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MEMORANDUM

March 13, 2009

SUBJECT: 2009 Revisor's Bill Sectional Summary - HB 152
(Work Order No. 26-LS0158\E)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee
Attn: Jane Pierson

FROM: Kathryn L. Kurtz
Assistant Revisor

The following is a sectional summary of the 2009 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 2 - 5, 7, 15, 18 - 21, 23, 28, 29, 35, 38, 39, 43, 44, 46, 52, 65 - 69, 73, 81, 84, 85, 88, 89, and 91 amend or repeal provisions that have become obsolete through other legislative action.

Sections that correct errors or oversights: Sections 8, 10, 13, 14, 16, 25, 26, 30 - 32, 40, 47, 54, 63, 70 - 72, 74 - 77, 80, 82, 83, 86, and 87 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 1, 6, 9, 11, 12, 17, 22, 24, 27, 33, 34, 36, 37, 41, 42, 44, 45, 48 - 51, 53, 55 - 62, 64, 78, and 79 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL SUMMARY

Bill section 1 substitutes a generic description for a specific reference to the division of agriculture in AS 03.09.020(a). There is no statutorily created division of agriculture. Currently there is an administratively created division of agriculture within the Department of Natural Resources; however, that name could be changed

administratively. The generic reference will apply no matter what name is given to the division administratively.

Bill section 2 substitutes a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences" in AS 03.22.010. The University no longer has an institute called the "Institute of Agricultural Sciences." According to the office of the Dean of the School of Natural Resources and Agricultural Sciences, what was the Institute of Agricultural Sciences is now known as the Agricultural and Forestry Experiment Station.

Bill section 3 amends AS 03.22.020 by substituting a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences". See bill section 2.

Bill section 4 amends AS 03.22.040 by adding "and Forestry" to reflect the current name of the University of Alaska Agriculture and Forestry Experiment Station and makes the reference to the University generic for consistency with other references. See bill section 2.

Bill section 5 amends AS 03.22.050 by substituting a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences". See bill section 2.

Bill section 6 substitutes a generic description for a specific reference to the division of agriculture in AS 03.47.040(2). See bill section 1.

Bill section 7 amends AS 03.58.010 to expand a spanned reference to the federal Organic Foods Production Act of 1990 to include a new section added in 2002.

Bill section 8 amends AS 08.36.246(a) to repeal subparagraph (B), which refers to "a specialty examination given by the Central Regional Examining Board" because there is no such exam given by that entity. The Chief Assistant Attorney General of the Legislation and Regulations section at the Attorney General's office is in accord with this change.

Bill section 9 inserts the word "acid" in AS 11.56.762 to reflect the full name of the system established in AS 44.41.035.

Bill section 10 corrects an apparent error by changing "adopted parent" to "adoptive parent" in AS 12.55.125(b). Although Alaska law provides a process for parents to adopt children, it does not provide for the adoption of parents by children.

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Bill section 11 adds an "or" and changes "from" to "to" to improve the form and readability of AS 12.61.020(a).

Bill section 12 deletes two commas to improve the form and readability of AS 12.61.020(c).

Bill section 13 deletes "is" and inserts "are" to create agreement between the two subjects and the verb in the first sentence of AS 12.62.160(a).

Bill section 14 changes "heirs" plural to the singular "heir" in AS 13.06.050(21) to match the singular tense used elsewhere in the paragraph. Under AS 01.10.050, words in the singular include the plural. In this instance, use of the singular throughout improves readability.

Bill section 15 amends AS 14.03.075(g)(2) to delete a reference to the definition of "individualized education program team" in AS 14.30.350, since that definition was repealed in 2001. This section replaces the reference with a description.

Bill section 16 changes the phrase "counting period" in AS 14.17.600 to "count period" to match the usage in AS 14.17.420(a)(2) and 14.17.990.

Bill section 17 adds a new subsection to AS 14.17.920, providing that the Department of Education and Early Development shall, by regulation, define the term "school" for purposes of AS 14.17. This codifies sec. 40(b), ch. 83, SLA 1998. While the revisor has the power to codify uncodified law editorially, the significance of this provision suggests that public review would be a good idea. If the legislature determines that sec. 40(b), ch. 83, SLA 1998 was not intended to be of unlimited duration, instead of codifying this section, it could be repealed.

Bill section 18 amends AS 14.17.990(5) to reflect the repeal of 20 U.S.C. 7703(f)(2)(B), by inserting the word "former".

Bill section 19 deletes "by July 1, 1997," from AS 14.20.149(a), as the deadline has become obsolete.

Bill section 20 amends AS 14.30.174(b)(2) to update a reference to federal law. The sections at the end of the previous spanned reference (20 U.S.C. 7141 - 7142) were omitted in a 2002 revision of the law, however, similar provisions were added at 20 U.S.C. 7161 - 7165, under the heading of safe and drug-free schools and communities. Since additional sections may be added to the federal law, the change in this section is to "et seq."

Bill section 21 amends AS 14.35.025 by deleting a reference to the "United States Department of Health, Education, and Welfare," which no longer exists (it has been

superseded by the Department of Health and Human Services and the Department of Education), and inserting a generic reference to "the appropriate federal agency."

Bill section 22 deletes the word "or" in one place in AS 14.40.826(a)(5), and adds commas and the word "have" in two places to improve the form and readability of the paragraph.

Bill section 23 amends AS 14.50.010 to indicate the repeal of 20 U.S.C. 401 - 602.

Bill section 24 amends AS 14.57.199 to substitute a generic description for a specific reference to the division of state libraries, archives, and museums. The division is not created in statute and could be renamed or reorganized administratively.

Bill section 25 deletes "two-thirds" and replaces it with "three-fourths" in AS 15.45.160 and adds a provision relating to the minimum number of signatures per district to conform this section to AS 15.45.140 and article XI, sec. 3, Constitution of the State of Alaska.

Bill section 26 deletes "two-thirds" and replaces it with "three-fourths" in AS 15.45.390 and adds a provision relating to the minimum number of signatures per district to conform this section to AS 15.45.370 and article XI, sec. 3, Constitution of the State of Alaska.

Bill section 27 makes a conforming change in AS 17.37.070(6) to reflect the removal of the definition of "treatment facility" in AS 47.14.990(12). The term "treatment facility" is not used anywhere in AS 47.14, so a definition of the term does not belong in AS 47.14.990. The term "treatment facility" is used in AS 47.12, and a definition of the term identical to that in AS 47.14.990 appears in AS 47.12.990. AS 17.37.070(6) refers to the definition of "treatment facility" in AS 47.14.990. Since that term and the other terms defined by reference are also defined in AS 47.12.990, and those definitions are identical to the ones found in AS 47.14.990, a reference to AS 47.12.990 is substituted for the original reference here to preserve the content of the definitions for purposes of this section despite the removal of the definition of "treatment facility" in bill section 77.

Bill section 28 deletes material applicable only before October 1, 2006 from AS 19.15.025(a).

Bill section 29 deletes material applicable only before October 1, 2006 from AS 19.15.025(b).

Bill section 30 deletes the word "care" and inserts "insurance" in AS 21.54.120(a) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

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Bill section 31 deletes the word "care" and inserts "insurance" in AS 21.54.500(11) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

Bill section 32 deletes the word "care" and inserts "insurance" in AS 21.54.500(17) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

Bill section 33 replaces a comma with the word "and" to improve the readability of AS 23.05.060(3).

Bill section 34 deletes "Alaska Workers' Compensation Board" in AS 23.05.067(a)(1)(B) and replaces it with "division of workers' compensation in the department." The reports referred to in AS 23.30.155(m) and (n) are made to the division.

Bill section 35 amends AS 23.20.175(c) to remove an obsolete date reference.

Bill section 36 is a conforming amendment to AS 23.20.276(b) that reflects the repeal of AS 23.20.525(a)(4) and (5) and the renumbering of paragraphs in AS 23.20.525(a) in bill section 41.

Bill section 37 amends AS 23.20.277(c) to remove a paragraph that has become obsolete, as well as an obsolete date reference.

Bill section 38 is a conforming amendment to AS 23.20.278 that reflects the renumbering of paragraphs in AS 23.20.525(a) in bill section 41.

Bill section 39 corrects a citation in AS 23.20.401(b)(2) to reflect a 1982 renumbering of the referenced paragraph in the U.S.C. It also replaces a citation to the definition of legal process in 42 U.S.C. 662 (which has been repealed), with a reference to the definition in 42 U.S.C. 659(i)(5).

Bill section 40 amends AS 23.20.408(h) to remove a reference to AS 23.20.408(g), since that subsection has not included the defined phrase since 1982.

Bill section 41 amends AS 23.20.525(a) to remove several obsolete date references, to repeal paragraphs (4) and (5) which have become obsolete, and to renumber the remaining paragraphs. Also makes a conforming change in AS 23.20.525(b).

Bill section 42 makes conforming changes required by the renumbering of paragraphs in AS 23.20.525(a) in bill section 41. Replaces the words "newsboys" and "salesman" in AS 23.20.526(a) to avoid use of gender specific terms; the phrase "service performed by an individual under the age of 18", used to replace "newsboys", is found in 26 U.S.C. 3306(c)(15)(A). Deletes a grammatically incorrect occurrence of the word "some".

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Inserts "United States" before "Secretary of Labor" and substitutes "that" for "which" to conform with current drafting style.

Bill section 43 makes conforming amendments in AS 23.20.526(d) required by the renumbering of paragraphs in AS 23.20.525(a) in bill section 41.

Bill section 44 removes obsolete date references in AS 23.20.530(b), and changes the word "tax" to "taxation". Also substitutes "that" for "which" and semi-colons for commas to conform to current drafting style.

Bill section 45 amends AS 24.05.135(c) to substitute a generic description for a specific reference to the division of state libraries, archives, and museums. The division is not created in statute and could be renamed or reorganized administratively.

Bill section 46 amends AS 25.27.125(a), which refers to federal incentive payments received by the state under 42 U.S.C. 658. However, 42 U.S.C. 658 was repealed in 1998. The current federal statute relating to incentive payments is 42 U.S.C. 658a, so after consulting with the Department of Law, we have substituted a reference to that section instead.

Bill section 47 shortens the descriptive phrase "voter approval of alteration or abolishment of service areas" in AS 29.10.200(46) to "service areas" to reflect the scope of AS 29.35.450. Under AS 29.35.450(d), all of AS 29.35.450 applies to home rule municipalities, not just subsection (c), which deals with voter approval of alteration or abolishment of a service area. This corrects a drafting error.

The section amends a reference in AS 29.10.200(50) to reflect the 1992 renumbering of AS 29.45.570 as AS 29.45.800.

This section also amends AS 29.10.200(57) to remove "construction" and insert "revenue bonds" to reflect the actual content of AS 29.47.260 as noted in the current catchline. The original catchline for AS 29.47.260 was "construction" and that has been changed editorially to "Applicability of AS 37.10.085", but the text of the section, which relates to revenue bonds, has not been changed. AS 37.10.085 relates to financial aid to corporations by the state or a political subdivision of the state.

Bill section 48 adds language to AS 29.46.010(b) indicating that the subsection applies to home rule municipalities. The subsection already appears on the list in AS 29.10.200 of limitations on home rule powers. The change brings this section into conformity with other sections on the list, which include applicability in the text of the section listed.

Bill section 49 changes the word "section" in AS 29.46.030(a) to "subsection", since only subsection (a) of that section refers to findings.

Bill section 50 amends AS 29.60.860(b) to resolve a contradiction between the first and second sentences of the subsection. The agency has indicated that the revised wording is consistent with the agency's interpretation of the statute.

Bill section 51 deletes a reference to AS 12.55.185 in AS 33.16.090(c)(1) and replaces it with a reference to AS 12.55.127. The definition referred to in AS 12.55.185 simply directs the reader to the definition in AS 12.55.127, so the change enables the reader to refer to the relevant section directly.

Bill section 52 amends AS 33.30.015 by deleting "on and after August 17, 1999", a phrase setting a date after which the commissioner of corrections may not perform certain actions. Since the date is long past, the phrase is no longer needed.

Bill section 53 amends AS 38.07.030 to substitute a generic description for a specific reference to the division of agriculture, since that division is not created in statute and could be changed administratively. See bill section 1.

Bill section 54 amends AS 39.25.110(14) by adding the word "Alaska" before "Oil and Gas Conservation Commission", to conform to the statutory name of that commission created in AS 31.05.005.

Bill section 55 amends AS 41.10.100(b)(6) by substituting a generic description for a specific reference to the division of agriculture. See the full explanation at bill section 1.

Bill section 56 amends AS 44.41.035(b) by inserting "identification" in two places in order to make all references to the DNA identification registration system consistent.

Bill section 57 amends AS 44.41.035(l) by inserting the word "identification" in order to make all references to the DNA identification registration system consistent.

Bill section 58 amends AS 44.41.035(n) by inserting "identification" in order to make all references to the DNA identification registration system consistent.

Bill section 59 amends AS 44.41.035(p) by inserting "DNA" in order to make all references to the DNA identification registration system consistent.

Bill section 60 amends AS 45.07.309(a) to change "man" to "person" in order to avoid a gender specific reference, and "must" to "shall" since the subsection imposes a duty on a person.

Bill section 61 amends AS 45.10.220(6) to change the phrase "multiplied times" to "multiplied by" to conform to usage elsewhere in the Alaska Statutes.

Bill section 62, without changing the wording of the section, removes the subparagraph designators (A) and (B), making AS 45.14.403(a)(2) a unitary paragraph, rather than a

paragraph with subparagraphs. This change is consistent with the Article 4A of the Uniform Commercial Code. It removes an inappropriate break following subparagraph (A) to clarify that the phrase "payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact" applies to the material in (A) as well as (B).

Bill section 63 corrects a reference in AS 45.29.313(b) to reflect the content of the corresponding sections of Article 9 of the Uniform Commercial Code (secured transactions).

Bill section 64 removes an extraneous "or" from AS 45.29.314(a).

Bill section 65 amends AS 45.50.471(b)(34) to remove AS 08.66.200 - 08.66.250 from a spanned reference, since those sections were repealed in 2002.

Bill section 66 updates a reference to federal law in AS 46.03.450(8). The section cites 49 U.S.C. 1671 et seq.; following revisions to the federal code, those sections no longer exist. However, they formed the basis of the new 49 U.S.C. 60101 et seq., so those sections are cited instead.

Bill section 67 removes an outdated date reference from AS 46.06.090(a).

Bill section 68 removes an outdated date reference from AS 46.06.090(b).

Bill section 69 removes a reference to AS 46.14.170(b) from AS 46.14.170(c); this is a conforming amendment required by the repeal of AS 46.14.170(b). See bill section 88.

Bill section 70 changes a reference in AS 46.14.300(c) from "15 U.S.C. 631" to "15 U.S.C. 632." AS 46.14.300(c) refers to the definition of a "small business concern." 15 U.S.C. 631 is the first section of the federal Small Business Act, but it is a purpose section and does not contain a definition of "small business concern." Criteria for identifying a "small business concern" are listed in 15 U.S.C. 632, and that section is referred to as the source of the definition elsewhere in federal law. See sec. 2, 105 P.L. 135 (Small Business Reauthorization Act of 1997) ("the term 'small business concern' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632)").

Bill section 71 changes a reference in AS 46.14.990(24) from "15 U.S.C. 631" to "15 U.S.C. 632." See bill section 70 for further explanation.

Bill section 72 updates a reference in AS 46.15.035(c)(2) from AS 16.05.870 to AS 16.05.871. AS 16.05.870 was repealed and renumbered as AS 41.14.870 by Executive Order No. 107, and that section was in turn repealed and renumbered as AS 16.05.871 in Executive Order No. 114. This section inserts the current cite.

Bill section 73 amends AS 46.15.165(c) by inserting the word "former" before a reference to 43 U.S.C. 270-1 and 270-2, to reflect the 1971 repeal of those sections. The reference is to land for which the patent, deed, or certificate was issued under those sections, so the reference should be retained.

Bill section 74 adds two words to AS 46.30.080 to correct a reference to the name of the advisory board created in AS 46.30.020, consistent with other references to the board in AS 46.30.

Bill section 75 amends AS 47.10.396 to remove the word "nonprofit" in two places to conform to amendments made by ch. 107, SLA 1998 to AS 47.10.392, 47.10.398, and 47.10.399, which now refer to corporations rather than nonprofit corporations.

Bill section 76 adds a subsection to AS 47.14.100 defining the term "adult family member" for purposes of that section. This change is related to the repeal of AS 47.14.295(1). The phrase "adult family member" is not used in AS 47.14.205 - 47.14.295, and has not been since those sections were enacted in 2005. However, the term is also used, without benefit of definition, in AS 47.14.100(e), (f), and (m). It appears that the placement of the definition in AS 47.14.295(1) instead of where it would apply to AS 47.14.100 was a drafting error in ch. 64, SLA 2005. This section relocates the definition to where it is needed. For the repeal of AS 47.14.295(1), see bill section 88.

Bill section 77 removes the term "treatment facility" from AS 47.14.990(12), because that term is not used in AS 47.14. See bill section 27.

Bill sections 78 and 79 amend AS 47.30.660(b) and AS 47.30.662(c) to substitute a generic description for specific references to the division of mental health and developmental disabilities. The department no longer has a division with that name, and the former division's duties have been divided among other divisions.

Bill section 80 expands a citation in AS 47.30.772, enacted in 1984 and amended in 1992, to reflect the 2004 addition of AS 47.30.817 to the AS 47.30 article relating to patient rights.

Bill section 81 updates a spanned reference in AS 47.30.835(b), which now refers to "a determination of legal incapacity under AS 13.26.005 - 13.26.330." Since this section was enacted in 1981, AS 13.25.325 and .330, relating to powers of attorney and disability and incompetence, have been repealed. This bill section removes AS 13.25.325 and .330 from the scope of the spanned reference.

Bill section 82 changes the word "lead" in AS 47.30.838(b) to "led". Although the mistake appeared in the enacting law, the past tense is clearly more appropriate in this context.

Bill section 83 expands a citation in AS 47.30.855 to reflect the 2004 addition of AS 47.30.817 to the AS 47.30 list of patient rights.

Bill section 84 updates a citation in AS 47.80.040(a), deleting "20 U.S.C. 1482", which was repealed in 2000, and inserting "42 U.S.C. 15025", which contains similar provisions. It also deletes the word "planning", since the term "planning council" was used in 20 U.S.C. 1482, but 42 U.S.C. 15025 refers to "councils".

Bill section 85 updates several citations in AS 47.80.090. 42 U.S.C. 6024 and 42 U.S.C. 6022 have been repealed; 40 U.S.C. 15025 and 40 U.S.C. 15024 contain similar provisions. 20 U.S.C. 1483 - 1485 have been omitted from the U.S.C., so the spanned reference has been shortened accordingly. 42 U.S.C. 6000 - 6083 have been repealed and 42 U.S.C. 15001 - 15083 contain similar provisions.

Bill section 86 amends sec. 14, ch. 137, SLA 2002, which contains a delayed amendment to AS 16.43.970(b). The existing delayed amendment would sunset changes made to that section in 2002 effective December 30, 2013. An intervening amendment was made to AS 16.43.970(b) in sec. 16, ch. 42, 2006, adding the words "in the second degree" after "unsworn falsification" to conform to a change in AS 11.56.210 of the designation of that crime. The 2006 Act did not make a conforming change to the delayed amendment. This bill remedies that omission by adding the words "**in the second degree**" to the text of the delayed amendment scheduled to take effect in 2013. This will have the effect of retaining the intervening amendment. Note that the other changes indicated in the section, including deletion of "vessel interim-use permit, or vessel entry permit" are the changes made by the 2002 sunset provision. The only change being made in this bill is the addition of the words "**in the second degree**", which is a conforming amendment.

Bill section 87 amends sec. 12, ch. 50, SLA 2005 to remove the repeal of AS 14.25.070(b). AS 14.25.070(b) was enacted in 2005, and relettered as (c) that same year. AS 14.25.070 was repealed and reenacted July 1, 2008 by sec. 3, ch. 13, SLA 2008. This change corrects an oversight in sec. 3, ch. 13, SLA 2008. See bill section 89.

Bill section 88 repeals several sections.

- AS 08.36.246(a)(4)(B) appears to be obsolete since the Central Regional Examining Board does not offer a specialty examination.
- AS 31.05.080(b) was impliedly repealed by the enactment of AS 22.10.020(d), *Allen v. Alaska Oil and Gas Conservation Commission*, 147 P.3d 664, 667 - 668 (Alaska 2006); here, the repeal is made express.
- AS 44.88.180(b) was made obsolete by the 1982 amendment of AS 44.88.180(a), and was removed from the statutes when the changes to AS 44.88.180(a) were made, but was not expressly repealed by ch. 113, SLA 1982.
- AS 46.14.170(b) provides for "a phased schedule for acting on operating permit applications submitted within 12 months following the date on which the federal administrator approves the state program under 42 U.S.C. 7661a(d)". The federal administrator gave the final interim approval of the state program in 1996. See 61

Federal Register 64463-64475 (December 5, 1996). Full approval of the operating permit program was effective November 30, 2001. See 66 Federal Register 63,184 (December 5, 2001). Since well more than 12 months have passed since the federal approval, this subsection has become obsolete.

- AS 46.14.990(13) defines the term "fugitive emissions", which is not found anywhere else in the Alaska statutes. The term was used in the definition of "potential to emit" in AS 46.14.990(21), until that definition was repealed and reenacted in sec. 57, ch. 46, SLA 2003.
- AS 47.14.295(1) defines the phrase "adult family member" for purposes of AS 47.14.205 - 47.14.295, where it is not used. See bill section 76.
- AS 47.14.990(11) defines the phrase "serious offense", which does not appear in the chapter to which AS 47.14.990 applies.
- AS 47.20.390(4) defines the term "health care insurer". That term does not appear elsewhere in AS 47.20.300 - 47.20.390, so the definition is superfluous.
- Secs. 33 and 34, ch. 122, SLA 1977, provide for the sunset of several changes to the state's unemployment compensation laws in case the federal law underlying those changes is held to be unconstitutional or is repealed. When these sections were enacted, in the spring of 1977, there was a live controversy about the constitutionality of 26 U.S.C. 3304(a)(6), as amended in 1976, which, among other things, required states to cover employees of the state and its political subdivisions in order to obtain federal certification of the state program and its concomitant tax and grant benefits. Other states challenged the constitutionality of the federal law, arguing that it constituted an impermissible infringement on state sovereignty under the Tenth Amendment to the federal constitution. In *New Hampshire Department of Employment Security v. Marshall*, 616 F.2d 240 (1st Cir. 1980), *cert. denied* 449 U.S. 806 (1980), the court held that the 1976 amendments to the federal unemployment tax act did not impair the sovereignty of New Hampshire. In *County of Los Angeles v. Marshall*, 631 F.2d 767, 769 (D.C. Cir. 1980), *cert. denied* 449 U.S. 837 (1980), the D.C. circuit adopted the first circuit's reasoning, holding that the "voluntary and wholly optional aspect" of the federal program defeated the argument that there was an "coercion and improper transgression upon the sovereignty of the state shielded by the *Tenth Amendment*." (emphasis in original). So, when the legislature enacted the changes necessitated by 26 U.S.C. 3304(a)(6) in 1977, there was an active controversy about whether the 1976 amendment to the federal act was constitutional. By the end of 1980, that controversy had been resolved in favor of the constitutionality of the federal statute, and the Supreme Court had declined to review the issue. However, the provisions of secs. 33 and 34, ch. 122, SLA 1977, providing for the return of several sections of the Alaska Statutes to their pre-1977 state, remains. The first paragraph of sec. 34's contingency language appears to be obsolete, given the resolution of the constitutional controversy. The second paragraph, calling for the sunset of the changes to the Alaska statutes in case 26 U.S.C. 3304(a)(6) is repealed, could conceivably take effect. However, it seems likely that this second paragraph was inserted in the contingency in case the federal government decided to repeal the offending section rather than

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litigating the issue to its conclusion--which is not what happened. It is not clear that the 1977 legislature meant for the changes to the Alaska statutes to be reversed if the federal statute were repealed for some other reason more than 30 years later. Arguably, then, the entire contingency provision has become obsolete.

Bill section 89 repeals AS 14.25.070(e), which relies on AS 14.20.135, to reflect the repeal of AS 14.20.135 under secs. 12 and 15, ch. 57, SLA 2001, as amended by sec. 6, ch. 15, SLA 2003, and by secs. 10 and 17, ch. 50, SLA 2005.

Bill section 90 conditions the effectiveness of bill section 89 on the repeal of AS 14.20.135.

Bill section 91 repeals sec. 34, ch. 122, SLA 1977, which is the effective date for sec. 33, ch. 122, SLA 1977. See bill section 88.

Bill section 92 provides an effective date for sec. 89.

Bill section 93 provides a special effective date for bill section 59, which amends AS 44.41.035(p), since that subsection will not take effect until July 1, 2009. The effective dates of the section and of the change made to the section in this bill should be the same.

Bill section 94 provides an immediate effective date for the bill, except sections 59 and 89.

Please give me a call if you have any questions about the above.

TEXT OF REPEALED PROVISIONS

AS 08.36.246(a)(4)(B):

(B) pass a specialty examination given by the Central Regional Examining Board;

AS 31.05.080(b):

(b) A person who has applied for reconsideration and is dissatisfied with the disposition of the application for reconsideration may appeal to the superior court. The questions reviewed on appeal are limited to the questions presented to the commission by the application for reconsideration.

AS 44.88.180(b):¹

(b) The state officer serves as a member from time to time and for all purposes of this chapter is a member for the purpose of voting on the resolution but after each vote the authority shall again consist of members referred to in AS 44.88.030 only, until one or more members may not again vote on a resolution because of the prohibition.

¹ AS 44.08.180(a) was amended by sec. 56, ch. 113, SLA 1982 as follows:

(a) A [NO] member of the authority may **not** vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if **the member** [HE] is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association **that** [WHICH] may be a party to the contract or lease. **A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes.** [IF A PERSON MAY NOT VOTE BECAUSE OF THIS PROHIBITION, FOR ALL PURPOSES REGARDING ACTION OF THE AUTHORITY RELATING TO ADOPTION OF THE RESOLUTION, THE POSITION OF THE PERSON AS A MEMBER SHALL BE TRANSFERRED TO THE FIRST ONE OF THE FOLLOWING STATE OFFICERS WHO IS NOT THEN ACTING AS A MEMBER AND WOULD NOT BE PROHIBITED FROM VOTING ON THE RESOLUTION BECAUSE OF THE SAME PROHIBITION: COMMISSIONER OF ADMINISTRATION, ATTORNEY GENERAL, COMMISSION OF REVENUE, COMMISSIONER OF HEALTH AND WELFARE, COMMISSIONER OF LABOR, COMMISSIONER OF PUBLIC WORKS, COMMISSIONER OF PUBLIC SAFETY.]

AS 46.14.170(b):

(b) Notwithstanding (a) of this section, the department may establish a phased schedule for acting on operating permit applications submitted within 12 months following the date on which the federal administrator approves the state program under 42 U.S.C. 7661a(d). A phased schedule must ensure that at least one-third of the applications submitted during the first 12 months of the state's operation of its permit program after federal approval will be acted on by the department during each of the first three 12-month periods following federal approval of the program. The department shall give priority to the issuance of permits for new stationary sources and modifications of existing stationary sources.

AS 46.14.990(13):

(13) "fugitive emissions" has the meaning given in 40 C.F.R. 51.166(b);

AS 47.14.295(1):

(1) "adult family member" has the meaning given in AS 47.10.990;

AS 47.14.990(11):

(11) "serious offense" has the meaning given in AS 12.62.900;

AS 47.20.390(4):

(4) "health care insurer" means an entity regulated by the director of insurance, Department of Commerce, Community, and Economic Development, and includes a health, hospital, or medical service plan corporation, and a health maintenance organization;

Section 33, ch. 122, SLA 1977:

*** Sec. 33.** Sections 4, 5, 13, 15, 16, 21 and 22 of this Act, AS 23.20.525(a)(14) as enacted in sec. 18 of this Act, and the repeal of AS 23.20.526(a)(16) and (18) enacted in sec. 25 of this Act, are repealed and the language of AS 23.20.278, 23.20.325(a), 23. 20.520(12), 23.20.525(a)(4), (5), and (14), 23.210.526(a)(16) and (18) and 23.20.526(d), as it existed before January 1, 1978, is revived.

Section 34, ch. 122, SLA 1977:

*** Sec. 34.** Section 33 of this Act takes effect upon the condition and at the time that:

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(1) a decision of a federal court of competent jurisdiction, which decision is not subject to appeal or for which the time in which to appeal has run without and appeal having been taken, that the requirement of 26 U.S.C. 3304(a)(6) is unconstitutional becomes final; or

(2) Congressional repeal of 26 U.S.C. 3304(a)(6) takes effect in accordance with law.

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