have also served for 6½ years on the Chugach Electric board of directors and was board president for two years in the mid 1990's. I am also a professional civil engineer.

Chugach Consumers was formed in 1996 to advocate for the general public interest of Chugach Electric ratepayers, to educate consumers, and to diversify our economy. It is a group of fiscally-concerned ratepayers and others that support safe, reliable power at the lowest possible cost for all electric utility customers in South Central Alaska.

Chugach Consumers strongly supports HB 336 and we commend Rep. Johnson and Chugach Electric's new board for their leadership in stepping up and initiating this overdue review of one of the major alternatives to the present hydrocarbon based cost rollercoaster that ratepayers are on with gas fired generation.

The steadily rising cost of energy in the past few years has everyone (especially utility boards) talking about alternatives — wind, coal, small and large hydro and even nuclear. The utilities have to make decisions on new generation. It will be extremely useful to narrow the alternatives down if possible so the most promising can be focused on sooner rather than later.

The blast from the Anchorage Daily News this morning against reviewing Susitna is, in our opinion, misplaced. The state has over \$100 million invested in studies of the Susitna Hydro project and more and more people are thinking about large hydro as a solution. It is irresponsible not to look at this project again and update the numbers, at least in a general way.

If the numbers point to a likely cost of 30¢ per kilowatt hour then it can be put back on the shelf and attention will move to other alternatives.

We would like to suggest that the \$1 million in this appropriation not be put out in one large consultant RFP. This is not likely to get best value for this appropriation. A staged approach will get better information for the state's money.

We suggest that an engineering conference be first held by the Alaska Energy Authority. There are many engineers, environmental scientists and former regulators that worked on Susitna still around that should be hired to participate along with new leaders in the hydroelectric engineering profession.

\$100,000 should be sufficient for this first task and at the end of that process all will be better informed of the issues and players. Better decisions can then be made by AEA and the utilities as they go forward with this review and update of the original Susitna Project or a reconfigured and appropriately adjusted project for current needs.

Thank you.



1 in 1976 wiping out two towns and killing 14 people. In 2002 the  
2 nearby Denali Fault shifted significantly in a 7.9 magnitude  
3 earthquake. People around Talkeetna can relate to the possibility of  
4 disaster.

5

6 There were concerns about the lowered life of the dam since most  
7 large dams are not built on extremely silty glacial rivers. The joke at  
8 the time was that the upper dam would catch the silt and the lower  
9 dam would generate power.

10

11 The issue that most effectively killed the Susitna dam was economics.  
12 Oil prices declined and good possibilities for bonding the project  
13 evaporated.

14

15 All of the same resource, geologic, biologic and expense concerns,  
16 remain with us today. Most of the same arguments will most likely  
17 rise again in an equally contentious debate.

18

19 It is my personal view that the alternatives to Susitna studied  
20 alongside Susitna were given short shrift and were not adequate even  
21 for that time.

22

23 Technology has advanced considerably over the past two decades and  
24 now holds greater importance for renewable energy potential and  
25 other energy alternatives than it did in the 1980's. I think there is  
26 also a new realization that the "inexhaustible supplies" (from 1963  
27 reports) of Cook Inlet gas are now almost gone. So there is perhaps a  
28 new opportunity to thoroughly examine lots of new options and gather  
29 consensus that was not previously possible.

30

31 Updated financial information from the old Susitna studies could be  
32 derived in fairly short order by asking the Department of Revenue to  
33 apply an inflation factor to the most critical numbers. While it won't  
34 give you as precise of information as doing an entire new study, it will  
35 provide a ball park figure that may be useful in your deliberations.

36

37 A comparison of Susitna Hydro and Lake Chakachamna is provided to  
38 Committee Members from preliminary investigations into  
39 Chakachamna. The up front capital costs and the ability to bond will  
40 once again be serious financial questions as they are compared with  
41 other options.

42

43 There has been recent suggestion for a scaled-down version of Susitna  
44 lower on the River. While I have not personally seen any plans, the

1 economic feasibility might actually decline on a cost per megawatt  
2 hour. There are also potentially greater consequences for inundation  
3 of larger land areas caused by a lower river location.

4  
5 Economic impacts of a Susitna Dam on the desired gasline to South  
6 Central Alaska need to be examined. The Alaska Natural Gasline  
7 Development Authority just completed one energy study, but I don't  
8 recall that the prospect of a Susitna Dam was considered.

9  
10 There are consequences and downsides to every technology that we  
11 may consider, but we have to decide what we're willing to live with.

12  
13 One most cost-effective, long-lasting and practical thing we could do is  
14 assist people with businesses and homes to retrofit buildings for  
15 energy efficiency. Utilities call it Demand Side Management, or  
16 lowering the load demand.

17  
18 Building retrofits will provide jobs, a better skilled work force and all  
19 the money stays in Alaska—in addition to the lowering energy demand  
20 and creating a wider variety of energy options from Alaska's vast  
21 renewable energy potential. Demand Side Management needs to be  
22 part of all cost analyses. All options, in addition to Susitna, need to be  
23 on the table for cost comparisons and I encourage you to expand the  
24 scope of HB 336. We need a matrix on how each project affects the  
25 gasline and potential new energy technologies to more fully  
26 understand our best options.

27  
28 I commend the Palin administration in their efforts to develop a  
29 statewide energy policy that will help organize and prioritize both  
30 public and private projects that are currently under consideration. . I  
31 believe there is an opportunity to seek a true consensus among all  
32 stakeholders to achieve reliable, clean and low-cost energy.

33  
34 There's a lot to talk about and I'll be happy to answer any of your  
35 questions to the best of my ability.

36  
37 Thank you.

38  
39 

## Side-by-Side Comparison Susitna and Chakachamna Hydropower Projects

<u>Susitna</u>	<u>Chakachamna</u>
\$159 million spent on investigations over 10 year period – 1975 thru 1985	\$300 Thousand spent over 3 year period – 1980 thru 1983
6.5 billion KWH energy output from two world class dams	1.6 billion KWH energy from one small diversion dam
\$5.4 billion construction cost (1985\$) Source: Susitna FERC License	\$0.9 billion construction cost (1985\$) Source: Susitna FERC License
Precise cost estimate	Conservative cost estimate
880 foot dam at Watana (62 million cu yd earth dam) and 664 foot dam at Devil Canyon (1 million cu yd concrete arch dam)	49 foot high rock fill dam at lake outlet and 10 mile power tunnel to underground powerhouse on McArthur river
\$1.0 billion needed for new transmission lines to bring power to load centers	Only 42 miles of new transmission lines required to bring power to load centers
Reservoirs inundates 45,500 acres of land and 90 miles of existing stream channel	Existing lake – no additional land inundated
Significant native land directly impacted by project footprint	No native land directly impacted by project footprint
Project built on main stem of a major river that flows into Cook Inlet	Project diverts water from existing lake that flows into Cook Inlet
Project built on river system that is major contributor to five species of Cook Inlet salmon runs	Project built on much smaller river system that is contributor to five species of Cook Inlet salmon runs
No existing roads to the project sites	No existing roads to the project sites
Project killed by governor in 1985 when price of oil fell to \$10/barrel	Project shelved by Ak Power Authority in 1983 because it competed for Susitna market
Will require major state investment and time to develop the project – dormant	Within the capability of private sector to develop – under active investigation by TDX Power

## Chakachamna Hydroelectric Project (CHP)



TDX Power has been granted a preliminary permit by the FERC to evaluate the Chakachamna Hydroelectric Project (CHP). This proposed 330 MW hydro facility has been investigated for more than 60 years, and TDX Power believes it has tremendous potential to provide up to 1/3 of the rail belt grid's electric needs. The proposed CHP will have minimal environmental impact and offers the potential for long term, predictably priced power from a renewable energy resource.

Some specific details about the project include:

- The CHP would include 330MW of hydroelectric generating capacity and would produce 1.6 billion kwh per year. Currently, the rail belt grid consumes roughly 5 billion kwh per year.
- The CHP would harness the energy through the inter basin transfer of water from Chakachamna Lake by way of a 10-mile hard-rock tunnel to an underground powerhouse that would discharge to the McArthur River, in the neighboring valley. A small diversion dam, inlet structure, and fish passage facility would be located at the outlet of Lake Chakachamna. (see attached map)

# TDXpower

We Generate Power Solutions

- The total head would be approximately 1,100 feet, and the powerhouse elevation would be near sea level.
- Most of the utilities are looking to bring on new generation in the next eight years, which coincides with the approximate horizon in which Chakachamna could come on line.
- Power from the CHP would be clean and renewable, and would provide a firm, fixed and predictable cost for energy to the rail belt grid. Current generation costs are heavily weighted towards the cost of natural gas.

TDX Power is conducting meetings with state and federal agencies as well as NGO's as part of the preliminary licensing process to develop a project work scope. An initial engineering design and cost analysis will be complete in the early spring of 2008, at which time TDX Power will make a decision on whether or not to continue development efforts in support of the CHP.



The proposed CHP is located approximately 85 miles west of Anchorage and only 42 miles from the Chugach Electric Association (CEA) Beluga substation that feeds power to the "railbelt" grid system.

For questions or further information on the CHP, please contact:

Eric Yould – Project Director  
(907) 278-2312 - Telephone  
[eyould@tdxpower.com](mailto:eyould@tdxpower.com) - Email

**HB**

**348**



**Debra Higgins**

**From:** Rowland, Mindy B (GOV) [mindy.rowland@alaska.gov]  
**Sent:** Monday, February 25, 2008 11:35 AM  
**To:** Debra Higgins  
**Subject:** RE: CSSSHB348(RES).pdf



NOT PART OF FILE

Thank you Debbie.

The Dept. of Law fiscal note is still applicable. I've forwarded this to DF&G for review and I'll let you know if that fiscal note will be revised.

Thanks  
Mindy

*Mindy Rowland*  
Deputy Legislative Director  
Office of Governor Sarah Palin  
465-4021

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1B348SS-LAW-CIV-02-12-0  
Bill Version: SSHB348  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected: LAW  
Title An Act relating to the adoption of regulations by the Board RDU CIVIL  
of Game. Component NATURAL RESOURCES  
Sponsor REPRESENTATIVE KELLER  
Requester HOUSE RESOURCES Component Number 2212

### Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	37.2	0.0	37.2	37.2	37.2	37.2	37.2	37.2
Travel	0.3		0.3	0.3	0.3	0.3	0.3	0.3
Contractual	4.3		4.3	4.3	4.3	4.3	4.3	4.3
Supplies	0.8		0.8	0.8	0.8	0.8	0.8	0.8
Equipment	0.5		0.5	0.5	0.5	0.5	0.5	0.5
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>43.0</b>	<b>0.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>

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

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------	------------	------------

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	43.0	0.0	43.0	43.0	43.0	43.0	43.0	43.0
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>43.0</b>	<b>0.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>

Estimate of any current year (FY2008) cost: 0.0

### POSITIONS

Full-time	0.3		0.3	0.3	0.3	0.3	0.3
Part-time							
Temporary							

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

See attached analysis.

Prepared by: Robert Meiners, Administrative Services Manager  
Division: Administrative Services Division  
Approved by: Talis Colberg, Attorney General  
Department of Law

Phone 907-465-54  
Date/Time 2/12/08 3:40 PM  
Date 2/12/2008

**FISCAL NOTE**

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

**BILL NO. SSHB348**

**ANALYSIS CONTINUATION**

SSHB 348 was written for the purpose of emphasizing, in statute, the allocative nature of many game regulation decisions, so that such decisions would not be subjected to the whims of political change through the initiative process. Unfortunately, the way the bill is worded, it could easily be interpreted as serving to limit the Board of Game's ability to exercise many of its most important powers to only those situations in which the regulations are being done "as a means to allocate the asset of game." Because of this danger, the Board would be forced to build a record for every regulation which illustrates how the Board is allocating game through that regulation. This would likely add several days to each major board meeting, with resulting costs, and to more legal arguments and challenges regarding whether, and how, the Board is allocating, also with resulting costs. It is difficult to predict the increased costs for the Department of Law, but it might be reasonable to guess, for now, that up to two more lawsuits per year might be the result requiring additional resources equivalent to 1/4 FTE of attorney time.

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSHB 348  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): HB348SS-DFG-BSS-02-11-08 Dept. Affected: Fish and Game  
 Title: Board of Game Regulations RDU: Administration and Support  
 Component: F&G Boards & Advisory Committees  
 Sponsor: Representative Keller  
 Requester: House Resources Committee Component Number: 2825

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

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

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

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	*	<b>0.0</b>	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

The Attorney General's office advises that the changes proposed under SSHB 348 will require additional meeting days by the Board of Game during regulatory meetings. The Board of Game meets twice each year to consider changes to regulations in regions of the state on a two-year cycle. The approximate cost per day for holding a board meeting is \$4,100, which includes costs for the meeting facility, per diem for the Executive Director and Boards Support staff, and honoraria and per diem for seven board members.

Without knowing how many extra days per meeting will be required, the fiscal impact is indeterminate.

Prepared by: Kristy Tibbles, Executive Director, Board of Game  
 Division: Boards Support Section  
 Approved by: Tom Lawson, Director  
Division of Administrative Services, Department of Fish and Game

Phone 465-6098  
 Date/Time 2/11/08 4:00 PM  
 Date 2/11/2008

# LEGAL SERVICES

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

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

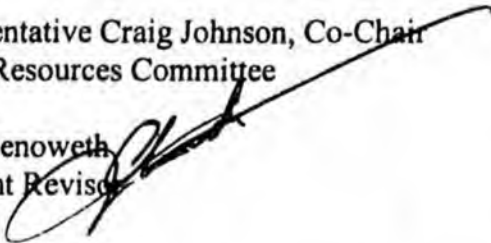
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 22, 2008

**SUBJECT:** Draft CSSSHB 348(RES) (Work Order No. 25-LS1328\V)

**TO:** Representative Craig Johnson, Co-Chair  
House Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisor 

The draft committee substitute is an attempt to try to be responsive to the material transmitted from your office. The material asked for substitution of new material, either in AS 16.05.255(j) or in another subsection (not clear as to which).

Regulations adopted by the Board of Game are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62.010 - 44.62.290).<sup>1</sup> The Act's rule making provisions define the term "regulation" to mean, in relevant part,

"every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of a rule, regulation, order, or standard adopted . . . to implement, interpret, or make specific the law enforced or administered by it . . . .

AS 44.62.640(a)(3).

The text transmitted by your office speaks to supplying a meaning for "the terms 'conservation,' 'development,' and 'utilization'" "in this section" (the context in which this direction was given referred to AS 16.05.255). In that section, those terms appear only in paragraphs (a)(3), (a)(7), and (a)(10). The draft of the committee substitute that accompanies this memo, therefore, addresses the standard that must be met in the board's adoption of regulations not as a new or additional duty or obligation of the Board of Game but, instead, as an amendment to existing subsection (d) setting out the content of the regulations that the board may adopt. It also prescribes the priority to be applied when the board acts to adopt regulations to implement those three terms ("must primarily concern whether, how, when, and where the public asset of game will be allocated or appropriated"), limited to specific reference to the three paragraphs in which those terms

---

<sup>1</sup> See AS 16.05.255(a), in which, under the lead-in language of the subsection, the Board of Game is directed to adopt regulations it considers advisable "in accordance with AS 44.62."

Representative Craig Johnson

February 22, 2008

Page 2

appear. Finally, "whether" substitutes for "if": "if" is appropriate for a condition, but "whether" is preferred to express a "possibility" as between alternatives, in this instance, the question being one of the possibility that the Board may or may not exercise discretion to allocate or appropriate "the public asset of game."

If this misses the mark, please advise.

JBC:lmb

08-043.lmb

Enclosure

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 373-1842  
Fax: (907) 373-4729\*



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14

### MEMO

To: House Resources Committee Members

Fm: Jim Pound

Cc:

Date: February 20, 2008

Re: Committee Substitute for SSHB 348

---

We have completed review with the Department of Law (Kevin Saxby) and have come up with a solution that accomplishes the goal of the original bill and is approved by the Department of fish and Game.

If you have any questions please feel free to call.

The information contained in this memo is CONFIDENTIAL and/or privileged. This memo is intended to be reviewed initially by only the individual named above. If the reader of this page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this memo or the information contained herein is prohibited. If you have received this memo in error, please immediately notify the sender by telephone and return this memo to the sender at the above address.

Thank you

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Just now Toll free: (800) 468-2186  
Website: [www.akrepublicans.org/keller/](http://www.akrepublicans.org/keller/)

**Preferred option:**

**AS 16.05.221 is amended by adding a new subsection to read.**

**(e) In this section, the terms “conservation” and “development” both require that the appropriate Board must regulate in a manner that primarily concerns if, how, when and where the public assets of fish or game will be allocated or appropriated.**

This language is based on rulings in two Alaska Supreme Court cases. In the first, *Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State*, 628 P.2d 897 (Alaska 1981), the Court held, with reference to a challenge to a Board of Fisheries regulation, that,

The terms “conserving” and “developing” both embody concepts of utilization of resources. “Conserving” implies controlled utilization of a resource to prevent its exploitation, destruction or neglect. “Developing” connotes management of a resource to make it available for use. If the Board is going to accomplish its designated purposes, it is necessarily going to make decisions concerning utilization of the resources it is charged with managing.

In the second case, *Pullen v. Ulmer*, 923 P.2d 54, (Alaska 1996), with reference to a challenge to a citizens' initiative to alter the statutory framework for the Board of Fisheries, the Court held that,

We hold that the state's interest in salmon migrating in state and inland waters is sufficiently strong to warrant characterizing such salmon as assets of the state which may not be appropriated by initiative.

and that,

The initiative significantly reduces the legislature's and Board of Fisheries' control of and discretion over allocation decisions, particularly in the event of stock-specific or region-specific shortages of salmon between the competing needs of users.

Read together, the principles set forth in these two cases stand for the propositions that fish and game are public assets that are not subject to appropriation through the initiative process, that significant interference with the Board's allocative decisions constitutes a prohibited appropriation, and that virtually all conservation or development-related decisions are allocative in nature. The above language restates these propositions so that they are clearly set forth in the enabling statute for the Board of Fisheries and Board of Game.

**CS FOR SS FOR HOUSE BILL NO. 348 (RES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE-SECOND SESSION**

**BY THE HOUSE RESOURCES COMMITTEE**

**Offered: 02/17/08**

**Referred: Resources, Finance**

**Sponsors: REPRESENTATIVE KELLER, Johnson**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the adoption of regulations by the Board of Fisheries and the  
2 Board of Game."

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

4 \*Section 1. AS 16.05.221 is amended by adding a new subsection to read.

5 (e) In this section, the terms "conservation" and "development" both require that the  
6 appropriate Board must regulate in a manner that primarily concerns if, how, when and  
7 where the public assets of fish or game will be allocated or appropriated.

**Less-preferred option:**

**AS 16.05.255(j) is amended by adding a new paragraph to read.**

**(e) In this section, the terms "conservation," "development" and "utilization" all require that the Board must regulate in a manner that primarily concerns if, how, when and where the public asset of game will be allocated or appropriated.**

This option achieves the same result, based on the same caselaw, as the preferred option, but only as to the Board of Game. It is less-preferred because the stated legal principles apply equally to fish and game resources and, indeed, are derived from cases interpreting the Board of Fisheries' authority. There is no logical reason why the language should not be applied in both contexts, and if it is, some may question what differences in management or philosophy the Legislature intended by omitting it from the fisheries context.

AMENDMENT # \_\_\_\_\_

Committee Amendment for CSSH B 348

25-LS1328 Resources

Page 1, line 1 & 2

1 " An Act relating to the adoption of conservation and development regulations by the Board  
2 of Fisheries and the Board of Game to address primary concerns relating to public assets."

# LEGAL SERVICES

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Mail Stop 3101

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

## MEMORANDUM

February 13, 2008

**SUBJECT:** Initiatives and allocation of an asset - SSHB 348  
(Work Order No. 25-LS1328(O))

**TO:** Representative David Guttenberg  
Attn: Christian Gou-Leonhardt

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

You have asked the following: How does the court's view of an allocation of an asset factor into the prohibition of a citizens' initiative in relation to an appropriation?

The Alaska Supreme Court discussed this issue in relation to salmon in *Pullen v. Ulmer*, 923 P.2d 54 (Alaska 1996). In that case, the court disallowed a voter initiative proposed by the appellee, Fairness in Salmon Harvest, proposing "that subsistence, personal use, and sport fisheries would receive a preference to take a portion of the salmon harvest before the remaining harvestable salmon are allocated to other harvest users." *Id.* at 55. Specifically, the court stated: "We think it is clear that the proposed initiative calls for an actual allocation, in the event of a shortage of a given salmon species in a given geographical region, to sport, personal use, and subsistence fisheries." *Pullen* at 64. The court then plainly noted: "We hold that the state's interest in salmon migrating in state and inland waters is sufficiently strong to warrant *characterizing such salmon as assets of the state which may not be appropriated by initiative.*" *Pullen* at 61. (Emphasis added)

While this particular initiative considered in *Pullen* dealt specifically with salmon, the court's analysis could be viewed in a broader scope than just this one species of fish. The same argument disallowing this initiative could be successful for any species of fish or game that the court might describe as an asset of the state. In fact, the court made reference to an earlier decision regarding the transfer of state property to a community college system, where it ruled that this transfer violated the prohibition on appropriations in an initiative. Specifically, the court noted:

The reason for prohibiting appropriations by initiative is to ensure that the legislature, and only the legislature, retains control over the allocation of state assets among competing needs. This rationale applies as much or nearly as much to allocations of physical property as to allocations of money.

*McAlpine v. Univ. of Alaska*, 762 P.2d 81 (Alaska 1988).

Representative David Guttenberg  
February 13, 2008  
Page 2

The court in *Pullen* focused on a legal interpretation of art. XI, sec. 7 of the Alaska state constitution. The court has said that it (i.e. the judiciary) has the obligation to expound on the meaning of a provision of the state constitution and, by extension, under the recognized separation of powers principle, that is not the function of the legislature. *Alaska Pub. Interest Research Group v. State*, 167 P.3d 27, 35 - 36 (Alaska 2007). In other words, independently of anything the legislature might consider doing by law to describe game management as involving an asset of the state, the court will make its own examination and reach its own conclusion. It may give no credence to language in statute added by the legislature -- the language may, in fact, not be used by the court as it applies the prohibitions of art. XI, sec. 7, to the meaning of "appropriations" in the text of that section.

Based on the court ruling in *Pullen*, the court would likely consider that an allocation of what it considers a state asset could not be allowed as an appropriation in a voter initiative.

If I may be of further assistance, please advise.

BJK:med  
08-090.med

# LEGAL SERVICES

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

## MEMORANDUM

February 11, 2008

**SUBJECT:** SSHB 348 and predatory control (Work Order. No. 25-LS1328\O)

**TO:** Representative Paul Seaton  
Attn: Louie Flora

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

As a follow up to my February 8, 2008, memorandum to your office, you have asked: Would SSHB 348 prohibit citizens' initiatives that restrict predator control programs by restricting greatly or prohibiting outright the same day airborne shooting of wolves?

I do not think that the additions to AS 16.05.255(a) by the bill will necessarily prohibit a citizens' initiative regarding predator control or the same day airborne shooting of wolves. As I stated in my February 8 memo to your office, the court will examine the provisions of the state constitution without being required to look at any statutory sections that might relate to those constitutional provisions. The court will look at the constitutional provision in question and make its own determination based on that provision alone. The court may look to the changes made to AS 16.05.255(a) by this bill if this bill is enacted into law, but it is not required to do so.

I cannot tell you definitely how the court would decide on this issue of predator control being allowed in a citizens' initiative. What I can tell you is that the court will study the actual provisions of the state constitution first and foremost, if not only these provisions.

If I may be of further assistance, please advise.

BJK:lmb  
08-023.lmb

# LEGAL SERVICES

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Mail Stop 3101

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

## MEMORANDUM

February 5, 2008

**SUBJECT:** Legal analysis of SSHB 348 (Work Order No. 25-LS1328\O)

**TO:** Representative Paul Seaton  
Attn: Louie Flora

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

You have asked the following: What does SSHB 348 do, and how would this bill change the legislature's constitutional mandate to manage fish and game resources?

SSHB 348 amends AS 16.05.255(a) by adding the phrase "as a means to allocate the asset of game" in paragraphs (2), (3), and (4). It also adds the word "asset" to paragraph (6) and substitutes the phrase "preferential use" in place of "utilization" in paragraph (10).

From my review, this bill does not affect the legislature's constitutional mandate to "provide for the utilization, development and conservation of all [state] natural resources," including fish and wildlife. Art 8, sec. 2 of state constitution. AS 16.05.255(a) gives the Board of Game authority to adopt regulations it considers advisable. Paragraphs (1) - (13) provide the guidelines the Board of Game should use in adopting regulations it considers advisable. It does not appear that adding the language the bill adds will affect the legislature's involvement in managing game.

The main effect of these changes could be that the Board of Game is limited in the reasons for which it can adopt regulations under AS 16.05.255(a)(2), (a)(3), or (a)(4). Under the added language, it is possible that "to allocate the asset of game" would be the only reason the board could have for adopting regulations to carry out the provisions of AS 16.05.255(a)(2), (a)(3), or (a)(4).

If I may be of further assistance, please advise.

BJK:ljw  
08-057.ljw

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 373-1842  
Fax: (907) 373-4729\*



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14

### MEMO

To: Representative Craig Johnson

Fm: Jim Pound

Cc: Representative Carl Gatto

Date: February 6, 2008

Re: Request for Hearing SS HB 348

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Please accept this memo and the attached packet as a request for the House Resources Committee to schedule, for hearing SS for House Bill 348 "An Act relating to the adoption of regulations by the Board of Game."

SS HB 348 will place into game statutory language the words asset and allocation. This language will clearly state that we fully understand that our game are assets and that management decisions are based on that knowledge.

I urge your assistance by placing SS HB 348 on the House Resources Committee hearing schedule at your earliest convenience.

Attachments: Sponsor Statement, HB 348, AS 16.05.255, Congressman Miller Press Release, F&G Relationship between wildlife, Wildlife Conservation performance, Sample Bd of Game Report, Information on Moose and Caribou

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## REPRESENTATIVE WES KELLER DISTRICT 14 Sponsor Statement

### SS HB 348

**"An Act relating to the adoption of regulations by the Board of Game."**

For years Alaska has devoted time and money to the management of one of its most valuable renewable resources. Wild Game represent many things to many Alaskans. Be it commercial guiding, hunting, or simply viewing wildlife, Alaska is unique and every Alaskan enjoys the gift of the resource.

Every year, Alaskans and tourists carrying in state or out of state licenses look for the moose, caribou or bear. Every summer thousands of tourist marvel at herds of caribou or a lone moose or sow with her cubs.

Alaska's wildlife is an asset. Without them not as many people would visit the state, which translates into a loss of revenue. Without them guides would not earn a living and hunters would not put food on the table.

The problem we face is that we have not allowed our Boards of game to manage the resource and **allocate** it for what it actually is, an **asset**. SS for House Bill 348 will accomplish that by inserting those important words into statute. The language makes it clear to others that it is our asset and we will manage for abundance as promised in the Alaska Constitution.

We urge your support for the language in SS for HB 348 to make it clear we understand what our wildlife truly is and what they mean. It is language that is easy to understand whether you live in Alaska or somewhere else.

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Juneau Toll free: (800) 468-2186  
Website: [www.akrepublicans.org/keller/](http://www.akrepublicans.org/keller/)

**Sec. 16.05.255. Regulations of the Board of Game; management requirements.**

(a) The Board of Game may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart game reserve areas, refuges, and sanctuaries in the water or on the land of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(3) establishing the means and methods employed in the pursuit, capture, taking, and transport of game, including regulations, consistent with resource conservation and development goals, establishing means and methods that may be employed by persons with physical disabilities;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators, or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of game;

(8) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) establishing the times and dates during which the issuance of game licenses, permits, and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed;

(10) regulating sport hunting and subsistence hunting as needed for the conservation, development, and utilization of game;

(11) taking game to ensure public safety;

(12) regulating the activities of persons licensed to control nuisance wild birds and nuisance wild small mammals;

(13) promoting hunting and trapping and preserving the heritage of hunting and trapping in the state.

(b) *[Repealed, 12 ch 52 SLA 1986.]*

(c) If the Board of Game denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must provide that, consistent with the provisions of AS 16.05.258, the taking of moose, deer, elk, and caribou by residents for personal or family consumption has preference over taking by nonresidents.

(e) The Board of Game shall adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals of the board in an area where the board has determined that

(1) consumptive use of the big game prey population is a preferred use;

(2) depletion of the big game prey population or reduction of the productivity of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the population; and

(3) enhancement of abundance or productivity of the big game prey population is feasibly achievable utilizing recognized and prudent active management techniques.

(f) The Board of Game may not significantly reduce the taking of an identified big game prey population by adopting regulations relating to restrictions on harvest or access to the population, or to management of the population by customary adjustments in seasons, bag limits, open and closed areas, methods and means, or by other customary means authorized under (a) of this section, unless the board has adopted regulations, or has scheduled for adoption at the next regularly scheduled meeting of the board regulations, that provide for intensive management to increase the take of the population for human harvest consistent with (e) of this section. This subsection does not apply if the board

(1) determines that intensive management would be

(A) ineffective, based on scientific information;

(B) inappropriate due to land ownership patterns; or

(C) against the best interest of subsistence users; or

(2) declares that a biological emergency exists and takes immediate action to protect or maintain the big game prey population in conjunction with the scheduling for adoption of those regulations that are necessary to implement (e) of this section.

(g) The Board of Game shall establish population and harvest goals and seasons for intensive management of identified big game prey populations to achieve a high level of human harvest.

(h) *[Repealed, 2000 Ballot Measure No. 6.]*

(i) For the purpose of encouraging adults to take children hunting, the board shall establish annual hunting seasons in appropriate areas of the state for big game, other than bison and musk ox, that are open before schools start in the fall and before regular hunting seasons begin. Only a resident child accompanied by a resident adult or a child accompanied by the child's resident parent, resident stepparent, or resident legal guardian may take big game in an area where a season established under this subsection is in effect. The adult, parent, stepparent, or legal guardian who accompanies the child may only assist the child in taking big game. A big game animal taken under this subsection must be counted against the bag limits of both the child and the adult, parent, stepparent, or legal guardian who accompanies the child. In this subsection,

(1) "adult" means an individual who is 21 years of age or older;

(2) "child" means an individual who is not more than 17 years of age and not younger than eight years of age.

(j) In this section,

(1) "harvestable surplus" means the number of animals that is estimated to equal the number of offspring born in a game population during a year less the number of animals required for recruitment for population maintenance and enhancement, when necessary, and the number of animals in the population that die from all causes, other than predation or human harvest, during that year;

(2) "high level of human harvest" means the allocation of a sufficient portion of the harvestable surplus of a game population to achieve a high probability of success for human harvest of the game population based on biological capabilities of the population and considering hunter demand;

(3) "identified big game prey population" means a population of ungulates that is identified by the Board of Game and that is important for providing high levels of harvest for human consumptive use;

(4) "intensive management" means management of an identified big game prey population consistent with sustained yield through active management measures to enhance, extend, and develop the population to maintain high levels or provide for higher levels of human harvest, including control of predation and prescribed or planned use of fire and other habitat improvement techniques.

(5) "sustained yield" means the achievement and maintenance in perpetuity of the ability to support a high level of human harvest of game, subject to preferences among beneficial uses, on an annual or periodic basis.

(( 3 ch 206 SLA 1975; am 5 ch 151 SLA 1978; am 10, 11 ch 132 SLA 1984; am 4, 5, 12 ch 52 SLA 1986; am 1 ch 6 SLA 1989; am 2 ch 13 SLA 1994; am 2 ch 54 SLA 1996; am 4 - 6 ch 76 SLA 1998; am 1 ch 20 SLA 2000; am 1 2000 Ballot Measure No. 6; am 1 ch 68 SLA 2001; am 1 ch 132 SLA 2003; am 4 ch 87 SLA 2005))



## Press Release

**Congressman George Miller (D-California, 7th District)**  
Committee on Education and Labor, Committee on Resources

### **New Bill Would Stop Illegal Airborne Hunting of Alaskan Wolves and other Wildlife**

**Tuesday, September 25, 2007**



WASHINGTON – Legislation introduced today would protect wolves, bears, and other wildlife from the illegal and inhumane practice of airborne hunting. The new bill would close a loophole in federal law that Alaska officials have exploited to permit individual hunters to shoot and kill nearly 700 wolves from aircraft in the past four years.

"It's time to ground Alaska's illegal and inhumane air assault on wolves," said Congressman George Miller (D-CA), a leader in Congress on conservation and natural resource issues and author of the new bill. "The state of Alaska has been operating an airborne hunting program that not only ignores federal law but violates Alaskans' and other Americans' wishes. The PAW Act will help to protect our nation's wildlife from the unethical and unfair practice of airborne hunting."

The Protect America's Wildlife Act, or PAW Act, was introduced by Miller along with Rep. John Dingell (D-MI) the dean of the House and floor manager of the debate on the original Airborne Hunting Act, and Rep. Norm Dicks (D-WA) the chair of the Interior Appropriations Subcommittee.

At a press conference on Capitol Hill, Miller was joined by Atka, a 5-year old Arctic grey wolf, and two wildlife experts and advocates -- Joel Bennett, an Alaska resident and former member of the state's Board of Game, and Rodger Schlickaisen, President of Defenders of Wildlife, a national conservation and environmental advocacy organization.

In response to public outcry over airborne wolf hunting in Alaska, Congress passed the Airborne Hunting Act in 1972 to prohibit shooting or harassing animals from aircraft. However, for the last several years, officials in Alaska have licensed people to shoot hundreds of wolves from aircraft under the guise of wildlife management and predator control but in clear violation of the intent of the federal ban.

In 1996 and again in 2000, Alaskans approved two popular ballot measures that banned airborne hunting in the state, but the state legislature largely overturned each of those measures.

Hunting wildlife from an aircraft violates wildlife management principles and the hunting rules of fair chase, as does the related practice of chasing animals in an aircraft until they are exhausted and then executing them on the ground, known as 'land and shoot.'

The PAW Act makes it clear that states can only conduct activities prohibited by the Airborne Hunting Act to respond to legitimate biological and other emergencies, not just to authorize otherwise-illegal hunting practices. The bill does not alter existing exceptions for the use of aircraft for animal control where land, livestock, water, pets, crops, or human health and safety are at risk.

The bill is numbered H.R. 3663, and has been referred to the Committee on Natural Resources

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ADF&G - Division of  
**Wildlife Conservation**



## **Overview of Relationships Between Bears, Wolves, and Moose in Alaska**

Relationships between large predators and their prey in Alaska are complex, and no one model fits all situations. It is possible to generalize about some situations, particularly in Interior Alaska. This information on the biology of moose, bears, and wolves, represents highlights from 25 years of research and management programs conducted by universities and state, provincial and federal governments in Alaska and Canada. In 1997, the National Academy of Sciences published a summary and review of predator/prey interactions in Alaska (National Research Council, 1997). More research has been conducted since that review. The published references listed below can be found in most university or large municipal libraries.

In the boreal forest of northern Canada and Interior Alaska, where bears (either black bears, grizzly bears, or both) and wolves are lightly harvested and are major predators on moose, moose densities typically remain well below levels that their habitat can support. Under these circumstances, moose density fluctuates between about 0.1 and 1.0 moose/mi<sup>2</sup> over large areas; most commonly densities are 0.4 to 0.6 moose/mi<sup>2</sup>. Biologists refer to this situation as the Low Density Dynamic Equilibrium or LDDE because moose density fluctuates yet remains low. This occurs primarily because, together, bears and wolves are efficient predators on moose calves, and kill most of the calves born each year. The highest densities reached in these systems (about 1 moose/mi<sup>2</sup>) tend to occur in very large burns where habitat is excellent and moose apparently are more successful at avoiding predators.

Although the LDDE prevails in much of remote interior Alaska, differences occur between areas. In most areas, bears are the major predator on moose calves. An exception occurs in Game Management Unit 20A where wolf control has been shown to be effective at maintaining high numbers of moose and high long-term harvests of moose. In Unit 20A, initial reductions in wolves increased moose population density, wolves also quickly increased after wolf control because, ultimately, the number of wolves in an area depends mostly on the number of prey animals in the area. Number of moose harvested also remained high after wolves increased. An abundance of trappers in Unit 20A has kept wolves from increasing to the point where they could cause declines in the moose population. A similar situation likely occurs in portions of Units 20B and 20D South.

Grizzly bears have been shown to be particularly effective predators of moose calves from birth to about 2 months of age and often kill adult moose in the spring. In this regard, one grizzly bear is

equivalent to many black bears. Not all bears are equal, however, and some bears seem to become specialists at killing both adult and calf moose.

Black bears have been found to be the most important predator of moose calves in some areas of Alaska where grizzly bears are uncommon. In these areas, black bears killed about 40% of all moose calves that were born. Most predation was by adult males.

Biologists expect that significant reductions in bear numbers (either black or grizzly or both) will also lead to higher numbers of moose for harvest. For example, in areas of Canada and the northern states where moose coexist only with wolves, moose are often found at high densities that fluctuate with weather and habitat (e.g. Isle Royale).

Numbers of grizzly bears have probably increased in Interior Alaska since the 1950s. We base this on incidental observations by older hunters, local residents, cabin owners, and Native elders, who all indicate that grizzly bear numbers have increased. This is corroborated to some degree by modern studies. For example, grizzly bears were recently found to be significant predators of moose calves on the Yukon Flats and are commonly seen by local residents, whereas 20-30 years ago, observations of grizzly bears were rare.

In the Anchorage and Fairbanks areas, where wolves and bears are not common, moose are abundant.

Grizzly bear populations appear to be much more resilient to harvest than previously believed. During the last 10 years, the Alaska Board of Game has made a deliberate effort to reduce numbers of grizzly bears in a few important hunting areas (e.g. Game Management Unit 13-the Nelchina Basin) by increasing the bag limit and extending hunting seasons. So far, these new regulations have had no noticeable affect on grizzly bear populations even though hunters have taken an increased number of bears.

Wolves have been found to be very adaptable and they recover from low numbers within a few years. Despite relatively heavy hunting and trapping over the last century in Alaska, wolves occur on nearly all of their traditional habitat throughout mainland Alaska. Historically, wolf numbers were greatly depressed. Specifically, wolves were rare in Interior Alaska between about 1910 and 1925, and during the 1950s. During 1910-1925 wolves may have succumbed to diseases brought in by sled dogs or to widespread poisoning. During the 1950s, federal predator control agents reduced wolves by poisoning and aerial shooting. Wolves have been abundant and have occurred in all of their historic ranges in Alaska since state management began in about 1960 (except for the Anchorage and Fairbanks areas, and the western Seward Peninsula).

Wolves are social animals that live in large family groups. Usually, only a single female per pack successfully raises pups, but depending upon the relationship of adult males and females in a wolf pack, multiple litters may occur in a single pack in a single year. Most pups born into a pack stay in the pack for at least one year, but virtually all have dispersed away from their natal pack by the age of 3. Large packs of 20 or more wolves may occur in areas where food is abundant and pup survival is high. Wolf populations in North America commonly sustain annual harvests or natural mortality rates of 20-40% without experiencing a year-to-year decline in numbers. High reproductive rates, high mortality rates and long distance dispersal behavior results in extensive gene flow within wolf populations and between wolf packs.

In Alaska and other areas, if wolves are not hunted or trapped, most mortality is from intraspecific aggression (fighting with other wolves). In trapped wolf populations, natural mortality rates are often lower than in untrapped populations.

In coastal areas of Alaska, where fox rabies is endemic, wolves are periodically reduced to low levels by rabies.

#### **Practical Aspects of managing moose in areas where the LDDE exists**

Usually, without predator control, hunters can take about 5% of a low-density moose population each year – almost all of the harvest must be bulls or the population will decline.

LDDE does not present a biological problem – moose are not likely to become threatened, endangered or extinct due to predation.

The fact that the LDDE prevails in large areas does not usually present a management problem either. Interior Alaska is sparsely populated and access to moose populations is often poor. This means that hunting pressure is relatively light in many areas anyway.

The LDDE can cause a management problem around villages, or in areas that have become important hunting areas for Alaskans near the road system. In these areas, people need or want to harvest more moose than the system can support. In Alaska, moose are valuable to people as a source of food and income (i.e. guiding and transporting hunters), particularly in rural areas. This is why people often express the desire for predator control.

In some areas, where there is a demand to increase moose harvests, it might be possible to harvest more moose by reducing bear predation. Although this idea is reasonable, it is a relatively new idea, has not been adequately tested in Alaska, and programs of this nature need to be viewed as experiments.

#### **References:**

- Ballard, W.B., J.S. Whitman, and D.J. Reed. 1991. Population dynamics of moose in southcentral Alaska. *Wildlife Monographs* 114:1-49.
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- Gasaway, W.C., R.D. Boertje, D.V. Grangaard, D.G. Kellyhouse, R.O. Stephenson, and D.G. Larsen. 1992. The role of predation in limiting moose at low densities in Alaska and Yukon and implications for conservation. *Wildlife Monographs* 120:1-59.
- Mech, L.D., L.G. Adams, T.J. Meier, J.W. Burch, and B.W. Dale. 1998. *The wolves of Denali*. University of Minnesota Press, Minneapolis and London.
- National Research Council. 1997. *Wolves, bears, and their prey in Alaska*. National Academy Press, Washington.
- Franzman, A.W., and C.C. Schwartz, Editors. 1997. *Ecology and management of the North American moose*. Smithsonian Institution Press, Washington and London.

# Performance

## Wildlife Conservation

Results Summary | Details | Questions/Comments

### Mission

- The mission of the Division of Wildlife Conservation is to conserve and enhance Alaska's wildlife and habitats and provide for a wide range of public uses and benefits.

### Desired Results

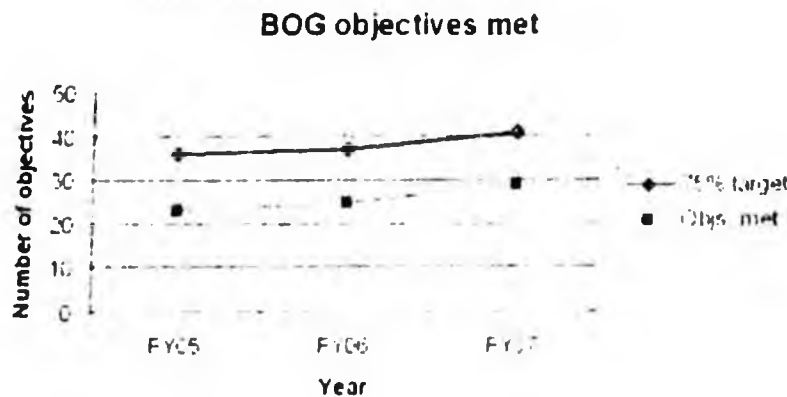
- A. Healthy and sustainable wildlife populations in Alaska that provide a diversity of opportunities for public use and enjoyment.

### Performance Measure Detail

**A: Result - Healthy and sustainable wildlife populations in Alaska that provide a diversity of opportunities for public use and enjoyment.**

**Target #1:** Achieve population targets for at least 75% of big game populations for which the Board of Game (BOG) has set targets (i.e., objectives).

**Measure #1:** Percentage of BOG population targets attained.

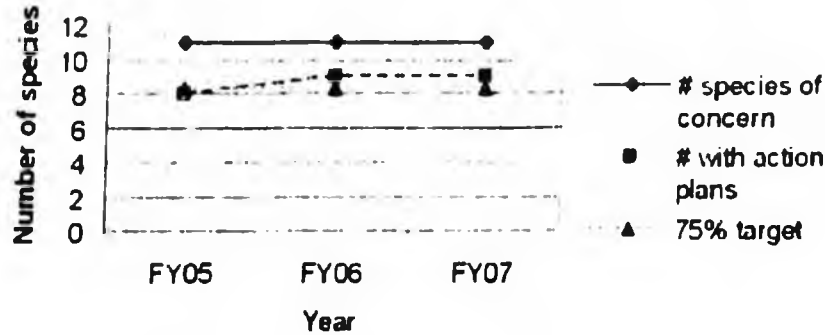


**Analysis of results and challenges:** The Board of Game (BOG) has set population objectives for selected wildlife populations that it has determined are important for providing high levels of harvest for human consumption and. To meet BOG management objectives, sufficient animals must exist in a game management unit in order to meet the highest levels of hunter demand. For FY07, 29 of the population objectives set for deer, caribou and moose were met, out of a total of 54 objectives set by the BOG. Four more game management units (GMU) met management objectives in FY07 than in FY06. The division's target is 75% of the number of GMU objectives. Some big game surveys were not conducted due to poor weather conditions or a lack of funding. Some of the population objectives may not be possible to meet given the habitat capacity that can be achieved in some areas. Population objectives for those areas should be reviewed by the BOG and possibly revised.

**Target #2:** Develop and implement recovery strategies for 75% of those "species of concern" under primary division management.

**Measure #2:** Percentage of species for which recovery strategies are being implemented.

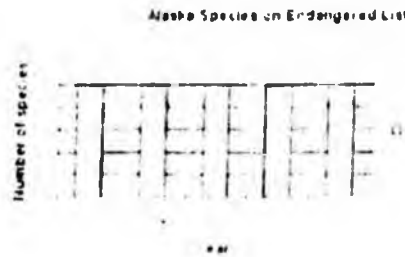
Species of Concern with Conservation Plans



**Analysis of results and challenges:** There are 11 wildlife species of special concern under primary or shared division management. Conservation action plans are in place for 10 (91%) of these species, including blackpoll warbler, Townsend's warbler, olive-sided flycatcher, Steller's eider, spectacled eider, northern goshawk, Arctic peregrine falcon, American peregrine falcon, Aleutian Canada goose and Kenai brown bear. In 1999 the Pacific Flyway Council adopted a management plan for Aleutian Canada goose (updated in 2006) to resume "normal" management after delisting. A plan has not been prepared for the Gray-cheeked thrush. In the state Comprehensive Wildlife Conservation Strategy (CWCS), completed during FY06, both species are on the nominee list for species of special concern. The State of Alaska Species of Special Concern list was last revised in 1998, therefore, when the list is formally revised Aleutian Canada goose can be removed. Revision of that list is expected to occur within the next year.

**Target #3:** No increase in the number of species under state management designated as threatened or endangered in Alaska from the 2003 level.

**Measure #3:** Number of new threatened or endangered species designations.



**Analysis of results and challenges:** The state endangered species list includes the Eskimo curlew, short-tail cedar babbler, humpback whale, right whale, and blue whale. There has been no change in the state endangered species list since 1993 and no new species were added to federal lists in FY07.

**Findings for the Alaska Board of Game  
2006-165-BOG**

**Unit 12 and 20E Intensive Management Supplemental Findings  
May 14, 2006**

The Board of Game finds as follows, based on information provided by department staff and residents and users of moose in Units 12 and 20E. These findings are supplemental to the findings set forth in 5AAC 92.108, in the Units 12 and 20E predation control implementation plan in 5 AAC 92.125 and in Board of Game Findings 2006-164-BOG.

1. The Fortymile Caribou Herd population size, currently estimated to be 40,000-42,000 caribou, is less than the population objective of 50,000-100,000 caribou. The population objective has not been achieved for at least the last 30 years.
2. The Fortymile Caribou Herd harvestable surplus, as described in 5 AAC 92.106(3)(A), currently estimated at 840-880 bulls, is less than the harvest objective of 1,000-15,000 caribou. The harvest objective has not been achieved for at least the last 30 years.
3. The moose population size in Unit 12 north of the Alaska Highway and Unit 20E, currently estimated to be 4,300-5,200 moose, is less than the population objective of 8,744-11,116 moose (derived from the combined Units 12 and 20E objectives based on proportionate area). The population objective has not been achieved for at least the last 20 years.
4. The harvestable surplus of moose in Unit 12 north of the Alaska Highway and Unit 20E, as described in 5 AAC 92.106(3)(A), currently estimated at 135-201 bulls, is less than the harvest objective of 547-1,084 moose (derived from the combined Units 12 and 20E objectives based on proportionate area). The harvest objective has not been achieved for at least the last 20 years.
5. The Fortymile Caribou Herd and the moose population in Unit 12 north of the Alaska Highway and Unit 20E are, thus, depleted and reduced in productivity, which has already resulted in a significant reduction in the allowable human harvest of the population.
6. Enhancement of abundance or productivity of both moose and caribou in this area is feasibly achievable utilizing the recognized and prudent active management technique of predator control.
7. The Board has repeatedly, since 1976, been required to significantly reduce the taking of Fortymile caribou by restricting harvest, seasons and bag limits as compared to the level and timing of hunting opportunity that was previously allowed when the population was not depleted and reduced in productivity.

8. The Board has, since 2000, been required to limit the taking of moose in Unit 12 north of the Alaska Highway and Unit 20E by restricting harvest, seasons and bag limits as compared to the level and timing of hunting opportunity that was allowed when the population was not depleted and reduced in productivity.

9. The population and harvest objectives for both moose and caribou in this area have not been achieved, at least in part, because wolf and brown bear predation have been important causes of mortality in the populations, to the extent that the populations are unlikely to recover, and objectives are unlikely to be achieved, in the foreseeable future unless predator control is conducted.


10. Reducing predation can reasonably be expected to aid in achievement of the caribou and moose population and harvest objectives.

11. A person who has been airborne may on the same day take a brown bear with the use of bait or scent lure as authorized under a permit provided by the Department, providing the permittee is at least 300 feet from the airplane at the time of taking.

Vote: 6-0-1

May 14, 2006

Anchorage, Alaska

  
Mike Fleagle, Chairman  
Alaska Board of Game

## Moose

The moose (*Alces alces*) is the world's largest member of the deer family. The Alaska race (*Alces alces gigas*) is the largest of all the moose. Moose are generally associated with northern forests in North America, Europe, and Russia. In Europe they are called "elk." In Alaska, they occur in suitable habitat from the Stikine River in the Panhandle to the Colville River on the Arctic Slope. They are most abundant in recently burned areas that contain willow and birch shrubs, on timberline plateaus, and along the major rivers of Southcentral and Interior Alaska.

**General description:** Moose are long-legged and heavy bodied with a drooping nose, a "bell" or dewlap under the chin, and a small tail. Their color ranges from golden brown to almost black, depending upon the season and the age of the animal. The hair of newborn calves is generally red-brown fading to a lighter rust color within a few weeks. Newborn calves weigh 28 to 35 pounds (13-16 kg) and within five months grow to over 300 pounds (136 kg). Males in prime

condition weigh from 1,200 to 1,600 pounds (542-725 kg). Adult females weigh 800 to 1,300 pounds (364-591 kg). Only the bulls have antlers. The largest moose antlers in North America come from Alaska, the Yukon Territory, and the Northwest Territories of Canada. Trophy class bulls are found throughout Alaska, but the largest come from the western portion of the state. Moose occasionally produce trophy-size antlers when they are 6 or 7 years old, with the largest antlers grown at approximately 10 to 12 years of age. In the wild, moose rarely live more than 16 years.

**Life history:** Cow moose generally breed at 28 months, though some may breed as young as 16 months. Calves are born any time from mid-May to early June after a gestation period of about 230 days. Cows give birth to twins 15 to 75 percent of the time, and triplets may occur once in every 1,000 births. The incidence of twinning is directly related to range conditions. A cow moose defends her newborn calf vigorously.

Calves begin taking solid food a few days after birth. They are weaned in the fall at the time the mother is breeding again. The maternal bond is generally maintained until calves are 12 months old at which time the mother aggressively chases her offspring from the immediate area just before she gives birth.

Moose breed in the fall with the peak of the "rut" activities coming in late September and early October. Adult males joust during the rut by bringing their antlers together and pushing. Serious battles are rare. Bulls may receive a few punctures or other damage and occasionally die from their wounds. The winner usually mates with the female.

By late October, adult males have exhausted their summer accumulation of fat and their desire for female company. Once again they begin feeding. Antlers are shed as early as November, but mostly in December and January.

**Food habits:** During fall and winter, moose consume large quantities of willow, birch, and aspen twigs. In some areas, moose actually establish a "hedge" or browse line 6 to 8 feet above the ground by clipping most of the terminal shoots of favored food species. Spring is the time of grazing as well as browsing. Moose eat a variety of foods, particularly sedges, equisetum (horsetail) pond weeds, and grasses. During summer, moose feed on vegetation in shallow ponds, forbs, and the leaves of birch, willow, and aspen.

**Movements:** Most moose make seasonal movements for calving, rutting, and wintering areas. They travel anywhere from only a few miles to as many as 60 miles during these transitions.



© Ashley Dean

**Population dynamics:** Moose have a high reproductive potential and can quickly fill a range to capacity if not limited by predation, hunting, and severe weather. Deep crusted snow can lead to malnutrition and subsequent death of hundreds of moose and decrease the survival of the succeeding year's calves.

Moose are killed by wolves and black and brown bears. Black bears take moose calves in May and June. Brown bears kill calves and adults the entire time the bears are out of their winter dens. Wolves kill moose throughout the year. Predation limits the growth of many moose populations in Alaska.

**Hunting:** More people hunt moose than any other of Alaska's big game species.

**Economic and future status:** Because moose range over so much of Alaska, they have played an important role in the development of the state. At one time professional hunters supplied moose meat to mining camps. Historically, moose were an important source of food, clothing, and implements to Athapaskan Indians dwelling along the major rivers. Today, Alaskans and nonresidents annually harvest approximately 6,000 to 8,000 moose—some 3.5 million pounds of meat. Moose are an important part of the Alaskan landscape, and tourists photograph those animals that feed along the highway.

Man's developments in Alaska include many alterations upon the face of the land. These activities create conflicts between man and moose as moose eat crops, stand on airfields, eat young trees, wander the city streets, and collide with cars and trains.

Man's removal of mature timber through logging and careless use of fire has, in general, benefited moose as new stands of young timber have created vast areas of high-quality moose food. The future for moose is reasonably bright because man is learning how to manipulate habitat with wildfire and is becoming more skilled at managing factors that limit moose populations, such as predation and hunting.

**Text:** Robert A Rausch & Bill Gasaway

**Illustration:** Ashley A. Dean

**Revised by** Charles C. Schwartz and reprinted 1994

## Caribou

**Caribou** (*Rangifer tarandus*) live in the arctic tundra, mountain tundra, and northern forests of North America, Russia, and Scandinavia. The world population is about 5 million. Caribou in Alaska are distributed in 32 herds (or populations). A herd uses a calving area that is separate from the calving areas of other herds, but different herds may mix together on winter ranges.

In Europe, caribou are called reindeer, but in Alaska and Canada only the domestic forms are called reindeer. All caribou and reindeer throughout the world are considered to be the same species, but there are 7 subspecies: barren-ground (*Rangifer tarandus granti*), Svalbard (*R. t. platyrhynchus*), European (*R. t. tarandus*), Finnish forest reindeer (*R. t. fennicus*), Greenland (*R. t. groenlandicus*), woodland (*R. t. caribou*) and Peary (*R. t. pearyi*). Alaska has only the barren-ground subspecies, but in Canada the barren-ground, woodland, and Peary subspecies are found.

**General description:** Caribou have large, concave hoofs that spread widely to support the animal in snow and soft tundra. The feet also function as paddles when caribou swim. Caribou are the only member of the deer family (Cervidae) in which both sexes grow antlers. Antlers of adult bulls are large and massive; those of adult cows are much shorter and are usually more slender and irregular. In late fall, caribou are clove-brown with a white neck, rump, and feet and often have a white flank stripe. The hair of newborn calves is generally reddish-brown. Newborn calves weigh an average of 13 pounds (6 kg) and grow very quickly. They may double their weight in 10-15 days. Weights of adult bulls average 350-400 pounds (159-182 kg). However, weights of 700 pounds (318 kg) have been recorded. Mature females average 175-225 pounds (80-120 kg). Caribou in northern and southwestern Alaska are generally smaller than caribou in the Interior and in southern parts of the state.

**Life history:** Calving occurs in mid-late May in Interior Alaska and in early June in northern and southwestern Alaska. If females are in very good condition they can breed when they are 16 months old, but in most herds they do not breed until they are 28 months old. Most adult cows are pregnant every year and give birth to one calf — twins are very rare. Wolves, grizzly bears, and golden eagles kill large numbers of newborn calves. After calving, caribou collect in large "postcalving aggregations" to avoid predators and escape mosquitoes and warble flies. These large groups of caribou stay together in the high mountains and along seacoasts where wind and cool temperatures protect them from summer heat and insects. After insect numbers decline in August, caribou scatter out and feed heavily on willow leaves and mushrooms to regain body weight.

The shedding of velvet (the fur covering on antlers) in late August and early September by large bulls marks the approach of the rutting (breeding) season and the start of fall migration. Mature bulls frequently have more than three inches of fat on the back and rump, which is used to provide energy needed during the rut. The necks of adult bull caribou swell enormously in September due to the natural production of steroid hormones like testosterone. Fighting begins in early September and becomes more frequent as the rut approaches at the end of the month. Most fights between bulls are brief bouts, but violent fights occur, and many bulls are seriously injured or killed during the rut. Many injured or exhausted bulls are killed by wolves and bears after the rut. Unlike many other members of the deer family, bull caribou do not control a harem of cows. Instead, they control a space around themselves, and prevent other bulls from breeding females within their space. The largest bulls shed their antlers in late October, but small bulls and non-pregnant cows do not shed their antlers until April. Pregnant females usually retain their antlers until calves are born in late May or early June.



**Food habits:** Like most herd animals, the caribou must keep moving to find adequate food. Large herds often migrate long distances (up to 400 miles/640 km) between summer and winter ranges. Smaller herds may not migrate at all. In summer (May-September), caribou eat the leaves of willows, sedges, flowering tundra plants, and mushrooms. They switch to lichens (reindeer moss), dried sedges (grasslike plants), and small shrubs (like blueberry) in September.

**Movements:** In Alaska, caribou prefer treeless tundra and mountains during all seasons, but many herds winter in the boreal forest (taiga). Calving areas are usually located in mountains or on open, coastal tundra. Caribou tend to calve in the same general areas year after year, but migration routes used for many years may suddenly be abandoned in favor of movements to new areas with more food. Changing movements can create problems for the Native people in Alaska and Canada who depend upon caribou for food.

Caribou movements are probably triggered by changing weather conditions, such as the onset of cold weather or snowstorms. Once they decide to migrate, caribou can travel up to 50 miles a day. Caribou apparently have a built in compass, like migratory birds, and can travel through areas that are unfamiliar to them to reach their calving grounds.

**Hunting:** Alaskan hunters shoot about 22,000 caribou each year for food. A few thousand other hunters, primarily from the lower 48 states, Europe, and Mexico, travel to Alaska to experience caribou hunting each fall. These hunters contribute significantly to the economy of the state, particularly in rural areas. Meat from caribou taken by these nonresident hunters is also required to be used for food. Alaska's great caribou herds have also become increasingly treasured as a natural wonder of state, national, and international importance.

**Population dynamics:** There are approximately 950,000 wild caribou in Alaska (including some herds that are shared by Alaska and Canada's Yukon Territory). Caribou are somewhat cyclic in number, but the timing of declines and increases, and the size to which herds grow is not very predictable. Although overhunting caused some herds to remain low in the past, today, varying weather patterns (climate), overpopulation, predation by wolves and grizzly bears, and disease outbreaks determine whether most herds increase or decrease.

In the 1970s people were concerned about the effect of the trans-Alaska oil pipeline, expanding oil development, and increased disturbance from use of aircraft and snowmobiles on caribou. Although there was some displacement of caribou calving in the Prudhoe Bay oilfield, in general, caribou have not been adversely affected by human activities in Alaska. Pipelines and most other developments are built to allow for caribou movements, and caribou have shown us that they can adapt to the presence of people and machines. As human activities expand in Alaska, the great challenge for caribou management is for man to consider the needs of our caribou herds and ensure that they remain a visible, healthy part of our landscape.

**Text: Patrick Valkenburg**  
**Illustration: ADF&G Staff**  
**Revised and reprinted 1999**

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 373-1842  
Fax: (907) 373-4729



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14 Sponsor Statement

### HB 348

**"An Act relating to the adoption of regulations by the Board of Fisheries and the Board of Game."**

For years Alaska has devoted time and money to the management of one of its most valuable renewable resources. Fish and Game represent many things to many Alaskans. Be it commercial fishing or guiding, hunting or sport fishing, or simply viewing wildlife, Alaska is unique and every Alaskan enjoys the gift of the resource.

Every year, Alaskans and tourists take to the inlets, the rivers and the channels in search of a king salmon or halibut. Every year hunters carrying in state or out of state licenses look for the moose, caribou or bear. Every summer thousands of tourist marvel at herds of caribou or a lone moose or sow with her cubs.

Alaska's wildlife and fish makeup an asset. Without them not as many people would visit the state, which translates into a loss of revenue. Without them hunters and fishers would not earn a living or put food on the table.

The problem we face is that we have not allowed our Boards of game and fish to manage the resource and **allocate** it for what it actually is an **asset**. House Bill 348 will accomplish that by inserting those important words into statute. The language makes it clear to others that it is our asset and we will manage for abundance as promised in the Alaska Constitution.

We urge your support for the language in HB 348 to make it clear we understand what our fish and wildlife truly are and what they mean. It is language that is easy to understand whether you live in Alaska or somewhere else.



**Debra Higgins**

**From:** Rowland, Mindy B (GOV) [mindy.rowland@alaska.gov]  
**Sent:** Monday, February 25, 2008 11:35 AM  
**To:** Debra Higgins  
**Subject:** RE: CSSSHB348(RES).pdf



NOT PART OF FILE

Thank you Debbie.

The Dept. of Law fiscal note is still applicable. I've forwarded this to DF&G for review and I'll let you know if that fiscal note will be revised.

Thanks  
Mindy

*Mindy Rowland*  
Deputy Legislative Director  
Office of Governor Sarah Palin  
465-4021

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1B348SS-LAW-CIV-02-12-01  
 Bill Version: SSHB348  
 () Publish Date: \_\_\_\_\_

Identifier (file name): \_\_\_\_\_ Dept. Affected: LAW  
 Title An Act relating to the adoption of regulations by the Board RDU CIVIL  
of Game. Component NATURAL RESOURCES  
 Sponsor REPRESENTATIVE KELLER  
 Requester HOUSE RESOURCES Component Number 2212

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	37.2	0.0	37.2	37.2	37.2	37.2	37.2	37.2
Travel	0.3		0.3	0.3	0.3	0.3	0.3	0.3
Contractual	4.3		4.3	4.3	4.3	4.3	4.3	4.3
Supplies	0.8		0.8	0.8	0.8	0.8	0.8	0.8
Equipment	0.5		0.5	0.5	0.5	0.5	0.5	0.5
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>43.0</b>	<b>0.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	43.0	0.0	43.0	43.0	43.0	43.0	43.0	43.0
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>43.0</b>	<b>0.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>	<b>43.0</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time	0.3		0.3	0.3	0.3	0.3	0.3
Part-time							
Temporary							

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

See attached analysis.

Prepared by: Robert Meiners, Administrative Services Manager  
 Division: Administrative Services Division  
 Approved by: Talis Colberg, Attorney General  
Department of Law

Phone 907-465-5427  
 Date/Time 2/12/08 3:40 PM  
 Date 2/12/2008

FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. SSHB348

**ANALYSIS CONTINUATION**

SSHB 348 was written for the purpose of emphasizing, in statute, the allocative nature of many game regulation decisions, so that such decisions would not be subjected to the whims of political change through the initiative process. Unfortunately, the way the bill is worded, it could easily be interpreted as serving to limit the Board of Game's ability to exercise many of its most important powers to only those situations in which the regulations are being done "as a means to allocate the asset of game." Because of this danger, the Board would be forced to build a record for every regulation which illustrates how the Board is allocating game through that regulation. This would likely add several days to each major board meeting, with resulting costs, and to more legal arguments and challenges regarding whether, and how, the Board is allocating, also with resulting costs. It is difficult to predict the increased costs for the Department of Law, but it might be reasonable to guess, for now, that up to two more lawsuits per year might be the result requiring additional resources equivalent to 1/4 FTE of attorney time.

# FISCAL NOTE

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSHB 348  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name) HB348SS-DFG-BSS-02-11-08 Dept. Affected Fish and Game  
 Title Board of Game Regulations RDU Administration and Support  
 Component F&G Boards & Advisory Committees  
 Sponsor Representative Keller  
 Requester House Resources Committee Component Number 2825

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

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

	Appropriation Required	Information						
		FY 2009	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>		*	0.0	*	*	*	*	*

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

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>		*	0.0	*	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

The Attorney General's office advises that the changes proposed under SSHB 348 will require additional meeting days by the Board of Game during regulatory meetings. The Board of Game meets twice each year to consider changes to regulations in regions of the state on a two-year cycle. The approximate cost per day for holding a board meeting is \$4,100, which includes costs for the meeting facility, per diem for the Executive Director and Boards Support staff, and honoraria and per diem for seven board members.

Without knowing how many extra days per meeting will be required, the fiscal impact is indeterminate.

Prepared by: Kristy Tibbles, Executive Director, Board of Game  
 Division: Boards Support Section  
 Approved by: Tom Lawson, Director  
Division of Administrative Services, Department of Fish and Game

Phone 465-6098  
 Date/Time 2/11/08 4:00 PM  
 Date 2/11/2008

# LEGAL SERVICES

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

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 F'h St., Rm. 329

## MEMORANDUM

February 22, 2008

**SUBJECT:** Draft CSSSHB 348(RES) (Work Order No. 25-LS1328\V)

**TO:** Representative Craig Johnson, Co-Chair  
House Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisor

The draft committee substitute is an attempt to try to be responsive to the material transmitted from your office. The material asked for substitution of new material, either in AS 16.05.255(j) or in another subsection (not clear as to which).

Regulations adopted by the Board of Game are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62.010 - 44.62.290).<sup>1</sup> The Act's rule making provisions define the term "regulation" to mean, in relevant part,

"every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of a rule, regulation, order, or standard adopted . . . to implement, interpret, or make specific the law enforced or administered by it . . . .

AS 44.62.640(a)(3).

The text transmitted by your office speaks to supplying a meaning for "the terms 'conservation,' 'development,' and 'utilization'" "in this section" (the context in which this direction was given referred to AS 16.05.255). In that section, those terms appear only in paragraphs (a)(3), (a)(7), and (a)(10). The draft of the committee substitute that accompanies this memo, therefore, addresses the standard that must be met in the board's adoption of regulations not as a new or additional duty or obligation of the Board of Game but, instead, as an amendment to existing subsection (d) setting out the content of the regulations that the board may adopt. It also prescribes the priority to be applied when the board acts to adopt regulations to implement those three terms ("must primarily concern whether, how, when, and where the public asset of game will be allocated or appropriated"), limited to specific reference to the three paragraphs in which those terms

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<sup>1</sup> See AS 16.05.255(a), in which, under the lead-in language of the subsection, the Board of Game is directed to adopt regulations it considers advisable "in accordance with AS 44.62."

Representative Craig Johnson

February 22, 2008

Page 2

appear. Finally, "whether" substitutes for "if": "if" is appropriate for a condition, but "whether" is preferred to express a "possibility" as between alternatives, in this instance, the question being one of the possibility that the Board may or may not exercise discretion to allocate or appropriate "the public asset of game."

If this misses the mark, please advise.

JBC:lmb

08-043.lmb

Enclosure

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 376-1842  
Fax: (907) 373-4729\*



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14

### MEMO

To: Representative Craig Johnson

Fm: Jim Pound

Cc: Representative Carl Gatto

Date: January 31, 2008

Re: Request for Hearing HB 348 (pending referral)

---

Please accept this memo and the attached packet as a request pending referral for the House Resources Committee to schedule, for hearing House Bill 348 "An Act relating to the adoption of regulations by the Board of Fisheries and the Board of Game."

HB 348 will place into fish and game statutory language the words asset and allocation. This language will clearly state that we fully understand that our fish and game are assets and that management decisions are based on that knowledge.

I urge your assistance by placing HB 348 on the House Resources Committee hearing schedule at your earliest convenience.

Attachments: Sponsor Statement, HB 348, AS 16.05.251, Congressman Miller Press Release, F&G Relationship between wildlife, Wildlife Conservation performance, Sample Bd of Game Report, Information on Moose and Caribou

E-Mail: [Representative\\_Wes\\_Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)  
Call Juneau Toll free: (800) 468-2186  
Website: [www.akrepublicans.org/keller/](http://www.akrepublicans.org/keller/)

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
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Fax: (907) 373-4729



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14 Sponsor Statement

### HB 348

**"An Act relating to the adoption of regulations by the Board of Fisheries and the Board of Game."**

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Alaska's wildlife and fish makeup an asset. Without them not as many people would visit the state, which translates into a loss of revenue. Without them hunters and fishers would not earn a living or put food on the table.

The problem we face is that we have not allowed our Boards of game and fish to manage the resource and **allocate** it for what it actually is an **asset**. House Bill 348 will accomplish that by inserting those important words into statute. The language makes it clear to others that it is our asset and we will manage for abundance as promised in the Alaska Constitution.

We urge your support for the language in HB 348 to make it clear we understand what our fish and wildlife truly are and what they mean. It is language that is easy to understand whether you live in Alaska or somewhere else.

# LEGAL SERVICES

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Mail Stop 3101

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

## MEMORANDUM

March 25, 2008

**SUBJECT:** Game as an asset and CSSSHB 348(FIN)  
(Work Order No. 25-LS1328\X)

**TO:** Representative Max Gruenberg

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

You have asked the following: Can the legislature determine whether game is or is not an asset for purposes of art. XI, sec. 7 or art. VIII, sec. 2, sec. 3, or sec. 4? Or can the legislature determine whether game is or is not an asset in view of *Pullen v. Ulmer*, 932 P.2d 54 (Alaska 1996)?

I will answer these questions as accurately as I can in the short length of time I have to respond. The short answer is that the legislature cannot "determine" whether game is an asset for purposes of the state constitution.

The legislature can make reference to game as an asset, as is proposed in CSSSHB 348(FIN). However, the court would not be obligated to follow this statutory language when it is interpreting the meaning of a constitutional provision. Hence, I do not believe that the legislature would actually be "determining" anything in relation to the state constitution. The state constitution stands on its own, and issues that arise from constitutional provisions will only require the court to look to the constitutional provision involved. The court may look to a statute for guidance, or for the view of the legislature on the issue, but the actual constitutional provision will likely rule the day.

The court in *Pullen* focused on a legal interpretation of art. XI, sec. 7 of the Alaska state constitution. The court has said that it (i.e. the judiciary) has the obligation to expound on the meaning of a provision of the state constitution and, by extension, under the recognized separation of powers principle, that is not the function of the legislature. *Alaska Pub. Interest Research Group v. State*, 167 P.3d 27, 35 - 36 (Alaska 2007). In other words, independently of anything the legislature might consider doing by law to describe game management as involving an asset of the state, the court will make its own examination and reach its own conclusion. It may give no credence to the subsection added by this bill -- the language may, in fact, not be used by the court as it applies the prohibitions of art. XI, sec. 7.

*distributed by Gruenberg*

Representative Max Gruenberg

March 25, 2008

Page 2

It would seem that this bill attempts to expand and codify part of the ruling found in *Pullen*. In that case, the court stated: "We hold that the state's interest in salmon migrating in state and inland waters is sufficiently strong to warrant characterizing such salmon as assets of the state which may not be appropriated by initiative." *Pullen* at 61. This bill attempts to expand that qualification as salmon as an asset of the state to the area of game, in relation to the Board of Game's regulatory authority.

If I may be of further assistance, please advise.

BJK:med

08-218.med

**HB**

**367**

# ALASKA STATE LEGISLATURE

*Chair:*  
Special Committee on Economic Development,  
Trade, & Tourism

*Vice Chair*  
Committee on Labor and Commerce

*Vice Chair:*  
Committee on Transportation

*Member:*  
Committee on Community and Regional Affairs  
Special Committee on Oil and Gas



*Session:*  
Alaska State Capitol  
Juneau, AK 99801-1182  
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Toll Free (877) 465-2679

*Interim:*  
600 E. Railroad Ave  
Wasilla, AK 99654  
Phone: (907) 376-2679  
Fax: (907) 376-4745

## REPRESENTATIVE MARK NEUMAN

Representative\_Mark\_Neuman@legis.state.ak.us

### MEMORANDUM

**TO:** Representative Carl Gatto and Representative Craig Johnson

**FROM:** Representative Mark Neuman

**DATE:** February 21, 2008

**SUBJECT:** Hearing Request for HB 367

---

Attached is a committee package for House Bill 367, "An Act relating to the sale of raw milk and raw milk products." The package includes the current version of the bill and backup materials.

I would appreciate the scheduling of this legislation before the House Recourse Committee. Please feel free to contact me, or my aide Rex Shattuck, with any questions.

Attached you will find a background packet for HB 367.



**Debra Higgins**

---

**From:** Rick VanderKolk  
**Sent:** Friday, March 14, 2008 8:52 AM  
**To:** Debra Higgins  
**Subject:** FW: New fiscal notes...

Debbie, FYI.

---

**From:** Rowland, Mindy B (GOV) [mailto:mindy.rowland@alaska.gov]  
**Sent:** Thursday, March 13, 2008 5:40 PM  
**To:** Rick VanderKolk  
**Subject:** RE: New fiscal notes...

Hi Rick,

The draft CS will not change either the DEC or the DHSS fiscal notes.

Let me know if you have any questions.

Thank you

Mindy

*Mindy Rowland*  
Deputy Legislative Director  
Office of Governor Sarah Palin  
465-4021

---

**From:** Rick VanderKolk [mailto:Rick\_VanderKolk@legis.state.ak.us]  
**Sent:** Thursday, March 13, 2008 2:10 PM  
**To:** Rowland, Mindy B (GOV)  
**Subject:** New fiscal notes...

Mindy,

A new draft of HB 367 is attached that incorporates amendments adopted by the committee last Monday. Could we get a preliminary fiscal note reflecting changes to Page 2, line 29, which deletes "or to a restaurant, grocery store, or similar establishment"?

Thank you,  
Rick

Rick VanderKolk  
Staff, Rep. Carl Gatto

Alaska State Legislature  
Capitol Building, Rm. 108  
Juneau, AK 99801

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3/14/2008

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 367  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): HB367-DEC-LS-2-25-08 Dept. Affected: Environmental Conservation  
 Title: Sale of Raw Milk and Raw Milk Products RDU: Environmental Health  
 Component: Laboratory Services  
 Sponsor: Representative Neuman  
 Requester: (H) Resources Component Number: 2065

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	202.3	0.0	202.3	202.3	202.3	202.3	202.3	202.3
Travel	11.0	0.0	11.0	11.0	11.0	11.0	11.0	11.0
Contractual	32.3	0.0	27.3	27.3	27.3	27.3	27.3	27.3
Supplies	24.7	0.0	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>270.3</b>	<b>0.0</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	270.3	0.0	244.6	244.6	244.6	244.6	244.6	244.6
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Litter Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>270.3</b>	<b>0.0</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>	<b>244.6</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time	3.0	0.0	3.0	3.0	3.0	3.0	3.0	3.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

This legislation allows, with the proper labeling, the sale of raw milk and products made from raw milk. Currently under state and federal regulations milk must be pasteurized before it can be sold or used in milk products. DEC under AS 17.20.005 would regulate raw milk similarly to what is currently being done for other milk products.

With no final "kill step" (such as pasteurization) to eliminate pathogens, raw milk presents a greater risk than pasteurized product. For the DEC to certify raw milk dairies, the raw milk dairies should have at least the same testing requirements and standards as the dairies that produce milk for pasteurization.

(Continued on page 2)

Prepared by: Kristin Ryan, Director  
 Division: Environmental Health  
 Approved by: Dan Easton  
Department of Environmental Conservation

Phone 907-269-7644  
 Date/Time 2/25/08 1:50 PM  
 Date 2/25/2008

**FISCAL NOTE**

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

**BILL NO. HB 367**

**ANALYSIS CONTINUATION**

(Continued from page 1)

Such dairies must have their raw milk tested before it is pasteurized. The raw milk final product should also be tested in similar fashion to "ready to eat" foods such as cheese.

For monitoring purposes, DEC would require ten tests to be performed each month per dairy or distributor at the DEC Laboratory. These tests include general bacterial counts, specific microbiology tests for pathogens, and antibiotic screening. To fully protect the consuming public, the dairies themselves would also need to conduct more frequent testing at their facility prior to sale and distribution. The dairy laboratories would need to be approved and monitored by DEC under the existing laboratory certification process currently in place for creameries. And finally, the sale and distribution of raw milk products will increase the demand on DEC retail food and restaurant inspections to verify proper labeling and that the products are from an approved source.

This fiscal note assumes certification, inspection, testing, and monitoring of seven dairies, all on the road system in the Mat-Su Valley and will add three new positions to perform these tasks. One Microbiologist would be hired to perform the laboratory certification activity, which would include ongoing training of dairy laboratory staff. This position would also conduct the associated testing performed at the DEC laboratory. Two Environmental Health Officers would be hired to perform dairy inspections, collect and process dairy samples, and to conduct the retail food and restaurant inspections and surveillance.

First year costs include expenditures to promulgate new regulations and equipment costs for the new positions that are not reflected in subsequent years. Thereafter, costs include position support costs, laboratory testing supplies, training supplies, and general office supplies; travel for inspection, surveillance, and monitoring of dairies, dairy laboratory operations, and retail food establishments.

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 367  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 RDU: Public Health  
 Component: Epidemiology

ID(File name) HB367-DHSS-EPI-02-27-08  
 Title: SALE OF RAW MILK PRODUCTS  
 Sponsor: NEUMAN  
 Requester: HOUSE (RES)

Component No. 296

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

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

	Appropriation Required	Information						
		FY 2009	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>		*	0.0	*	*	*	*	*
<b>CAPITAL EXPENDITURES</b>								
<b>CHANGE IN REVENUES (0)</b>								

**FUND SOURCE (Thousands of Dollars)**

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts	*		*	*	*	*	*
1003 GF Match							
1004 GF							
1037 GF/Mental Health							
Other(Specify Type-do not abbreviate)							
Other(Specify Type-do not abbreviate)							
<b>TOTAL</b>	*	0.0	0.0	*	*	*	*

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

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

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

This legislation allows, with the proper labeling, the sale of raw milk and products made from raw milk. Without pasteurization to eliminate pathogens, raw milk presents a greater risk than a pasteurized product. While no specific estimates are possible, it is highly likely that bacterial outbreaks will occur, prompting investigation and follow-up from the Section of Epidemiology.

This fiscal note is indeterminate. However, a typical investigation into a bacterial foodborne outbreak, involving 10 affected people, would involve significant staff time and resources. An example spreadsheet is attached.

Prepared by: Jay C. Butler, MD  
 Division: Chief Medical Officer  
 Approved by: Karleen Jackson, Commissioner  
 Agency: Department of Health and Social Services

Phone 269-8045  
 Date/Time 02/27/2008  
 Date 02/27/2008

FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO: HB 367

ANALYSIS CONTINUATION

Item	Time	Cost
Epidemiologist to coordinate outbreak <ul style="list-style-type: none"> <li>• Full time for a week</li> <li>• 3 hours/day in the following week</li> </ul>	52.5 hours	Section of Epi Note: Estimated hourly cost (salary/benefits only) is \$85.00/hr for an Epidemiologist.
Epidemiologist to assist with outbreak <ul style="list-style-type: none"> <li>• Full time for a week</li> <li>• 3 hours/day in the following week</li> </ul>	52.5 hours	Section of Epi
PH Nurse to assist with investigation <ul style="list-style-type: none"> <li>• Full time for a week</li> <li>• 2 hours/day in the following week</li> </ul>	47.5 hours	Section of Nursing Note: Estimated hourly cost (salary/benefits only) is \$58.00/hr for a PH Nurse II.
Medical epidemiologist supervisor to consult <ul style="list-style-type: none"> <li>• 2 hours/day for a week</li> <li>• 2 hours/week for the following week</li> </ul>	12 hours	Section of Epi
State epidemiologist to provide oversight and review of reports <ul style="list-style-type: none"> <li>• 1 hour/day for a week</li> <li>• 1 hour/week in the following week</li> </ul>	6 hours	Section of Epi
Travel to the field for 5 days <ul style="list-style-type: none"> <li>• Per diem 3 persons x 5 days</li> <li>• Lodging 3 persons x 5 nights</li> <li>• Airfare 2 persons RT</li> </ul>		Epi and Nursing
DEC food safety staff person to assist with investigation <ul style="list-style-type: none"> <li>• 2 full days</li> </ul>	16 hours	DEC
ASPHL to perform lab testing <ul style="list-style-type: none"> <li>• Confirm isolate</li> <li>• Serotyping</li> <li>• PFGE</li> </ul>	Up to 18 hours for each isolate	Section of Labs
PIO time to respond to issues <ul style="list-style-type: none"> <li>• 2 hours/day for a week</li> </ul>	10 hours	Commissioner's Office

# ALASKA STATE LEGISLATURE

**Chair:**  
Special Committee on Economic Development,  
Trade, & Tourism

**Vice Chair**  
Committee on Labor and Commerce

**Vice Chair:**  
Committee on Transportation

**Member:**  
Committee on Community and Regional Affairs  
Special Committee on Oil and Gas



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## REPRESENTATIVE MARK NEUMAN

Representative\_Mark\_Neuman@legis.state.ak.us

### Sponsor Statement for House Bill 367

#### "Sale of Raw Milk and Raw Milk Products in Alaska"

As you may be aware, the dairy farmers in Alaska no longer have a market for their milk. All of our milk now comes from Washington, Oregon or California in refrigerated trailers on a barge, shortly before the end of its shelf life.

Raw milk is available to consumers through cow-share and herd-share programs in Alaska, but these are cumbersome to administer and of limited value to our farmers. The proposed bill would expand the market for Alaska dairy farmers, help them stay in business, strengthen the rural economy and provide a safe and nutritious product for Alaska citizens.

# ALASKA STATE LEGISLATURE

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## REPRESENTATIVE MARK NEUMAN

Representative\_Mark\_Neuman@legis.state.ak.us

### “HB 367”

#### Summary on the Sale of Raw Milk and Raw Milk Products

According to the FDA and other government officials, raw milk is a public health hazard that puts consumers at risk. You have received documents citing dire health risks from the consumption of raw milk and the FDA has a long powerpoint presentation on its website which argues that raw milk should not be consumed. The enclosed document is a point by point rebuttal of the FDA powerpoint. To summarize:

1. The FDA presents 15 studies purporting to show that raw milk has caused illness and that pasteurization could have protected the public from the illness. Careful analysis reveals that every one of these reports is seriously flawed. In 14 of the studies, there was either no valid positive milk sample or no valid statistical association; in 7 of the studies the findings were misrepresented by the FDA; in 5 of the studies alternative explanations were discovered but not pursued; in 2 of the studies, there was no evidence that anyone consumed raw milk products; and in one study the outbreak did not even exist.
2. All of the outbreaks of listeria attributed to raw milk involved soft cheeses. It is actually impossible to determine whether a cheese is raw using current tests so these cheeses were not necessarily raw as FDA claims. Cases of listeria in raw milk are virtually nil.
3. Not one of the studies presented showed that pasteurization would have prevented the outbreak. The FDA does not present evidence showing that dangerous organisms can survive pasteurization nor that there have been many outbreaks of illness from pasteurized milk.
4. The vast majority of reports on illness caused by raw milk are seriously flawed. But even using these flawed FDA counts of illness, raw milk accounts for only 0.4% of cases of foodborne illness between 1998 and 2005. This is an extremely low number considering that about 5% of all servings of milk consumed are raw milk.