

**SENATE RESOLUTION NO. 5**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Introduced: 2/6/09**  
**Referred: Taken Up**

**A RESOLUTION**

1 **Relating to subpoenas issued by the Senate Judiciary Committee and to compliance with**  
2 **those subpoenas.**

3 **BE IT RESOLVED BY THE SENATE:**

4 **WHEREAS**, on July 28, 2008, the Alaska Legislative Council unanimously  
5 authorized an investigation into the events and circumstances surrounding the termination of  
6 former commissioner of public safety Walt Monegan; and

7 **WHEREAS**, on September 12, 2008, the Senate Judiciary Committee, under  
8 AS 24.25.010, authorized the issuance of subpoenas to witnesses in the case; and

9 **WHEREAS**, at the same hearing, the House Judiciary Committee unanimously  
10 concurred in the issuance of the subpoenas; and

11 **WHEREAS**, within a few days, the subpoenas for Todd Palin, Randy Ruaro, and Ivy  
12 Frye were all served on their respective attorneys, and the subpoenas required Mr. Palin, Mr.  
13 Ruaro, and Ms. Frye to appear before the Senate Judiciary Committee on September 19, 2008;  
14 and

15 **WHEREAS**, on September 19, 2008, Todd Palin, Randy Ruaro, and Ivy Frye failed to  
16 appear before the Senate Judiciary Committee in compliance with the subpoenas that had

1 been served on them; and

2 **WHEREAS**, the subpoenas for Annette Kreitzer, Dianne Kiesel, Nicki Neal, Brad  
3 Thompson, Michael Nizich, Kris Perry, and Janice Mason, were not served immediately upon  
4 their issuance by the Senate Judiciary Committee, because Special Counsel Stephen  
5 Branchflower, who was charged with seeing that the subpoenas were served, received on  
6 September 12, 2008, the same day the subpoenas were issued, a written offer of cooperation  
7 from Assistant Attorney General Michael Barnhill; and

8 **WHEREAS**, Michael Barnhill promised the cooperation of the witnesses represented  
9 by the Department of Law, asking only that the subpoenas not be served, and Mr.  
10 Branchflower agreed not to serve the subpoenas and began scheduling depositions of the  
11 witnesses; and

12 **WHEREAS**, three days later, on September 16, 2008, that written promise of  
13 cooperation was countermanded by a letter from the Attorney General demanding that the  
14 subpoenas be withdrawn; and

15 **WHEREAS**, the subpoenas were then served on the seven witnesses represented by  
16 the Department of Law, requiring that they appear before the Senate Judiciary Committee on  
17 September 26, 2008; and

18 **WHEREAS**, on September 25, 2008, the Department of Law filed a lawsuit on behalf  
19 of Annette Kreitzer, Dianne Kiesel, Nicki Neal, Brad Thompson, Michael Nizich, Kris Perry,  
20 and Janice Mason, asking the court to declare invalid the subpoenas issued by the Senate  
21 Judiciary Committee; and

22 **WHEREAS**, on September 26, 2008, Annette Kreitzer, Dianne Kiesel, Nikki Neal,  
23 Brad Thompson, Michael Nizich, Kris Perry, and Janice Mason failed to appear before the  
24 Senate Judiciary Committee in compliance with the subpoenas that had been served on them;  
25 and

26 **WHEREAS**, on October 2, 2008, Superior Court Judge Peter Michalski dismissed the  
27 Department of Law's suit, finding that "AS 24.25.010 gives the legislature and the Senate  
28 Judiciary Committee's subpoena power" and that there had been "no due process or fair and  
29 just treatment violation" of anyone's rights; and

30 **WHEREAS**, on October 5, 2008, the Attorney General declared in a letter that "in  
31 light of Judge Michalski's decision . . . the seven state employees are willing to testify"; and

1           **WHEREAS**, on October 5, 2008, written interrogatories were sent to the seven  
2 witnesses who had failed to appear before the Senate Judiciary Committee on September 26,  
3 2008, as well as to Todd Palin, Randy Ruaro, and Ivy Frye; and

4           **WHEREAS**, on October 8, 2008, responses to those interrogatories were delivered to  
5 Special Counsel Stephen Branchflower; and

6           **WHEREAS**, on October 10, 2008, the Alaska Legislative Council unanimously  
7 adopted a motion stating that witnesses had "submitted responses to the interrogatories,  
8 thereby aiding the investigation";

9           **BE IT RESOLVED** by the Senate that, while the witnesses who did not appear as  
10 required by their subpoenas committed contempt, under the totality of the circumstances, the  
11 Senate imposes no penalty for their failure to appear.