

6/23/04

SPECIAL

SESSION –

LEGISLATIVE

PACKAGE,

JUNE 2004

HFIN

FILE

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 22, 2004

The Honorable Bill Williams
Alaska State Representative
State Capitol, Room 515
Juneau, AK 99801

Dear Representative Williams:

Welcome back to Juneau.

I know you share my excitement about the opportunity this special session provides to pass legislation the people of Alaska want and to resolve issues left unresolved during the regular session: POMV, tobacco tax, and workers' compensation.

We have an impressive list of accomplishments to our credit, both in the legislative arena, and at the administrative level. Accomplishments in which we can both take pride include:

- Modified statutes expediting oil and gas lease sales.
- Reduced delays in processing right-of-way applications for the gas pipeline.
- Streamlined the Department of Environmental Conservation water permitting process.
- Established fund to ensure mining companies have money for long-term reclamation for large mines and bonding for port facilities to assist Kensington mine startup.
- Approved long-term contract with Flint Hills, doubling state revenue.
- Increased the K-12 base student allocation by \$407 per student, increased the financial resources to the University of Alaska, and modified Alaska Housing Finance Corporation statutes to help provide teacher housing in rural Alaska.
- Added 20 new Troopers and six new criminal prosecutors.
- Strengthened drunk driving laws, increased the penalties for exploiting our children, and passed a crime bill which will provide enforcement officers and prosecutors the tools they need to keep our communities safe.
- Established the SeniorCare program to offer our needy seniors a prescription drug benefit.
- Created a statewide information clearinghouse to help eligible seniors get the benefits to which they are entitled.
- Established Alaska's first veterans' home.
- Increased Alaska's preparedness for potential terrorist threats.
- Provided additional opportunities for small business to participate in health insurance plans.
- Provided loans to communities to buy back out-of-state halibut and black cod quota shares, thus increasing local jobs.
- Advanced the extension of the Alaska railroad.

The Honorable Bill Williams
June 22, 2004
Page 2

In addition, I am pleased with the good work being done by state employees on many fronts, including: working to combat drug and alcohol abuse in our communities; participating in ongoing negotiations with three sponsor groups for a Stranded Gas Development Act contract to build the natural gas pipeline; permitting the Pogo and Kensington gold mines, among other mining projects; moving forward on oil and gas leasing on the Alaska Peninsula; and, negotiating new contracts with state employee unions.

We are also making progress in addressing the myriad of difficulties faced by the salmon industry, much of it with legislative help.

As I have noted, the three major issues remain to be addressed – workers' compensation, the tobacco tax increase, and most important – finding a solution to our long-term fiscal shortfall. These issues were well debated during the regular session and hearings were held. Your efforts should not require long deliberation to resolve, with the possible exception of POMV.

I encourage your quick consideration and resolution of these issues. I cannot express how important it is for Alaska to find a solution to the fiscal shortfall. As I have traveled the state in the past week, Alaskans have told me how important it is to resolve these issues now. Major newspapers have weighed in on the need to get the job done; and in that regard, I am enclosing a packet of editorials. These include endorsements of our proposal from the:

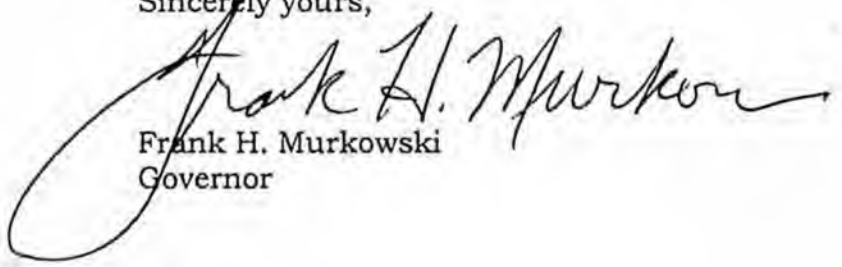
- Anchorage Daily News
- Peninsula Clarion
- Fairbanks Daily News-Miner
- Juneau Empire
- Ketchikan Daily News
- Anchorage Times

The voters should be given the opportunity to vote on the fiscal plan this November. What better campaign issue than a solution to a nagging, decade old, chronic revenue shortfall?

In the interest of assisting you as you deliberate this special session I have asked my staff to prepare a binder for you. I hope you find the enclosed information useful and informative.

Again, I remain optimistic that by working on behalf of Alaska, we can arrive at a solution.

Sincerely yours,


Frank H. Murkowski
Governor

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: June 23, 2004

FURTHER REFERRALS:

Date of Committee Action: 6/23/04

The FINANCE Committee considered:

HJR 101

HOUSE JOINT RESOLUTION NO. 101

CONST. AM: PERM FUND P.O.M.V.

Proposing amendments to the Constitution of the State of Alaska relating to and limiting appropriations from the Alaska permanent fund based on an averaged percent of the fund market value.

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- ISS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| NEW FISCAL NOTES | | | | |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office | | | | |
| List by Dept(s): | *FN# | Fiscal | Indet. | Zero |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| PREVIOUS FISCAL NOTES | | | | |
|-----------------------|-----|--------|--------|------|
| List by Dept(s): | FN# | Fiscal | Indet. | Zero |
| | | | | |
| Rev | 1 | | | |
| gov | 2 | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| Signing with recommendations | Printed Last Name | DP | DNP | NR | AM |
|------------------------------|-------------------|-------------------------------------|-------------------------------------|-------------------------------------|----|
| | Meyer | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | |
| | Howard | <input checked="" type="checkbox"/> | | | |
| | STOLTZE | | | <input checked="" type="checkbox"/> | |
| | Soule | | | <input checked="" type="checkbox"/> | |
| | CROTT | | | <input checked="" type="checkbox"/> | |
| | Chenault | | <input checked="" type="checkbox"/> | | |
| | Foster | | | <input checked="" type="checkbox"/> | |
| | Williams | <input checked="" type="checkbox"/> | | | |

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 101
(H) Publish Date: 6/22/01

Revision Date/Time (Note if correction): _____
Title: Constitutional Amendment
Permanent Fund Income
Sponsor: Rules
Requester: Governor Murkowski
Dep. Affected: Revenue
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This resolution would ask voters in the next general election whether to approve a constitutional amendment that would limit annual appropriations to no more than 5% of the average year-end market value of the Fund for the preceeding five years.

This resolution would not affect the budgeted costs to manage and invest the Permanent Fund, nor would it change the amount of income earned by Permanent Fund investments.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
Division: Alaska Permanent Fund Corporation Date/Time 6/19/2004 /11:43:00 AM
Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004
Agency: Department of Revenue



Alaska Permanent Fund Corporation

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout, median case. All dollars in millions except per person dividend.

FN #1, HJR 101

| Current Statutes | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 Totals |
|---|--------|--------|----------|----------|----------|----------|----------|----------|----------|----------|----------|---------------------|
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |

| POMV - 5% (beginning in FY05) | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 Totals |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|---------------------|
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HJR 101
(H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Constitutional amendment relating to and RDU Elections
limiting appropriations from the APF based on an averaged Component Elections
percent of the fund market value.
Sponsor Rules
Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
Division: Division of Elections Date/Time 6/18/04 8:44 AM
Approved by: Laura A. Glaiser, Director Date 6/18/2004
Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 102
(H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Constitutional Amendment RDU AK Permanent Fund Corporation
Permanent Fund Income Component AK Permanent Fund Corporation
Sponsor Rules
Requester Governor Murkowski Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This resolution would ask voters in the next general election whether to approve a constitutional amendment that would limit annual appropriations to no more than 5% of the average year-end market value of the Fund for the preceding five years, would specify how earnings of the Fund will be distributed and guarantees a dividend of at least \$1000 per qualified applicant.

This resolution would not affect the budgeted costs to manage and invest the Permanent Fund, nor would it change the amount of income earned by Permanent Fund investments.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 455-2047
Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:32 PM
Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004
Agency Department of Revenue



Alaska Permanent Fund Corporation

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout, median case. All dollars in millions except per person dividend.

FN #1, HJR 102

| | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Current Statutes | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |
| | | | | | | | | | | | | |
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| | | | | | | | | | | | | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

| | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 Totals |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,633 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | <u>26,695</u> | <u>27,707</u> | <u>28,703</u> | <u>29,712</u> | <u>30,730</u> | <u>31,768</u> | <u>32,824</u> | <u>33,900</u> | <u>34,991</u> | <u>36,099</u> | <u>37,224</u> | 37,224 |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 625 | 626 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,001 |
| payout 45% after APFC costs for government services | 562 | 563 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,201 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Per person dividend | \$990 | \$990 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,410 |
| | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 628 | 631 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,009 |
| payout 45% after APFC costs for government services | 559 | 558 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,193 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Guarantee \$1,000 minimum dividend | \$1,000 | \$1,000 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,430 |

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HJR 102
(H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Constitutional amendment relating to and RDU Elections
limiting appropriations from the APF based on an averaged Component Elections
percent of the fund market value and relating to permanent _____
fund dividend payments. _____
Sponsor Rulas _____
Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAP' AL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
Division: Division of Elections Date/Time 6/18/04 8:38 AM
Approved by: Laura A. Glaiser, Director Date 6/18/2004
Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 103
(H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
Title: Constitutional amendment relating RDU: Elections
to spending limits. _____ Component: Elections
Sponsor: Rules
Requester: Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred
Division: Division of Elections
Approved by: Laura A. Glaiser, Director
Agency: Office of the Lt. Governor, Division of Elections

Phone: 465-5347
Date/Time: 6/7/04 2:46 PM
Date: 6/7/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 1003
 (H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Dist. Of Approps from PermFund RDU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation
 Sponsor Rules
 Requester Governor Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill would change the Alaska statutes that address distributions from the Permanent Fund to conform to a Percent of Market Value payout limit. It would not change the management or the cost of operations of the Fund.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
 Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:09 PM
 Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004
 Agency Department of Revenue



Alaska Permanent Fund Corporation

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout, median case. All dollars in millions except per person dividend.

Fiscal Note #1 - HB 1003

| | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 Totals |
|---|--------|--------|----------|----------|----------|----------|----------|----------|----------|----------|----------|---------------------|
| Current Statutes | | | | | | | | | | | | |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo Inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |
| | | | | | | | | | | | | |
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

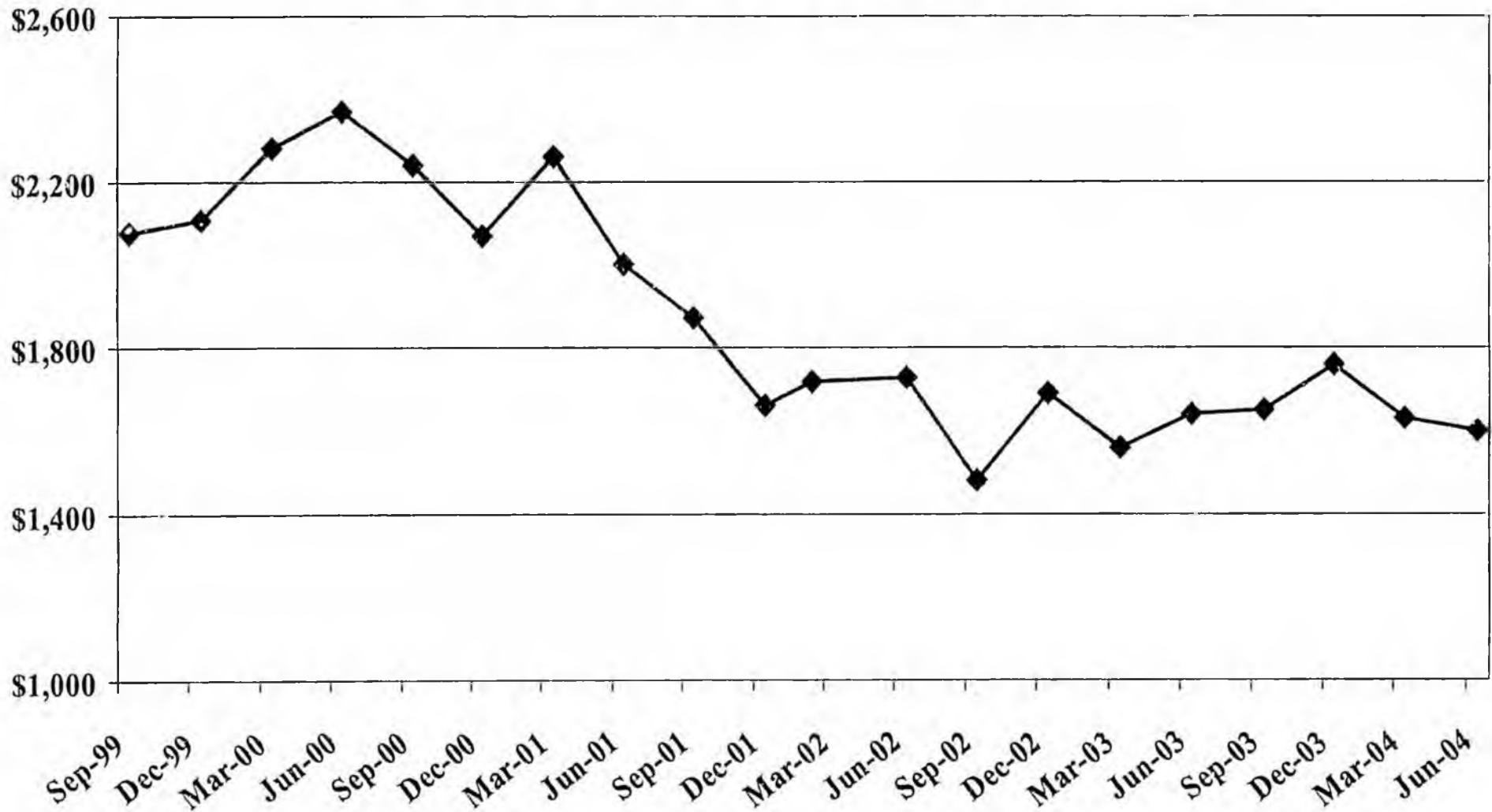
Fiscal Note #1 - HB 1003

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 3% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | <u>26,695</u> | <u>27,707</u> | <u>28,703</u> | <u>29,712</u> | <u>30,730</u> | <u>31,768</u> | <u>32,824</u> | <u>33,900</u> | <u>34,991</u> | <u>36,099</u> | <u>37,224</u> | 37,224 |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 625 | 626 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,001 |
| payout 45% after APFC costs for government services | 562 | 563 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,201 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Per person dividend | \$990 | \$990 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,410 |
| <hr/> | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 628 | 631 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,009 |
| payout 45% after APFC costs for government services | 559 | 558 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,193 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Guarantee \$1,000 minimum dividend | \$1,000 | \$1,000 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,430 |



Volatility in change in FY10 per person dividend projection over time



ACCOUNTABILITY

TO ALASKANS, FOR ALASKANS

Special Session

**Legislative
Package**

June 2004

Inside Track . . .

June 19, 2004

Vol. 1, Number 12

CALL TODAY!

Call your representatives and urge them to support bills providing a long term fiscal fix for Alaskans.

Rep. Anderson 800 465 1939
Rep. Berkowitz 888 465 4919
Rep. Chénault 800 469 3779
Rep. Coe 800 922 3875
Rep. Coquil 877 465 2719
Rep. Crawford 888 478 3138
Rep. Croft 800 689 4998
Rep. Dahlstrom 877 460 3783
Rep. Dale 800 465 4976
Rep. Foster 800 478 3789
Rep. Gata 888 465 2647
Rep. Gallo 800 565 3713
Rep. Granberg 800 465 4910
Rep. Gutterberg 800 928 4152
Rep. Harris 888 465 4859
Rep. Hawker 800 478 4950
Rep. Henry 800 431 4936
Rep. Holm 866 465 3466
Rep. Joub 800 782 4873
Rep. Kapsner 800 323 4942
Rep. Kertula 907 465 4766
Rep. Kolring 800 468 2186
Rep. Kooresh 888 488 3473
Rep. Kott 800 861 5688
Rep. Lynn 800 879 4931
Rep. Masek 800 505 2678
Rep. McGinn 800 365 2995
Rep. Meyer 800 465 4945
Rep. Morgan 800 491 4527
Rep. Moses 800 898 4451
Rep. Ogg 800 865 2487
Rep. Rokelberg 800 777 4968
Rep. Samuels 907 465 2095
Rep. Scatton 800 665 2689
Rep. Stepanoff 877 465 3001
Rep. Stoltz 907 465 4958
Rep. Weyrauch 800 968 6744
Rep. Williams 800 203 2455
Rep. Wilson 800 686 3824
Rep. Zapp 800 465 2694

Office of the Governor

DETAILS ON GOVERNOR'S PROPOSAL FOR SPECIAL SESSION POMV/FISCAL FIX

Why Call a Special Session?

- The Governor called the Legislature into special session to consider legislation that helps close the gap between annual state spending and recurring revenue.
- Alaska needs to bring certainty to its finances so Alaska businesses can invest in the state's economy with confidence and Alaskan family budgets can rely on a stable and predictable dividend.
- The Administration is working vigorously to develop the state's natural resources, but getting a return from these projects to the state's treasury will take time.
- To continue the level of state services Alaskans have come to rely on requires building a "fiscal bridge" to when revenues from this resource development are available to support state services.

The Governor's Proposal Would Provide Financial Stability for Alaskans, Education, and Communities

- Proposal locks into Alaska's Constitution a guarantee that Permanent Fund earnings will only be used for dividends, education, and local communities.
- Specifically, it amends the Permanent Fund section of Alaska's Constitution to:
 1. Modernize the Fund's management by changing to an endowment model (also known as Percent of Market Value, or "POMV");
 2. Guarantee individual dividends will be at least \$1,000, or 50% of the Fund's annual payout, whichever is greater;
 3. Guarantee 45% of the Fund's payout will help fund K-12, University of Alaska education; and
 4. Guarantee 5% of the Fund's payout will go to local communities for tax relief or to meet other local priorities.
- The Governor's proposal would also:
 5. Guarantee revenues will be available to help finance needed state investments through general obligation bonds.
 6. Guarantee the state won't go on a spending spree if Permanent Fund income is available, by imposing a constitutional limit on state spending.
- These provisions sunset in ten years so Alaskans will be able to decide what plan best meets the state's needs after a decade has passed.
- This Constitutional amendment must go to voters at a general election. Therefore, this proposal is simply asking the Legislature to let Alaskans decide the state's fiscal future in November.

CALL TODAY!

Call your Senators and urge them to support bills providing a long term fiscal fix for Alaskans.

Sen. Bunde - 800 892 4843
Sen. Cowdery - 888 269 3879
Sen. Davis - 800 770 3872
Sen. Dyson - 800 342 2199
Sen. Ellis - 888 330 3701
Sen. Elton - 907 465 4917
Sen. French - 866 465 3892
Sen. Green - 877 465 6601
Sen. Guess - 800 550 7135
Sen. Hoffmann - 866 465 4453
Sen. Lincoln - 888 461 3232
Sen. O'Leary - 800 862 3878
Sen. Olson - 800 592 3707
Sen. Seakins - 800 465 3873
Sen. Steinhilber - 877 463 3873
Sen. B. Stevens - 800 465 4943
Sen. G. Stevens - 800 821 4925
Sen. Thomsen - 800 860 4797
Sen. Wagoner - 800 964 5733
Sen. Wilton - 907 465 3709

Office of the Governor

1) More Modern Management of the Alaska Permanent Fund

- Proposal limits how much of the Fund's earnings can be spent to 5% of the Fund's overall market value. Currently 100% of the Fund's profits can be spent each year.
- By basing the Fund's payout on its market value instead of annual earnings, it will mean more predictable and stable dividends.

2) Guaranteed Permanent Fund Dividend of at least \$1,000

- Even though the Permanent Fund will see a 12.5% return this year, individual dividends are estimated to drop to \$790 in 2005. This is because the current dividend calculation is based on a five-year average of the Fund's investment returns. But because the Fund lost money in 2001 and 2002, these low years will negatively impact the dividend amount for the next few years.]
- The following is the percentage certainty that dividends will be \$1,000.00 under the current program:

| Dividend Year | Certainty of \$1,000 Dividend Under Current Program |
|---------------|---|
| 2005 | 24% |
| 2006 | 40% |
| 2007 | 60% |
| 2008 | 74% |
| 2009 | 75% |
| 2010 | 78% |

- In 2005 the current program will pay out \$512 million in dividends. Under the Governor's proposal, the total amount to be paid out for dividends will be \$625 million. Instead of the current program's \$790 dividend, it will be \$1,010 for each Alaskan under the Governor's proposal.
- Alaskans have a choice: a 100% guarantee under the Governor's proposal that they will get at least a \$1,000 dividend—or a 24% chance the dividend will be \$1,000 under the current program

3) Guarantee Solid Base for Education Funding

- This session the Legislature increased funding for K-12 and the University by \$90 million, bringing the state's support for education to over \$970 million. But for the state to be able to afford this increase, new revenue needs to be identified. Even more new revenue is necessary for the state to afford helping school districts pay other increased costs, such as the \$39 million in additional retirement costs next year and nearly \$130 million over the following three years.
- The Governor's proposal would provide \$563 million as a solid base of funding for education—a level of protection that no other state program currently has. While this does not translate into \$563 million in more funding for education as some advocates want, it significantly increases the prospects for increased funding in the future.

4) Guaranteed Financial Assistance for Local Communities

- Local communities currently do not receive state financial assistance to help pay for local operations and priority projects. In 2005 this 5% guarantee would distribute \$63 million to communities around the state that they could use for tax relief to meet or other local priorities.

- This 5% translates into more money for communities, such as almost \$24 million for Anchorage, \$7.2 million for Fairbanks, \$230,000 for Wrangell and \$99,850 for Saint Mary's.
- Just like school districts, retirement system costs for local governments will increase over the next few years. The increased cost next year will \$22 million and will be followed by another \$61 million over the next three years. This guaranteed assistance from the state will help local governments meet these and other obligations without further burdening local taxpayers.

5) Investments In Infrastructure - But If No Fix, No Bonds

- The Governor is proposing two general obligation bond packages that will go to voters this November—but only if the Legislature lets Alaskans approve a fiscal fix. The bond packages are:
 - *Transportation:* More than \$73 million in projects that range from solutions to congestion in Alaska's larger cities to building infrastructure that promotes resource development around the state.
 - *University:* Nearly \$39 million in University of Alaska projects that address expand classrooms and research facilities to needed repairs of existing facilities throughout Alaska.
- However, bond-rating agencies have advised the state that its excellent AA rating will be downgraded if it incurs new debt without the state getting its revenues closer to what it spends each year. A lower rating means higher interest rates to local governments, homebuyers through AHFC's loan programs, and student loan borrowers. As a result, the Governor says no fiscal fix, no bonds.

6) Constitutional Limit to Government Spending

- A key first step in a fiscal plan is to assure Alaskans that the state won't go on a spending spree if Permanent Fund income is available to help support essential responsibilities such as education.
- The Governor is introducing a spending limit that will also be placed in the Constitution to ensure it can't be overlooked by the Legislature. The spending limit ties future growth in the budget to changes in the state's population and increased costs due to inflation.
- During the regular legislative session the House approved the spending limit that the Governor will re-introduce in the House. In the Senate the measure will be similar to that rejected on the Senate floor. (Because it is a constitutional amendment, it requires a two-thirds vote in favor to pass each house.)

To contact your legislator by email, send message to:
Representative_Firstname_Lastname@legis.state.ak.us
Senator_Firstname_Lastname@legis.state.ak.us

To find your legislator's office phone or fax, go to:
<http://w3.legis.state.ak.us/infodocs/tollfree.pdf>

Special Session and a Fiscal Plan

Why a Special Session for a Fiscal Plan?

- Alaska needs to bring certainty to its finances so Alaska businesses can invest in the state's economy with confidence and Alaskan family budgets can rely on a stable and predictable dividend.
- The Administration is working vigorously to develop the state's natural resources, but getting a return from these projects to the state's treasury will take time.
- To continue the level of state services Alaskans have come to rely on requires building a "fiscal bridge" to when revenues from this resource development are available to support state services.

Governor's Constitutional Proposals

1. Modernize Permanent Fund's management (POMV)
2. Distribution of Permanent Fund's annual payout, which sunsets in ten years, as follows:
 - 50% to dividends with a guarantee that each dividend will be at least \$1,000;
 - 45% to help fund education (K-12, UA); and
 - 5% to local communities.
3. Constitutional spending limit.

Proposal: Bring Financial Stability to Alaskans, Education, and Communities

Financial Stability to Alaskans:

- **Guarantees dividends will be at least \$1,000**, or 50% of the Fund's annual payout, whichever is greater (total 2005 dividend distribution estimated to be \$625 million).

Financial Stability to Education:

- Guarantees **45%** of the Fund's payout (estimated \$563 million in 2005) will help fund **K-12, University of Alaska**.
- This session the Legislature increased funding for K-12 and the University by \$90 million, bringing the state's support for education to over \$970 million. But for the state to be able to continue to afford this increase, new revenue needs to be identified. Even more new revenue is necessary for the state to afford helping school districts pay other increased costs, such as the \$39 million in additional retirement costs next year and nearly \$130 million over the following three years.
- While this does not translate into \$563 million in more funding for education as some advocates want, it significantly increases the prospects for increased funding in the future.

Financial Stability to Local Communities:

- Guarantee 5% (estimated \$63 million in 2005) to local communities for **tax relief or to meet other local priorities.**
- Retirement system costs for local governments also will increase over the next few years. Next year the increased cost statewide will be \$22 million and will be followed by another \$61 million over the next three years. This guaranteed assistance from the state will help local governments meet these and other obligations without further burdening local taxpayers.

Infrastructure Investment—But No Fix, No Bonds

- Proposing two general obligation bond packages --but they will go to voters only if the Legislature lets Alaskans approve a local fix. Packages are:
 - **Transportation:** \$77 million to address congestion in Alaska's larger cities to building infrastructure that promotes resource development.
 - **University:** \$39 million to expand classrooms and research facilities as well as make needed repairs to existing facilities.
- However, bond-rating agencies have advised the state that its excellent AA rating will be downgraded if it incurs new debt without the state getting its revenues closer to what it spends each year. A lower rating means higher interest rates to local governments, homebuyers through AHFC's loan programs, and student loan borrowers. So, no fix, no bonds.

Limit Government Spending

- A spending limit that will be placed in the Constitution will be introduced to ensure it can't be overlooked by future Legislatures. The spending limit ties future growth in the budget to changes in the state's population and increased costs due to inflation.

Special Session's Bottom Line

| In Calendar Year 2005 | Under Current Law | Under Governor's Proposal |
|---|------------------------------|--------------------------------------|
| Total Amount to Pay Dividends | \$512 million | \$625 million |
| Individual Dividend Amount | \$790.00 | \$1,010.00 |
| Guaranteed Base Funding for Education | 0 | \$563 million |
| Guaranteed funding to Local Communities | 0 | \$63 million |
| Transportation Bond Projects | 0 | \$76.7 million |
| University of Alaska Bond Projects | 0 | \$38.9 million |

PROPOSED WORKERS' COMPENSATION REFORM LEGISLATION

The Workers' Compensation Reform Bill is a measured response to workers' compensation insurance increases and unhealthy market conditions now impacting Alaska business.

- Amount paid in 2003 on Alaska workers' compensation claims exceeded \$ 210 million.
- The insurance companies in the Alaska workers' compensation market paid out from \$.99 to \$1.54 in claims for every premium dollar collected from 1997 to 2002. The average claims pay out was \$1.24 per dollar in premium collected.
- Average workers compensation premiums increased 21% this year, but premiums in 17 business classes went up over 50% (hospital non-professional 54%, household appliance installation & repair 52%, day nurseries, child care & day camps 56%, barber shops and hair salons 57%, building & property management 57%, geophysical seismic exploration 56.8%).

Bill does not change type, amount or computation of benefits paid to Alaskans; outside residents capped at Alaska rate.

- No change to compensation rates or benefits, including rehabilitation and medical benefits.
- Compensation rates for total disability capped at the rate recipient would receive if residing in Alaska.

Reorganization streamlines adjudicative and appeals process.

- Single administrative law judge from the newly formed central panel replaces 3-member Board panel that now hears cases and reviews settlements.
- Administrative law judges will have special expertise, reside in the central Office of Administrative Hearings created by SB 203 and be independent of the Department of Labor.
- Five member Appeals Commission replaces Superior Court appeals. Appeals Commission composed of four citizen members (2 from labor, 2 from industry), plus one full-time attorney commission Chair. Panel of 3 reviews appeals (Chair plus one industry and one labor member). Chair administers commission and advises other members on the law.
- Appeals Commission has 90 days to decide appeal; half the time allowed Superior Court. Transfer of record costs and delays decreased. (Transfer of record can add a year or more delay over the six months appeal time limitation in Superior Court.)
- Specific provisions made to insure impartiality of Appeals Commission, including prohibiting political activity by Chair and prohibiting conflicts of interest for members.

Consistency and predictability increased in process.

- Appeal to single Commission addresses inconsistent decisions rendered by dozens of different hearing panels and Superior Court judges.

- Single Appeals Commission with expertise plus citizen participation will decide all appeals. Appeals decided by a single entity will insure predictability and consistency in the interpretation and application of the law. Review directly to Supreme Court.

Insurance code amendments strengthen Insurance Guaranty Fund, Assigned Risk Pool for protection of employers and insurers.

- Workers' compensation insurers required to deposit special cash or securities to provide protection beyond the Insurance Guaranty Association.
- Assigned Risk Pool made self-funding by lifting the surcharge cap.

Active, accountable and effective Division Director given new enforcement tools to enforce insurance requirements & investigate fraud.

- Takes enforcement power and responsibilities of the Board and gives them to Workers' Compensation Division Director with:
 - Investigation powers, including subpoena and record inspection;
 - Power to intervene in hearings directly;
 - Power to make decisions affecting enforcement; and
 - New powers to investigate fraud.
- Director may seek new penalty (up to \$100/day/uninsured employee) against uninsured employers and obtain default judgment in faster, streamlined process to stop defaulting employers leaving the state and their liabilities behind.

New workers' compensation fraud provisions.

- Persons who report fraud are given immunity for good faith reports and reports from workers' compensation industry are required if fraud is known.
- Fraud claims cover health care providers, insurers and other industry participants, not just employee claimants.

COMPLAINTS REGARDING PRIOR LEGISLATION (SB 311) ADDRESSED

Cost of Appeals Commission to High for Caseload.

- Only one full-time Commissioner.
- Fiscal note of \$627,000 reduced by half.

Appeals Commission *De Novo* Review Power Reduces Influence of Lay Members.

- Lay members added to Appeals Commission exercise *de novo* review of hearing officers.
- Lay member at appellate level gives greater influence on outcomes than current system.

Commission members Should Be Vetted by Alaska Judicial Council.

- Unconstitutional intrusion on executive branch appointment powers in violation of separation of power doctrine and Article 3, Section 26 of the Alaska Constitution.

Proposed Tobacco Tax Increase Legislation

The tobacco tax increase is proposed to reduce the use of tobacco products by those currently using them, but more importantly to reduce the number of young people who would otherwise begin the use of tobacco products.

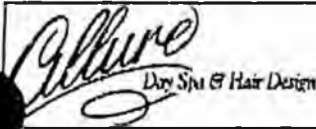
- Tobacco use is responsible for approximately one in five deaths in Alaska and is the single most preventable cause of death and disease.
- Since the 1997 tobacco tax rate increase, there has been a 16% decrease in taxable cigarette consumption, which has persisted for two years.
- Alaskan youth and adults use smokeless tobacco at high rates in comparison with the nation.
- Smokeless tobacco users may be up to twice as likely as non-users to die from heart disease and other cardiovascular conditions due to increased blood pressure.

Bill makes the following changes in existing law:

- Increase the cigarette tax from \$1 per pack of twenty cigarettes to \$2 per pack and the tobacco products tax (OTP) from 75% to 100% of the wholesale cost.
- Institute a floor stock tax on existing cigarette inventories held for sale in an attempt to reduce the amount of stockpiling of cigarettes on the effective date
- Allow the Department of Public Safety to seize and dispose of equipment, vehicles, monies and other assets used in activities which violate the cigarette and tobacco products statutes
- Earmarks part of the tax revenues for the smoking education, tobacco use prevention, and tobacco control program.

Expected results of tobacco tax increase:

- Current estimates are that passage of the cigarette tax should result in a 15 percent drop in illegal teen smoking. A 15 percent drop in youth smoking rates from current levels translates into 1,800 lives saved from premature death due to tobacco addiction.
- Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death.
- DOR estimates cigarette and tobacco products tax revenues to increase between \$33 and \$37 million each year.
- This bill targets users and asks them to pay a bit more of the costs they impose on all Alaskans.



June is Pedicure Month!

Receive a complimentary pedicure service!

adn.com

Anchorage Daily News

Print Page

Close Window

Voice of the Times

(Published: June 22, 2004)

LEGISLATURE REASSEMBLES FOR . . . Another try

THE LEGISLATURE is gathered in Juneau to make another try at coming up with a long-term fix to the state's fiscal problems.

The special session was called by Gov. Frank Murkowski and many legislators are grumbling about returning so soon after they said no to proposals similar to those before them now.

Their complaining is understandable, but Gov. Murkowski rightly maintains that the problem has not gone away and that filling the fiscal gap is critical to the state's financial well-being. At the top of the session's agenda is a measure to allow use of at least a portion of Permanent Fund earnings for state expenses.

Individual dividends would still be paid from the fund's earnings. And though some critics claim any use of earnings would be "a raid on the Permanent Fund," such a fix could actually assure that dividend checks would continue for years to come.

Murkowski would like to put such a measure before the voters in the November election. Without a legislative decision now, voter ratification of a fiscal fix would otherwise be forced to wait until at least the next statewide election in 2006. Such ratification may or may not be essential depending on which fix the Legislature chooses, but the governor wants the option of putting it on the ballot.

Among those watching the outcome of the special session are prospective investors in Alaska's oil industry. They are looking for any signs that the state is inclined to send them the bill for Alaska's fiscal fix -- in the form of higher oil taxes. Some frustrated Democrats seem inclined to do just that, though hopefully cooler heads will prevail. Investments like those at risk are essential in order to grow the state's economy.

The state's fiscal gap -- the difference between what it spends and what its present revenue streams bring in -- is a threat to its credit rating.

Using a portion of Permanent Fund earnings for state expenses may not be the ultimate solution to the fiscal problem, but it's a good place to start. That is the purpose for which the fund was established and the time has come when that purpose should be honored.

The special session may be a good reason for legislators to grumble, but it will enable focused discussion on a vital issue with the public looking over their shoulder.



**Local Channels
Now Available!**



adn.com

Anchorage Daily News



OUR VIEW

(Published: June 22, 2004)

Special session

Lawmakers have a job to do this week in Juneau

Wally Hickel was in classic form Monday morning at a statewide press conference with local officials pushing for a state fiscal solution and especially for the "community dividend" long touted by the former governor.



(Peter Dunlap-Shohl)

[Click on photo to enlarge](#)

"If we don't address our fiscal problem, we will fail," Mr. Hickel said with characteristic directness.

We have a duty as a human community, he added, to match the grandeur and opportunity God gave Alaska. We need a powerful vision. We must live up to the obligations of the "owner state" -- and leadership to get this done.

And: "Oh, to be as rich again as we were before Prudhoe Bay -- as rich in spirit!"

And, more pragmatically: "We have \$27 billion in the bank, and we can't get across town!" You couldn't miss the reference to Lake Otis and Tudor or the larger one to legislative stalemate.

Mayor Mark Begich spoke of the fiscal uncertainty that hurts the economy by making businesses less confident. He pitched the road bond that includes help for Lake Otis and Tudor. And he pitched other needs around the state -- basic government costs in the Bush, education in Mat-Su and so on. Borough Mayor Edith Vorderstrasse spoke to the strains of rural communities, where oil prices truly threaten to leave people in the cold and dark.

All this is an extended prelude to the special session of the Alaska Legislature opening today in Juneau. The mayors got their priorities right: They called first for an endowmentlike percent of market value approach to Alaska Permanent Fund management to bring it in line with modern practices and protect its long-run value. That secures the seed corn. And second, they called for using "a safe and sustainable portion" of Permanent Fund earnings for dividends, education and community dividends.

The deeper question at the special session is whether the Legislature can surmount the partisanship and self-interest of the past to provide a foundation for the future. Mr. Hickel's urgings are driven, no doubt, by a kind of amazement that a state with so many assets seems so unwilling to use them. He is, characteristically, onto something.



adn.com

Anchorage Daily News

Print Page

Close Window

Opinion

(Published: June 18, 2004)

Temptation

Fixing the fiscal gap does not require cluttering the constitution

Gov. Frank Murkowski succumbs to the temptation for constitutional monkey-wrenching with his proposal to guarantee a minimum \$1,000 Alaska Permanent Fund dividend in the Alaska Constitution. Let's hope legislators heading for next week's special session resist the temptation but accept his sense of urgency.

Give the governor some credit: He is dedicated to finding a solution to Alaska's fiscal problems. He wants a more sensible fiscal structure so he can get on with bigger, better things. "We want a solution," he says. "Don't duck it."

A big majority of Alaskans surely agree. In Anchorage, for instance, voters in an April advisory vote called for a fiscal solution this year by a 2-to-1 margin. Polls consistently reflect that kind of support, or more.

There is no need, however, to clutter up the Alaska Constitution. The governor's minimum-dividend guarantee joins two other bad ideas for constitutional amendments: a state spending limit and a constitutional dedication of Permanent Fund earnings to one purpose or another.

Banish them all. Leave authority -- and accountability -- in the hands of the elected representatives of the people.

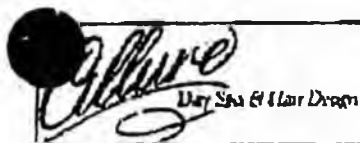
The Legislature could solve its current fiscal difficulties and prepare for a better future with two simple steps: 1) Send to voters this fall a percent-of-market-value proposal to limit payouts from the Permanent Fund to 5 percent of its total value; and 2) Decide by majority vote each year what should be done with that money. That would fill the fiscal gap, at least short-term, and maintain the natural and proper tension between spending for services and Permanent Fund dividends. It also would protect the fund.

The governor points out that a POMV plan, if currently in effect, would produce about \$1.3 billion to be divided between state services and dividends -- out of \$4.1 billion in fund earnings the past year. That ought to be enough to fix the problem without screwing around with the constitution.

BOTTOM LINE: Fix the fiscal gap, not the state constitution.

Miles to give

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



June is Pedicure Month!
Receive a special gift with pedicure service!

adn.com

Anchorage Daily News

Print Page Close Window

Opinion

(Published: June 17, 2004)

University in progress

Want to help build a better UAA? Here's your chance

A good university is always a work in progress. After what university backers have called "a decade in the wilderness" of underfunding, in recent years Alaska's university system has gained support in the Legislature and won friends with strong leadership -- including that of retiring University of Alaska Anchorage Chancellor Lee Gorsuch.

It now that UAA is 50 years old, the time is right to build the kind of endowments and powerful connections to the community that will make UAA self-sustaining. For that the university turns not to the State of Alaska but to the citizens of Alaska.

That's why UAA has launched its 50th Anniversary Campaign. The goal is to raise \$12 million by the end of 2005 -- \$5 million for student scholarships and faculty awards and research; \$2 million to enhance programs like nursing and aviation technology to attract the best students and faculty; and \$5 million for the Longhouse Community Learning Center for the Alaska Native Science and Engineering Program and all math, science and engineering students, and the Library of the 21st Century, to build its collections.

Community leaders have already contributed \$7.2 million. Now the university is going public with its campaign.

Potential gains go well beyond the \$12 million. Much of this money can be used to leverage matching grants. Progress builds on itself; as the university enriches its programs, better students and faculty continue to come here.

UAA, with a superb library, a Nobel laureate teaching, a state-of-the-art sciences building and pioneering work in the study of complex systems -- how the world actually works -- is a university that creates and imparts new knowledge.

A UAA with steady community support can afford continued growth, can open doors to students, faculty and the community for richer, fuller lives.

A UAA with all these assets pays off in spades. According to a 1998 study by the McDowell Group, every dollar invested in the University of Alaska generates \$4.50 in economic activity in Alaska. That's a return we'll take any time -- and we can make it better.

And finally, a UAA with top-of-the-line programs, faculty and facilities will inspire love of learning.

Marc Langland of the campaign steering committee said, the university is a reflection of the community. After 50 years, the university is ready for its first private fund-raising campaign. After 50 years, Anchorage is ready to respond.

Reflection of the community: UAA has range, from the thin air of the Ivory tower to the nitty gritty of dirt under your fingernails. It's all life. It's all learning.

There's more than one way to give, and you can direct your gift to specific purposes. Donors can contact the Office of Development, 3211 Providence Drive, Anchorage, 99508-9979, 786-1278.

BOTTOM LINE: Here's a chance for the people of Anchorage to help build a great university. Let's take the chance and give.

POMV: Just do it

Special session is the time

Whatever else they may do at next week's special session, legislators should approve the percent-of-market-value (POMV) approach to using earnings of the Alaska Permanent Fund. And they should do it whether they can reach agreement on a larger fiscal plan or not.

Permanent Fund trustees have been promoting POMV for years, for sound reasons of management and prudence. Trustees' Chair Carl Brady makes the key point: Whatever elected officials may decide to do with Permanent Fund earnings -- and remember, the Legislature already has the authority to spend them -- POMV is a tool to stabilize management and protect the long-run value of the Fund.

Why? Because the biggest risk to the fund is overspending in a crisis. Trustees long ago saw state fiscal crises on the horizon if legislators refused to set state finances on a sustainable path. Upwards of \$5 billion already taken from the Constitutional Budget Reserve proves their point. The CBR is as much at risk as ever, and the Permanent Fund is next in line if lawmakers keep choosing to use up cash assets rather than face the budget problem squarely.

POMV would limit spending from the fund to 5 percent of its total value in any given year. Lawmakers would retain the authority -- as they have now -- to decide what to do with that money. With enough votes, they could choose to put it all into dividends, all into necessary state services, or anything in between. With enough votes, to make the point bluntly, they could put it all into banditry, cronyism and high living for themselves and their friends. POMV would only limit the amount at their disposal.

As Alaska moves closer to the fiscal cliff, POMV gets more important. POMV reflects modern management practices of the best endowments around the country.

The best way to achieve POMV as a fund management tool would be as part of a long-term fiscal plan. Such a plan would fairly apportion the burdens and benefits of citizenship through some use of fund earnings, a progressive income tax and a rational adjustment of oil taxes to share both the benefits at high prices and the risks at low prices.

If the best way can't be achieved, however, POMV stands alone. It makes sense to help protect the fund, long-run dividends and the state's fiscal stability. If necessary, the Legislature should separate POMV from all the other questions -- and put it to the voters in the fall.

BOTTOM LINE: POMV is a sensible way to manage the Permanent Fund. Lawmakers should send it to voters.



adn.com

Anchorage Daily News

Print Page Close Window

Opinion

(Published: June 14, 2004)

Stick with democracy

State fiscal fix needs to happen; constitutional juggling doesn't

Democracy is both hard to do and worth the trouble. It works, when it's applied. So why not trust it?

That's the question to ask about proposals to find a series of constitutional amendments that would buy off enough votes in the Alaska Senate for a state fiscal plan -- but at the price of less democracy and accountability.

When this comes up in the effort to round up votes and ideas before next week's legislative special session. Some people just can't resist trying to rig Alaska's democracy their way -- by demanding permanent constitutional protection for something that ought to be a continuing policy decision.

Here are the general outlines of a deal being pursued: The governor would get his 5 percent of market value plan for managing the Alaska Permanent Fund and new revenues for government. Democrats would get a 60-40 split enshrined in the constitution to provide generous dividends as close to forever as government can provide. Republicans would get a constitutional spending limit intended to prevent a future spending spree.

What's wrong with all that? Only that putting it in the constitution is unnecessary, that it assumes this crop of politicians is smarter than all future ones, and that it would be a classic case of legislative overreach.

Why not use the constitution we already have? Why not insist this Legislature use its existing authority to solve a problem everyone understands just fine -- rather than usurp the authority of future legislatures to address problems nobody can predict?

Republicans make a mistake by seeking a spending limit that inevitably would distort future decisions. Democrats make a mistake by demanding enshrinement of a particular split for dividends versus state services. Both would be better off to resist the urge to clutter up the constitution and just do their work: restoring balance to state finances. Then they could go home with the satisfaction of a job well done.

BOTTOM LINE: Fix the fiscal gap, but leave the constitutional juggling act out of it.

Death of presidents



**SATELLITE
TV**

**Local Channels
Now Available!**



adn.com

Anchorage Daily News

Print Page

Close Window

Voice of the Times

(Published: June 13, 2004)

MURKOWSKI'S SPECIAL SESSION IS . . .Worth trying

GOV. FRANK MURKOWSKI'S call for a special session on June 22 was a bold attempt to force legislators to deal with important business left undone when they adjourned on May 11.

The governor has written an ambitious agenda for a session expected to last just a few days. Up for consideration will be a long-term fix for the state's fiscal gap, a spending limit, bond propositions for needed transportation facilities, a tobacco tax and a workers' compensation bill. And Democrats would like to add a measure to increase oil taxes, which would almost certainly reduce Alaska's attraction as a place for industry investments.

Murkowski would like to see a fiscal fix that converts the Permanent Fund to an endowment, which would limit spending of earnings to 5 percent of the fund's total value, and allocate that 5 percent to spending for state services and individual dividend payments.

Murkowski said he is flexible on how the earnings are allocated, but considers it important that dividends be protected and that ". . . a reasonable portion of the fund's earnings are available to maintain essential public services, like education."

If approved, the measure would assure that some fund earnings are finally used to pay state expenses, a long overdue change. Though the Legislature could now use earnings for such a purpose, it has instead been drawing down the Constitutional Budget Reserve established years ago with windfall cash from settlement of oil price disputes with North Slope oil producers.

The day of reckoning is obviously coming and the state necessarily will dip into the Permanent Fund earnings account to pay for its operations. Murkowski notes that the earnings fund now contains \$4 billion, all of which could be spent under current law. That is far more than the \$1.4 billion that would be available if a 5 percent limitation were in effect.

One motivation for the governor appears to be that approving a fiscal fix this year would allow it to be put before voters in the November election.

Legislators will gather in Juneau as ordered. But whether they will comply with the governor's wishes is an open question. Many have said privately that they are reluctant to vote for using any Permanent Fund earnings for state government in an election year.

They fear that their opponents will claim they are jeopardizing dividend payments, though a well-written fiscal fix could actually protect the state's free-money program.



Wednesday, June 09, 2004

The online edition of the Frontiersman does not contain the entire content of our print version.

It's back to summer school for naughty legislators

Frontiersman editorial board

When you spend the regular school year messing around and focusing your energies on lower priorities, you're likely to fall behind. Fall behind far enough, and you'll land in summer school for part of your vacation. It's bad enough when you ruin your own summer, but if your shenanigans bring the whole class inside for the warm months, nobody's going to be your friend.

Some big Alaskan kids have found themselves in such a mess, as the teacher has called them back to finish the work they left undone during the allotted time. Gov. Frank Murkowski, playing the role of teacher, has called the Legislature back for a special summer session, and he says he won't let them go fishing until they've completed the assignment he's given them -- namely to pass a fiscal plan that includes a spending cap and with his Percent of Market Value formula for generating general fund capital from the Permanent Fund.

The House reached agreement on a fiscal plan during the regular session, but the fiscally-conservative Senate chose to wait to see if Alaska's fiscal dilemma might solve itself. After all, some senators said, oil prices are high, and it looks like our fiscal problems are all imagined. Of course, since then, the Organization of the Petroleum Exporting Countries, or OPEC, has promised to increase production, and the price of U.S. crude has already begun to fall. Go figure. That's never happened before.

So far, legislators seem to feel that little has changed since the end of the session, and many are saying neither a POMV plan nor a spending cap is likely to find its way out of the Senate and onto Murkowski's desk. That's all well and good. If the Legislature doesn't find merit in that solution, we don't expect the proposal to pass.

What's frustrating is that there doesn't seem to be a reasonable effort to work out an alternate solution. If the Senate believes Murkowski's plan is not the answer, then

News

- Local News
- Obituaries
- Opinion
- World News

Sports

Features

- Valley Life
- Health
- Entertainment
- Stocks / Financial News

Classifieds

Special Editions

Info Desk

- About Us
- Place a Classified Ad
- Subscribe

Archives

Home

Search The Web

- Travel Info
- Web Directory
- Yellow Pages
- White Pages
- Meet Someone
- My Page
- City Guide



[Lottery Results](#)
[Weather](#)
[Movie Listings](#)
[Maps/Directions](#)
[Horoscope](#)
[Greeting Cards](#)

It's incumbent upon that body to propose a plan that is the answer -- or at least a plan a majority of senators can agree upon. Education is in trouble, and we're paying a lot of attention to it because the danger is immediate, and because it affects so many people. There are other serious problems looming if the state can't get its fiscal house in order, though. Voters deserve a solution from their legislators, and they should accept nothing less. The Legislature will be back in session later this month. Voters will be heading to the polls in November. Each group has some important decisions to make. How legislators handle the special session may give voters some good data to consider before casting those votes.

It's back to summer school for naughty legislators

Frontiersman editorial board

American government too entwined in religion to break free

Spectrum, by Harry Yost

Copyright © 2004 Frontiersman.com.



Powered by 

Web posted Monday, June 7, 2004

Local Interest

- » Home
- » News
- » Sports
- » Obituaries
- » Editorial
- » Art + Events
- » Legislature
- » Outdoors
- » Community
- » Classifieds
- » Letters to Editor
- » Schools

Features

- » Business
- » Religion
- » Seniors
- » Health
- » Stocks
- » Movies
- » NIE
- » Dispatch
- » Forums
- » TV Listings
- » For Kids
- » Pets

Peninsula Guide

- » Web Guide
- » Web Search
- » Forms
- » Yellow Pages
- » Circulation
- » About Us
- » Churches
- » Archives
- » Online Services
- » Exploring

More Links 

Murkowski showing leadership in calling June special session

When it comes to politicians, the public < more often than it should be tempted < just wants to say, "grow up," especially at the end of a legislative session when lawmakers failed to tackle the state's most important issue.

That issue is the chronic budget deficit.

Well aware of the deficit and the need to address it, Alaskans elected former Sen. Frank Murkowski governor. Voters knew who we were electing, what he stood for, and what he would do if elected. We knew he had experience in tackling and overcoming difficult situations; we recognized him as a leader who would set a fiscally responsible course for the state through its budget. Alaskans spoke overwhelmingly in support of the man who would do that.

And Murkowski's trying. He has made budget decisions that some of his best friends are pained to accept, but accept them they do. He has cut some programs, and he replaced others with new options to give Alaskans a better value for our dollar.

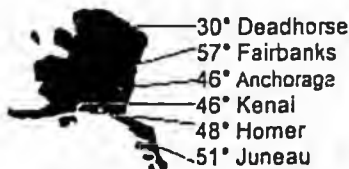
Murkowski also has proposed legislation that will have to effect of shortening this financially painful period of cuts that continues to draw down the state's savings account. And instead of forcing his proposal on Alaskans, he's asking for a vote on it in November.


But the Legislature, in its own wisdom or lack thereof, adjourned last month without giving its necessary endorsement to the election.

The governor even allowed lawmakers time to save face and call themselves back into a special session to address the financial issues. They didn't.

So the governor's doing it. Once again when leadership is needed, it comes from the governor's office. Lawmakers appear to just want to play politics, and it's politics that perturbs the public. This isn't a game to the public.

The governor wants two constitutional amendments to be voted on. The first caps state spending, which the public is



Choose your city 

| June | | | | | | |
|------|----|----|----|----|----|----|
| S | M | T | W | T | F | S |
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |

- Our Stories
- Web
- Yellow Pages
- Stocks
- Classifieds



Miss a day?

Use the PowerSearch below to search by topic, or click on the day to see the stories

from the past week.
Fri| Thu| Wed|
Tue| Mon| Sun|

likely to strongly embrace if it ever gets the opportunity. The second is in regard to the Alaska Permanent Fund. It would limit withdrawals from the fund to 5 percent of its five-year average value, making \$1.3 billion available each year to pay dividends and for state government operations. The House agreed to earmark \$573 million for state government and \$64 million for local governments. The Senate? Zip. Zero. Nothing. It didn't do a thing.

Then the price of oil skyrocketed, and legislators relaxed on a cloud of new revenue. With Alaska's budget about 85-percent dependent on oil revenues and prices high, the deficit shrank. But it didn't disappear, and it's foolish to think that high oil prices will whittle it away and the financial future will be secure for generations to come. It doesn't work that way; prices go up and prices go down.

Alaska doesn't want to be in financial difficulties when it goes down again. The way to prevent that is to come up with a plan and follow it now. Then Alaska might be able to maintain itself without further painful cuts.

With a banker in the governor's seat, it is the best time to figure out state finances. And this banker governor isn't even forcing it on Alaskans; he's just asking the Legislature to allow Alaskans to vote. He'll accept the outcome. That lawmakers cannot do the same makes the public wonder what their political game is. And the perception of a game breeds mistrust.

We don't understand the politicians' lack of action, but we believe in a governor trying to overcome a budget deficit when he trusts voting Alaskans to make the final decision.

When legislators return to special session, they should show they do the same. After all, we elect them. If they don't trust us, that doesn't say much for them or their political maturity.

< Ketchikan Daily News

May 26

Discuss this story in our Discussion Forum



E-mail this Story
a friend



E-mail a message
to the editor



Read our paper
on your PDA



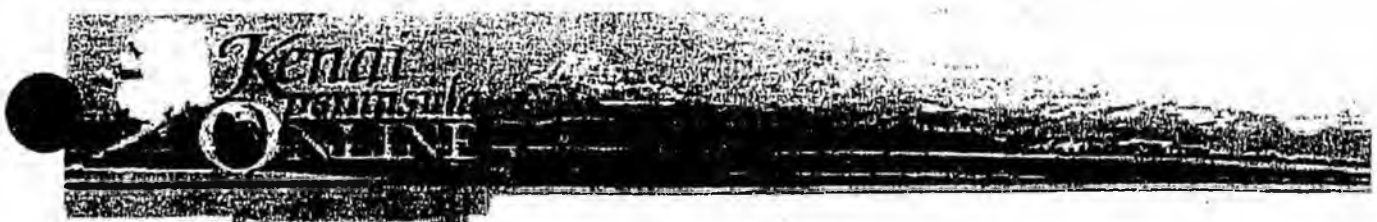
Have our Headlines
e-mailed to you

Comments or questions?

For questions about the website contact the web master at Kenai Peninsula Online

Box 3009
Kenai, AK 99611
907-283-7551

Copyrighted by Peninsula Clarion, a Division of Morris Communications



Powered by

Web posted Wednesday, June 2, 2004

Local Interest

- » Home
- » News
- » Sports
- » Obituaries
- » Editorial
- » Art + Events
- » Legislature
- » Outdoors
- » Community
- » Classifieds
- » Letters to Editor
- » Schools

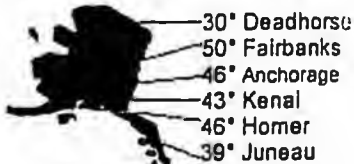
Features

- » Business
- » Religion
- » Seniors
- » Health
- » Stocks
- » Movies
- » NIE
- » Dispatch
- » Forums
- » TV Listings
- » For Kids
- » s

Peninsula Guide

- » Web Guide
- » Web Search
- » Forms
- » Yellow Pages
- » Circulation
- » About Us
- » Churches
- » Archives
- » Online Services
- » Exploring

More Links



Choose your city

| June | | | | | | |
|------|----|----|----|----|----|----|
| S | M | T | W | T | F | S |
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |

- Our Stories
- Web
- Yellow Pages
- Stocks
- Classifieds

Search

Miss a day?

Use the PowerSearch below to search by topic, or click on the day to see the stories

Lack of legislative action behind call for special session

After saying he would and then saying he wouldn't, Gov. Frank Murkowski ... said he will call a special session of the Alaska Legislature to focus on pressing issues, such as the state's fiscal gap, increased tobacco taxes, worker's compensation laws and capital projects.

The governor's flip-flops notwithstanding, a special legislative session really is much more out of necessity than it is gubernatorial prerogative. That's because of how little lawmakers accomplished during the regular session, and in spite of Murkowski's best efforts to offer what in many cases were workable solutions. The special session will begin most likely in late June.

Looming large for legislators will be long-term solutions to the state's chronic budget deficit, and school and transportation bond projects. The budget gap is of the essence, but if lawmakers show up in Juneau (later this) month with a diminished sense of urgency in solving our economic woes, we can all thank the high price of oil.

The most critical issue for Murkowski is his proposal for using a portion of the Alaska Permanent Fund for the operation of state government. His recommendation for establishing a percent-of-market-value, or POMV, management system for the fund would have provided for some \$650 million for the state while protecting permanent fund dividends, but the measure was defeated by the Senate in the closing hours of the regular session. A second pass at the proposal is a given during the special session.

If there's an up side to Murkowski's call for a special legislative session, it is that it will be limited to 30 days and proposed legislation will be limited to subjects designated by the governor. That will keep legislators from straying for the business at hand and pushing their personal agendas. Not that that would happen, of course.

Murkowski deemed it necessary to call a special session after it became evident that members of the state's House of Representatives weren't willing to call themselves back to the Capitol. That left the door open for Murkowski to do what

from the past week.
Mon| Sun| Fri|
Thu| Wed| Tue|

legislators wouldn't.

Alaska's lawmakers need to recognize the importance of the work they're being asked to do this summer. There's no reason for a workable budget plan to be delayed until next year, and surely any lawmaker who is seeking re-election next fall can understand the logic in that.

If a special legislative session is as unproductive as was this year's regular session, heads should roll in November's elections. If any members of the Alaska Legislature are shoring up their re-election efforts while the state's business goes unattended, they shouldn't be occupying the office in the first place.

< **The Juneau Empire**

May 26

Discuss this story in our Discussion Forum



E-mail this Story
a friend

E-mail a message
to the editor

Read our paper
on your PDA

Have our Headlines
e-mailed to you

Comments or questions?

For questions about the website contact the web master at Kenai Peninsula Online

Box 3009
Kenai, AK 99611
907-283-7551

Copyrighted by Peninsula Clarion, a Division of Morris Communications
Privacy and terms of use.



[Click here to return to the original story](#)

Special session born of necessity

Empire editorial

Wednesday, May 26, 2004

After saying he would and then saying he wouldn't, Gov. Frank Murkowski on Monday said he will call a special session of the Alaska Legislature to focus on pressing issues, such as the state's fiscal gap, increased tobacco taxes, worker's compensation laws and capital projects.

The governor's flip-flops notwithstanding, a special legislative session really is much more out of necessity than it is gubernatorial prerogative. That's because of how little lawmakers accomplished during the regular session, and in spite of Murkowski's best efforts to offer what in many cases were workable solutions. The special session will begin most likely in late June.

Looming large for legislators will be long-term solutions to the state's chronic budget deficit, and school and transportation bond projects. The budget gap is of the essence, but if lawmakers show up in Juneau next month with a diminished sense of urgency in solving our economic woes, we can all thank the high price of oil.

The most critical issue for Murkowski is his proposal for using a portion of the Alaska Permanent Fund for the operation of state government. His recommendation for establishing a percent-of-market-value, or POMV, management system for the fund would have provided for some \$650 million for the state while protecting permanent fund dividends, but the measure was defeated by the Senate in the closing hours of the regular session. A second pass at the proposal is a given during the special session.

If there's an upside to Murkowski's call for a special legislative session, it is that it will be limited to 30 days and proposed legislation will be limited to subjects designated by the governor. That will keep legislators from straying for the business at hand and pushing their personal agendas. Not that that would happen, of course.

Murkowski deemed it necessary to call a special session after it became evident that members of the state's House of Representatives weren't

willing to call themselves back to the Capitol. That left the door open for Murkowski to do what legislators wouldn't.

Alaska's lawmakers need to recognize the importance of the work they're being asked to do this summer. There's no reason for a workable budget plan to be delayed until next year, and surely any lawmaker who is seeking re-election next fall can understand the logic in that.

If a special legislative session is as unproductive as was this year's regular session, heads should roll in November's elections. If any members of the Alaska Legislature are shoring up their re-election efforts while the state's business goes unattended, they shouldn't be occupying the office in the first place.

All contents ©Copyright 1997-2004 [Juneau Empire](#), [Morris Digital Works](#) & [Morris Communications Corporation](#)
[Contact Us](#) | [About Us](#) | [Privacy Policy](#) | [Advertising Information](#)

**adn.com**

Anchorage Daily News

Voice of the Times*(Published: May 28, 2004)***HERE WE GO AGAIN . . . Special session**

THERE IS one thing to be said for a special session of the Legislature. It is focused. There is no time for sideshows. Not too much opportunity for smoke and mirrors. Get it done and go home.

Of course, that's the way Alaska's regular annual legislative sessions should operate, too. Unfortunately, they don't — as witness the recently adjourned bit of business that lasted four months and left a lot of things dangling.

To address some of those, Gov. Frank Murkowski plans to issue a call that will bring the 40 members of the House and 20 members of the Senate back to Juneau in late June.

Too bad. A more disciplined group of lawmakers, willing to set aside partisan games and concentrating on doing what is best for Alaska, should have been able to better serve the state's needs in the course of 120 days — when they had nothing else to do, and the splendid isolation of Juneau in which to do it.

In the course of the coming session, the governor will be laying before the legislators some familiar items, prime among them a hope that a long-term fiscal plan can be adopted.

That may involve a new way for the state to manage the Permanent Fund to ensure annual dividend checks, on which Alaskans have become fully addicted, while providing the state with operating revenues. The most promising new method would be what is called a Percent of Market Value system — which most legislators clearly like, but which was strangled during the last session by political gamesmanship.

Murkowski's effort to get a \$1-a-pack increase in cigarette taxes also was snuffed out during the regular session. The governor indicates he will bring that back for the end-of-June gathering, along with some bond propositions — one of which would be designed to make motorists happy while idling in traffic at Tudor and Lake Otis.

The opportunity to get something done in a special session, something that couldn't be accomplished in the regular session, comes because the legislators are limited in their ability to bounce all over the map. They can only consider measures proposed by the governor. Period.

There have been many special sessions over the years since the first state Legislature met in 1959. Many of them dealt with the need to respond to natural disasters — the Good Friday earthquake of 1964, the Fairbanks flood of 1967 — and other major state crises.

Whether the problems of this year rise to that standard is debatable.

But there is comfort in knowing that session won't last more than a few days — or maybe a week, at the most.

Undaunted in pursuit of fish dinners

By PAUL JENKINS

It's that time of year again, one fraught with humiliation, angst and even, at times, deep personal loathing. It's fishing season. Armed with the very best equipment a truckload of catalogs can offer, I sally forth, fight through throngs of pesky flatlanders and return, well, broken and fishless.

It was not always thus. Once, I was a professor of piscatology, a fish killer to be reckoned with. At one point, the finny fools feared me, or at least did not laugh outright. Yes, there was apprehension in those little fishy eyes; fear in those little fishy hearts.

Fishing then was a celebration, a rite, a way to spend boatloads of money. Fishing was a way to get neat, new stuff. Hey, it will save me in the woods, I'd say. A guy thing. Who can stay awake the longest? Who will catch the most fish? Who stinks the worst?

At first, I would careen south through the night after work to slay fish in the very belly of the beast — the confluence of the Russian and Kenai rivers. Combat fishing at its finest. Casting under spider webs of snarled, tangled lines, sometimes six, seven, eight of them, stretched tight 8 feet above river, from bank to bank. I fished, therefore I was.

Without a thought, I would drive three hours, fish three hours, drive three hours home. Back to work, comatose. Then to the Anchor River. I would brave rain, butt-deep cold water, mosquitoes and snippy tourists at the whispered rumor of salmon or trout or Dollies or anything. "Hey," someone would say, "they're in." Off in a one-man stampede. I was driven.

Then, almost imperceptibly, it started to happen. Virtually everywhere I fished, I lost my edge. Guys catching fish on my left. Guys catching fish on my right. Me? Maybe a fish; maybe not. And I started falling in with increasing regularity.

At one point, in a boat on the Kenai early in the year, I fished with a guy, his wife and their grown son on their dream vacation. Californians all, and in all senses of the word. The fools were not dressed to be on the river. But each of them caught two fish, with each keeping their largest — in less than hour. For the rest of that miserable, cold morning they sat and stared and whined through blue lips and shivered while I fished. I never got a bite. Nothing. The guide was glaring, trapped on the river with a loser. I didn't feel sorry for any of them.

And that's the way it went no matter where I fished. Falling short of the limit. Not setting the hook. Kerplow! into very, very cold water. I could see fish, I could see people catching fish, but the likelihood was that I was not taking any home. It took a few years but it became crystal clear something seriously was amiss.

I wouldn't give up. It was just a slump, I'd say. Then I dragged my son to the Russian and as we frantically windmilled the water, trying not to hook Germans, a guy sauntered up and asked him — the limit is 8 at the most, mind you — if he had caught any fish. Without missing a beat, my boy matter-of-factly answers: "No, we're Jenkinses, we don't catch fish," and went back to thrashing the water.

CONSTITUTIONAL DISTRIBUTION

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution proposing amendments to the Alaska Constitution relating to and limiting appropriations from the Alaska Permanent Fund based on an averaged percent of the fund's market value. Passage of this resolution by the Legislature gives Alaskans a voice on the issue of a long-term fiscal plan. Voters would have the ability to approve the resolution and bring certainty to Alaska's fiscal future for themselves and future generations of Alaskans.

The resolution outlines a long-term fiscal plan that 1) changes the structure of the Alaska Permanent Fund to an endowment model; 2) limits the annual payout from the Alaska Permanent Fund to five percent of the fund's value; 3) allocates the annual payout of 50 percent to dividends, 45 percent to public education, including K-12 and the University, and five percent to communities. Individual dividends would be guaranteed to be at least \$1,000 or 50 percent of the annual payout, whichever is higher. I believe that these allocations reflect the priorities of a majority of the public for the use of the Alaska Permanent Fund.

The resolution is based on provisions of CS House Joint Resolution 26(FIN), which passed the House during the second session of this Legislature. Under the provisions of this resolution, the Alaska Permanent Fund is converted to the Percent of Market Value or "POMV" endowment model. An annual payout of five percent of the value of the fund is set.

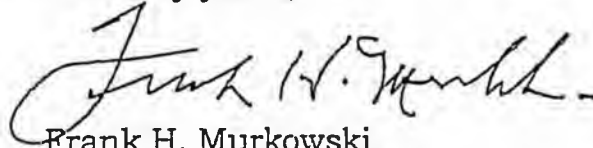
The Honorable Pete Kott
June 21, 2004
Page 2

POMV is an accepted method for managing funds. Anchorage, Fairbanks, the North Slope Borough, and Sitka residents have voted to use the POMV model for their municipal trust accounts. Private foundations like the Ford Foundation and about 83 percent of colleges use some form of a POMV payout method.

These allocation provisions have a ten-year "sunset" to allow the Legislature and the voters an opportunity to revisit them to ensure that the allocations continue to meet state needs.

I urge your prompt and favorable action on this legislation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive style with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

House
SENATE JOINT RESOLUTION NO. 102

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to and limiting
2 appropriations from the Alaska permanent fund based on an averaged percent of the
3 fund market value and relating to permanent fund dividend payments.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. Article IX, sec. 15, Constitution of the State of Alaska, is amended to read:

6 Section 15. Alaska Permanent Fund. (a) At least twenty-five per cent of all
7 mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing
8 payments and bonuses received by the State shall be placed in a permanent fund.
9 Except as otherwise provided in this section, money in the permanent fund [
10 THE PRINCIPAL OF WHICH] shall be used only for those income-producing
11 investments specifically designated by law as eligible for permanent fund investments.
12 [ALL INCOME FROM THE PERMANENT FUND SHALL BE DEPOSITED IN
13 THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW.]

14 * Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska, is amended by adding a
15 new subsection to read:

1 (b) Appropriations from the permanent fund for a fiscal year may not exceed
2 five percent of the average of the market values of the fund on June 30 for the earliest
3 five of the six fiscal years immediately preceding that fiscal year.

4 (c) Appropriations from the permanent fund may be made each fiscal year for
5 the costs of administering the permanent fund. The remaining amount annually
6 available for appropriation from the permanent fund shall be appropriated for the
7 following purposes in the amount set out after each:

8 (1) a program of dividend payments for residents of the State
9 established by law - fifty percent;

10 (2) aid to public education - forty-five percent; and

11 (3) aid to municipalities and other communities - five percent.

12 (d) Notwithstanding (c) of this section, the amount of a dividend payment for
13 residents of the State shall be not less than \$1,000 each year. If the appropriation
14 made under (c)(1) of this section would be insufficient to pay that amount, the
15 percentages specified in (c)(2) and (3) of this section are decreased, and the percentage
16 specified in (c)(1) of this section is increased, by the amount necessary to fund the
17 shortfall.

18 * Sec. 3. Article XV, Constitution of the State of Alaska, is amended by adding a new
19 section to read:

20 **Section 30. Transition; repeal.** (a) On the effective date of the 2004
21 amendment relating to the Alaska permanent fund (art. IX, sec. 15), the
22 unencumbered, unappropriated balance of the earnings reserve account established
23 under AS 37.13.145(a) is added to the balance in the Alaska permanent fund.

24 (b) The 2004 amendment relating to the Alaska permanent fund first applies to
25 appropriations for fiscal year 2006. Appropriations from the permanent fund for fiscal
26 year 2005 are subject to Section 15 of Article IX as that section read on June 30, 2004.

27 (c) Sections 15(c) and (d) of Article IX, added by the 2004 amendment, are
28 repealed July 1, 2014.

29 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of
30 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
31 State of Alaska, and the election laws of the state.

FISCAL

NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL#0176
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Constitutional Amendment RDU AK Permanent Fund Corporation
Permanent Fund Income Component AK Permanent Fund Corporation
 Sponsor Rules
 Requester Governor Murkowski Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This resolution would ask voters in the next general election whether to approve a constitutional amendment that would limit annual appropriations to no more than 5% of the average year-end market value of the Fund for the preceding five years, would specify how earnings of the Fund will be distributed and guarantees a dividend of at least \$1000 per qualified applicant.

This resolution would not affect the budgeted costs to manage and invest the Permanent Fund, nor would it change the amount of income earned by Permanent Fund investments.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
 Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:32 PM
 Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004
 Agency Department of Revenue



Alaska Permanent Fund Corporation
Financial projection comparison of the Alaska Permanent Fund under
current statutes versus POMV 5% lump sum payout, median case. All
dollars in millions except per person dividend.

| Current Statutes | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |

| POMV - 5% (beginning in FY05) | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY05-FY15 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| | | | | | | | | | | | | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| | | | | | | | | | | | | |
| payout 50% after APFC costs - lump sum dividend | 625 | 626 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,001 |
| payout 45% after APFC costs for government services | 562 | 563 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,201 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| | | | | | | | | | | | | |
| Per person dividend | \$990 | \$990 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,410 |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| AFPC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| | | | | | | | | | | | | |
| payout 50% after APFC costs - lump sum dividend | 628 | 631 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,009 |
| payout 45% after APFC costs for government services | 559 | 558 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,193 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| | | | | | | | | | | | | |
| Guarantee \$1,000 minimum dividend | \$1,000 | \$1,000 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,430 |

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: Law Log 0176
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Constitutional amendment relating to and
limiting appropriations from the APF based on an averaged
percent of the fund market value and relating to permanent
fund dividend payments.

Dept. Affected: _____
 RDU Elections
 Component Elections

Sponsor Rules
 Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
 Division Division of Elections Date/Time 6/18/04 8:38 AM
 Approved by: Laura A. Glaiser, Director Date 6/18/2004
 Agency Office of the Lt. Governor, Division of Elections

SECTIONAL



Alaska Permanent Fund Corporation
801 West 10th Street, Suite 302 Juneau, AK 99801
Tel: (907) 465-2047 Fax: (907) 586-2057

Sectional Analysis of WD 0176

Overview

The Resolution proposes changes to the Alaska Constitution Article IX, Section 15, which governs the Alaska Permanent Fund.

Summary of Changes

- 1) Page 1, line 9. Adds a reference to the new sections regarding distributions of funds being added to the constitution.
- 2) Page 1, line 10. Removes the words "the principal of which" from the constitution. This change removes the distinction between the principal and the earnings reserve. The Fund becomes one pool of money versus two.
- 3) Page 1, lines 12 & 13. Deletes the guidance for where income of the Fund should be deposited. The intent is for all income to remain in the Fund until appropriated by the Legislature.
- 4) Page 2, lines 1 - 3. Adds a new subparagraph (b) that establishes an annual payout limit of 5% of the total market value of the Fund. The market value will be based on a five-year average. This is to protect the Fund from inflation and preserve the real value over the long term. Additionally, this provision allows the legislature and the administration to know one year in advance the amount available for appropriation.
- 5) Page 2, lines 4 - 5. Allows appropriations for the operating costs of the corporation to be made from the amount available for appropriation from the Permanent Fund in lines 1 - 3 of page 2.
- 6) Page 2 lines 8 - 11. Requires that after the corporation's operating costs are paid, that 50% of the amount remaining will be allocated to individual dividends, 45% will be allocated to public education and 5% will be allocated to municipalities and other communities.

- 7) Page 2, lines 12 – 16. Requires individual dividends to be at least \$1000. If the amount available for dividends is not sufficient, then a sufficient amount will be transferred from the allocation to public education to cover the shortfall.
- 8) Page 2, lines 19 - 22. Adds a transitional provision that makes clear the balance in the Fund's earnings reserve remains in the Permanent Fund. Some have argued that the earnings reserve belongs in the General Fund.
- 9) Page 2, lines 23 - 25. States that the changes first apply to appropriations for fiscal year 2006.
- 10) Page 2, lines 26 & 27. Repeals the provisions contained in this amendment regarding the distribution of the amount available for appropriation and the requirement that dividends be at least \$1000.
- 11) Page 2, lines 28 - 30. States that the amendments will be placed before the voters at the next general election.

BACK - UP



Alaska Permanent Fund Corporation

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | <u>26,695</u> | <u>27,707</u> | <u>28,703</u> | <u>29,712</u> | <u>30,730</u> | <u>31,768</u> | <u>32,824</u> | <u>33,900</u> | <u>34,991</u> | <u>36,099</u> | <u>37,224</u> | 37,224 |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| APFC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 625 | 626 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,001 |
| payout 45% after APFC costs for government services | 562 | 563 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,201 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Per person dividend | \$990 | \$990 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,410 |
| <u>Governor's proposal</u> | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| APFC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 628 | 631 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,009 |
| payout 45% after APFC costs for government services | 559 | 558 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,193 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Guarantee \$1,000 minimum dividend | \$1,000 | \$1,000 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,430 |



Alaska Permanent Fund Corporation
 Financial projection comparison of the Alaska Permanent Fund under
 current statutes versus POMV 5% lump sum payout, median case. All
 dollars in millions except per person dividend.

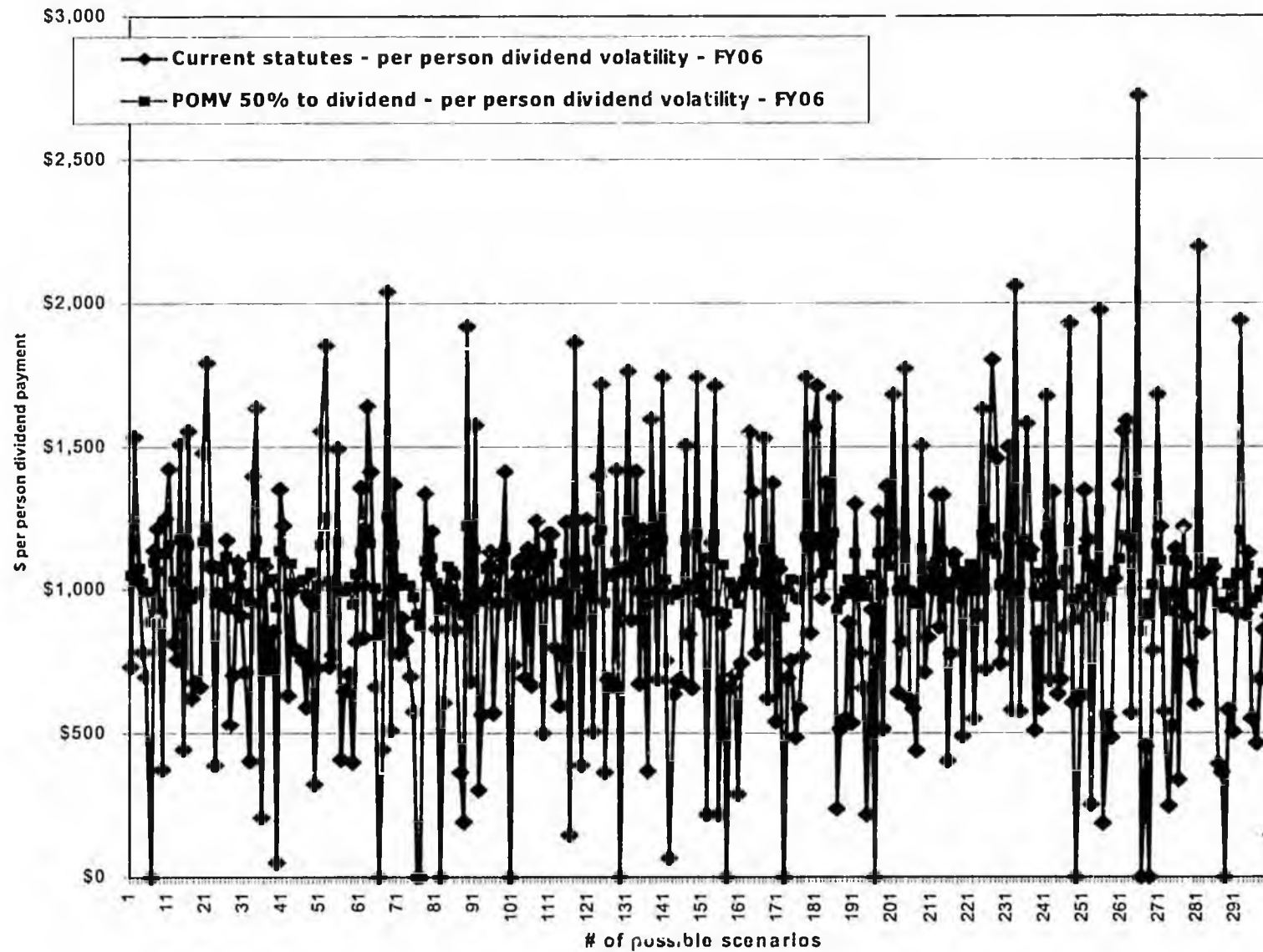
| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| Current Statutes | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |
| | | | | | | | | | | | | |
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| | | | | | | | | | | | | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

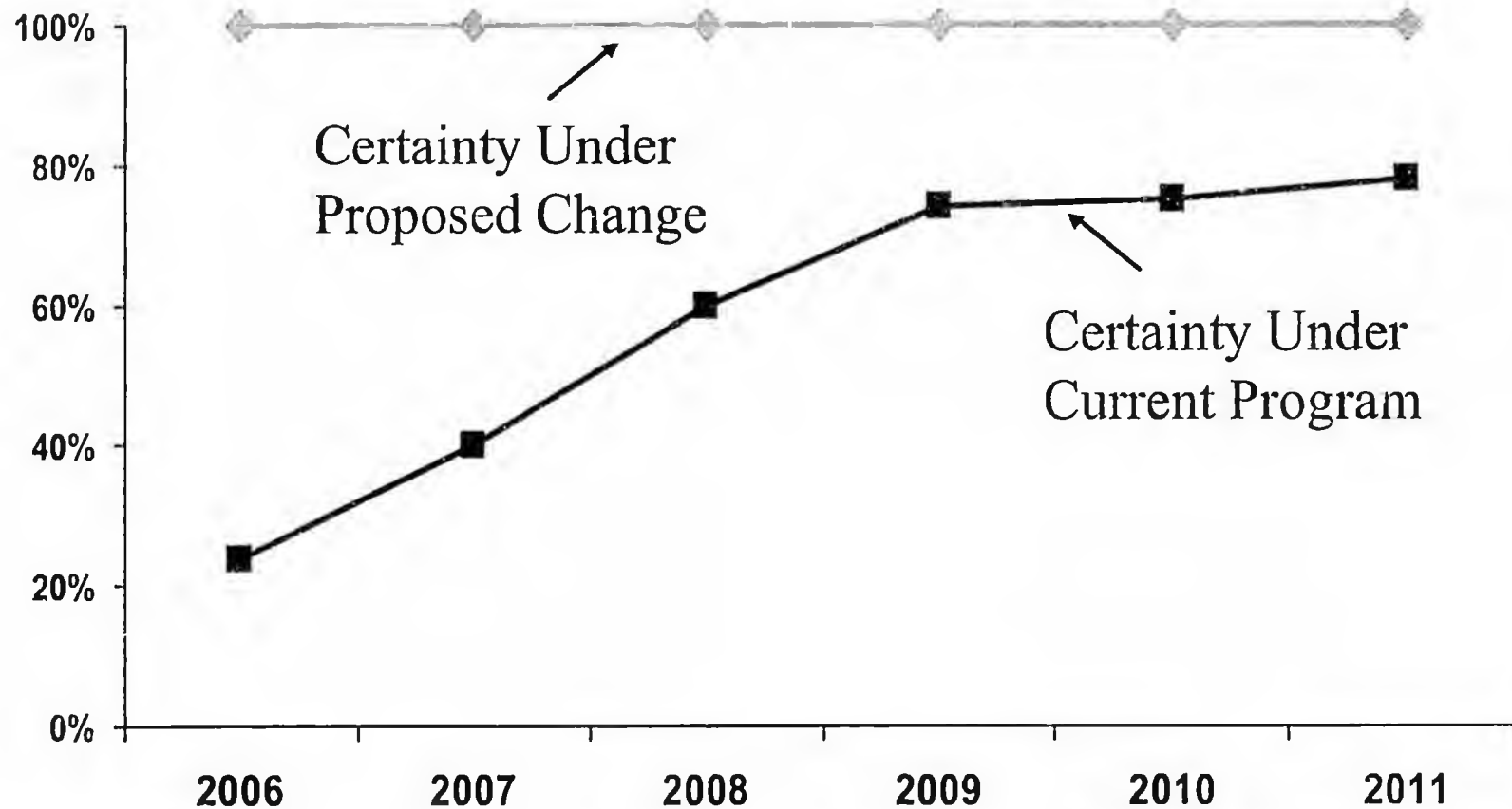
Cailan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.

Potential Volatility in Individual Dividend Amount



Do You Want to Take a Chance -- or be Guaranteed at Least \$1,000?



ALASKA PERMANENT FUND FINANCIAL PROJECTIONS 2004 - 2014 as of April 30, 2004

Long-term projections will extend ten years, based on best available information (in millions)

| Reserved Fund Balance | | | | | | | Unrealized Gain (Loss) | | Unreserved Fund Balance | | | | | | | TOTAL FUND (1) FY End Balance | | |
|-----------------------|---------------------------|--------------------------|--------------------------|--------------------|----------------|---------|------------------------|-------------------------|-------------------------|----------------------|-----------|---------------------------------------|--------------|-------------------------|----------------|----------------------------------|--------|--------|
| FY | FY Begin Contrib. Balance | Appro. (1) Contributions | Dedicated State Revenues | Inflation Proofing | FY End Balance | Change | FY End Balance | FY End Reserved Balance | Accr. Net Income (1) | | | Distributions of Statutory Net Income | | Realized Earnings Accr. | | | FY | |
| | | | | | | | | | Net Income | Statutory Net Income | Dividends | Inflation Proofing | General Fund | Net Change | FY End Balance | | | |
| 77-98 | 0 | 6,734 | 6,250 | 5,533 | 18,517 | 3,971 | 3,971 | 22,488 | 20,683 | 16,667 | 7,589 | 5,533 | 268 | 1,389 | 1,389 | 77-98 | 23,877 | |
| 99 | 18,517 | 41 | 155 | 288 | 19,001 | (430) | 3,541 | 22,542 | 2,148 | 2,544 | 1,045 | 288 | 3 | 1,201 | 2,590 | 99 | 25,132 | |
| 00 | 19,001 | 264 | 326 | 423 | 20,014 | (12) | 3,529 | 23,542 | 2,149 | 2,222 | 1,172 | 423 | 3 | 382 | 2,972 | 00 | 26,515 | |
| 01 | 20,014 | 8 | 339 | 686 | 21,047 | (2,146) | 1,383 | 22,430 | (924) | 1,199 | 1,113 | 686 | 4 | (588) | 2,384 | 01 | 24,814 | |
| 02 | 21,047 | (23) (2) | 258 | 602 | 21,884 | (878) | 505 | 22,389 | (617) | 257 | 926 | 602 | 5 | (1,248) | 1,136 | 02 | 23,525 | |
| 03 | 21,884 | 354 (3) | 398 | 352 | 22,988 | 601 | 1,106 | 24,094 | 963 | 355 | 691 | 352 | 0 | (1,035) | 100 | 03 | 24,194 | |
| 10% | 04 | 22,988 | 5 | 343 | 170 | 23,506 | (2,157) | (1,051) | 22,455 | (1,580) | 562 | 331 | 170 | 0 | 61 | 161 | 04 | 22,616 |
| 25% | 04 | 22,988 | 9 | 343 | 170 | 23,510 | (807) | 299 | 23,809 | 195 | 993 | 528 | 170 | 0 | 295 | 395 | 04 | 24,204 |
| Med | 04 | 22,988 | 13 | 343 | 170 (4) | 23,514 | 361 | 1,467 | 24,981 | 1,752 | 1,378 | 568 | 170 (5) | 0 | 640 | 740 | 04 | 25,721 |
| 25% | 04 | 22,988 | 17 | 343 | 170 | 23,518 | 1,411 | 2,517 | 26,035 | 3,357 | 1,929 | 626 | 170 | 0 | 1,133 | 1,233 | 04 | 27,268 |
| 10% | 04 | 22,988 | 21 | 343 | 170 | 23,522 | 2,671 | 3,777 | 27,299 | 5,030 | 2,337 | 669 | 170 | 0 | 1,499 | 1,599 | 04 | 28,898 |
| | 05 | 23,514 | 14 | 301 | 619 | 24,448 | 218 | 1,665 | 26,133 | 1,921 | 1,659 | 512 | 619 | 0 | 558 | 1,298 | 05 | 27,431 |
| | 06 | 24,448 | 17 | 270 | 643 | 25,377 | 232 | 1,917 | 27,294 | 2,049 | 1,800 | 575 | 643 | 0 | 582 | 1,880 | 06 | 29,174 |
| | 07 | 25,377 | 19 | 209 | 665 | 26,270 | 247 | 2,164 | 28,434 | 2,178 | 1,912 | 749 | 665 | 0 | 498 | 2,378 | 07 | 30,812 |
| | 08 | 26,270 | 24 | 201 | 688 | 27,183 | 261 | 2,425 | 29,608 | 2,301 | 2,016 | 924 | 688 | 0 | 404 | 2,782 | 08 | 32,390 |
| | 09 | 27,183 | 23 | 196 | 712 | 28,113 | 274 | 2,698 | 30,812 | 2,419 | 2,122 | 1,002 | 712 | 0 | 409 | 3,191 | 09 | 34,003 |
| | 10 | 28,113 | 25 | 197 | 736 | 29,071 | 287 | 2,986 | 32,057 | 2,540 | 2,228 | 1,058 | 736 | 0 | 434 | 3,624 | 10 | 35,681 |
| | 11 | 29,071 | 31 | 189 | 761 | 30,052 | 302 | 3,288 | 33,339 | 2,666 | 2,333 | 1,114 | 761 | 0 | 458 | 4,083 | 11 | 37,422 |
| | 12 | 30,052 | 28 | 182 | 786 | 31,048 | 316 | 3,604 | 34,651 | 2,796 | 2,452 | 1,171 | 786 | 0 | 495 | 4,578 | 12 | 39,229 |
| | 13 | 31,048 | 34 | 170 | 812 | 32,064 | 331 | 3,935 | 35,999 | 2,932 | 2,566 | 1,229 | 812 | 0 | 525 | 5,103 | 13 | 41,102 |
| | 14 | 32,064 | 33 | 160 | 838 | 33,095 | 347 | 4,262 | 37,377 | 3,072 | 2,692 | 1,288 | 838 | 0 | 566 | 5,669 | 14 | 43,046 |

| Assumptions: | Total Return - Inflation=Total Real Return | Realized Return | | | |
|------------------|--|-----------------|--------|-----|-------|
| 10% FY 2004 | -6.54% | 2.28% | -8.62% | 10% | 2.33% |
| 25% FY 2004 | 0.99% | 2.28% | -1.29% | 25% | 4.11% |
| Med FY 2004 | 7.38% (6) | 2.28% | 5.10% | Med | 5.90% |
| 25% FY 2004 | 13.97% | 2.28% | 11.69% | 25% | 7.99% |
| 10% FY 2004 | 20.83% | 2.28% | 18.55% | 10% | 9.68% |
| FY 2005-2014 (7) | 7.61% | 2.60% | 5.01% | | 6.77% |

- (1) General fund and earnings reserve appropriations to principal, settlement earnings transferred to principal per AS 37.13.145(d), royalty settlement earnings, and other miscellaneous appropriations.
- (2) Final reconciliation on State of AK royalty case.
- (3) \$354 of FY04's projected inflation proofing of \$524 was profunded in FY03. Senate Bill 283 appropriates the remaining \$170 million on June 30, 2004.
- (4) Accounting net income is statutory net income plus the net change in unrealized gains (losses) and settlement earnings. Statutory net income is realized earnings less settlement earnings and is used to calculate the dividend transfer.
- (5) Total Fund equals reserved fund balance plus the realized earnings account.
- (6) Based on 2003 Calian capital market assumptions and a range of expected returns based on the probability of the return outcome.
- (7) Based on 2004 Calian capital market assumptions and median expected return. Actual results will vary from projections.

Additional Information on the financial projections 2004 - 2014

- A. The projections for the current fiscal year show a range of expected returns and Fund values based on market volatility and current statutory language for the dividend calculation and the appropriation for FY04 inflation proofing.
- B. The FY04 center line represents the median case of possible outcomes. As the values move away from the center they become less likely to occur.
- C. All subsequent fiscal year end values (FY05 - FY14) are calculated using the median expected rate of return and the current dividend and inflation proofing formulas as outlined in AS 37.13.140 and 145.

Note: slight differences are due to rounding

Note: The APFC is changing the format of our projection sheet beginning next month, May 2004. The new look is shown above and the original format is attached for your reference. The main difference is the presentation of the current fiscal year activity, which will use beginning values and annual assumptions to provide a range of expected fiscal year end results. The Fund's values are subject to market volatility and projected future returns, which are unknown. Historically, there have been times when the Fund experienced large short term market swings, as evidenced by the September 2002 quarterly Fund return of -7.45% and the June 2003 quarterly return in excess of 10%; both occurring in the same fiscal year. The fundamental point is that short term market swings can dramatically affect fiscal year end results, and a range of expected outcomes more accurately represents our projections for the current fiscal year.

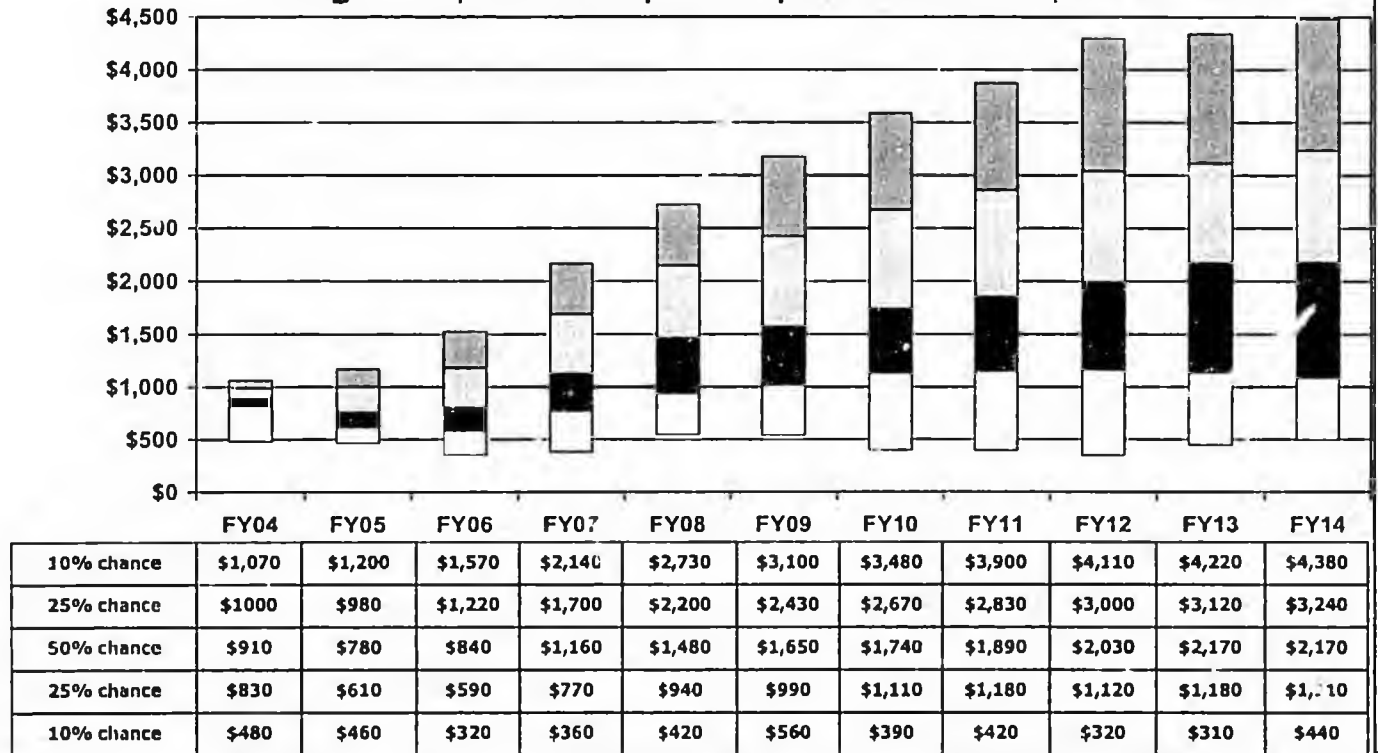


Alaska Permanent Fund Corporation

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout (beginning in FY05). All dollars in millions except per person dividend.

| | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY04-FY14 Totals |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| Current Statutes | | | | | | | | | | | | |
| Contributions & appropriations (principal) | 23,514 | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | |
| Unrealized appreciation/depreciation on assets | 1,467 | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | |
| Realized earnings account (REA, after payouts) | 740 | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | |
| Total market value end of year (after payouts) | 25,721 | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 43,065 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 568 | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 10,190 |

Range of possible per capita dividend, FY04 – FY14



Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions, graph shows the per person dividend and a range of outcomes.

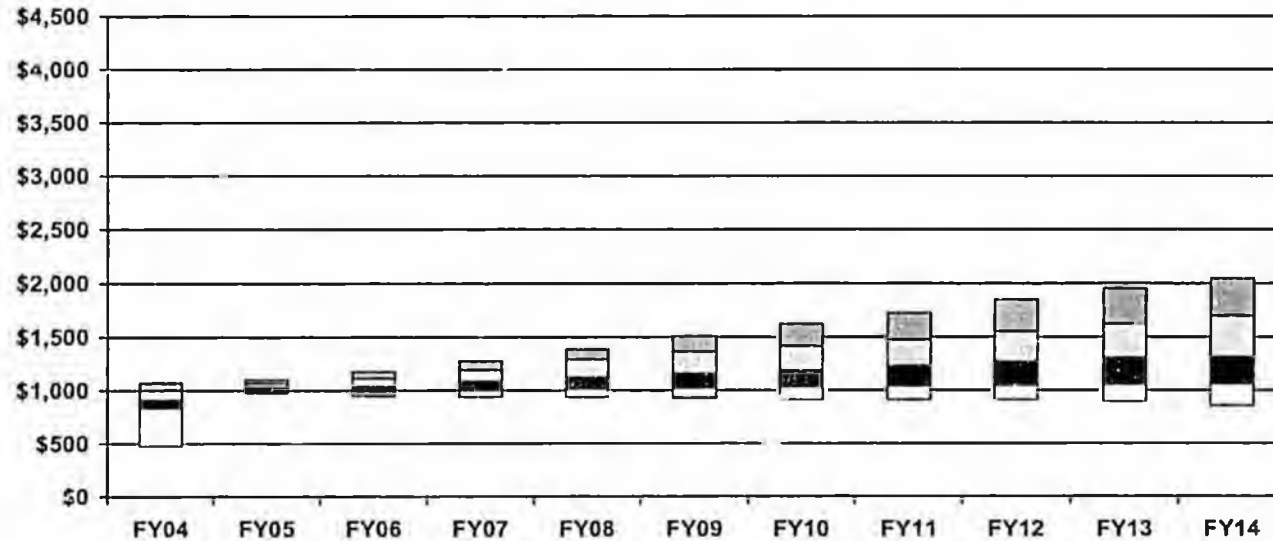


Alaska Permanent Fund Corporation

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout (beginning in FY05). All dollars in millions except per person dividend.

| | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY04-FY14 Totals |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | |
| Contributions & appropriations (principal) | 23,514 | 23,832 | 24,121 | 24,350 | 24,572 | 24,791 | 25,012 | 25,227 | 25,437 | 25,637 | 25,830 | |
| Unrealized appreciation/depreciation on assets | 1,467 | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,273 | 3,532 | 3,793 | |
| Realized earnings account (REA, after payouts) | 740 | 1,179 | 1,694 | 2,250 | 2,816 | 3,390 | 3,973 | 4,570 | 5,188 | 5,820 | 6,475 | |
| Total market value end of year (after payouts) | 25,721 | 26,694 | 27,706 | 28,702 | 29,711 | 30,729 | 31,767 | 32,823 | 33,899 | 34,990 | 36,098 | 36,098 |
| 5 year average market value lagged one year | 25,828 | 25,851 | 25,902 | 26,508 | 27,613 | 28,845 | 30,011 | 31,065 | 32,139 | 33,233 | 34,343 | |
| Total 5 % lump sum average market value available for appropriation | 568 | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 15,344 |

Range of per capita dividend, FY04 – FY14



| | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 |
|------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 10% chance | \$1,070 | \$1,100 | \$1,180 | \$1,280 | \$1,380 | \$1,510 | \$1,620 | \$1,730 | \$1,850 | \$1,960 | \$2,050 |
| 25% chance | \$1000 | \$1,070 | \$1,110 | \$1,190 | \$1,290 | \$1,350 | \$1,410 | \$1,470 | \$1,550 | \$1,620 | \$1,690 |
| 50% chance | \$910 | \$1,030 | \$1,040 | \$1,080 | \$1,120 | \$1,160 | \$1,190 | \$1,230 | \$1,270 | \$1,310 | \$1,310 |
| 25% chance | \$830 | \$1,000 | \$990 | \$1,000 | \$1,010 | \$1,020 | \$1,030 | \$1,040 | \$1,040 | \$1,050 | \$1,060 |
| 10% chance | \$480 | \$970 | \$950 | \$940 | \$940 | \$930 | \$910 | \$910 | \$910 | \$890 | \$850 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to have occurred at fiscal year end, all dollar values in millions, graph shows the per person dividend and a range of outcomes. POMV payout assumes calculation methodology is 5% of the ending market value (pro payout) for the first five of the last six fiscal years.

Proposed Local Government Assistance (Under POMV, HJR 26, HB 298)

| Local Government | Type | Local Gov't Assistance | Senate District(s) |
|------------------------|----------------|------------------------|--------------------|
| Adak | City | \$62,781 | S |
| Akhiok | City | \$54,346 | R |
| Akiachak | Unincorporated | \$25,000 | S |
| Akiak | City | \$78,715 | S |
| Akutan | City | \$117,057 | S |
| Alakanuk | City | \$106,747 | T |
| Alatna | Unincorporated | \$25,000 | C |
| Aleknagik | City | \$70,023 | S |
| Aleutians East Borough | Borough | \$255,538 | S |
| Allakaket | City | \$58,691 | C |
| Ambler | City | \$795 | T |
| Anaktuvuk Pass | City | \$1,181 | T |
| Anderson | City | \$100,442 | D |
| Angoon | City | \$93,029 | C |
| Aniak | City | \$96,949 | C |
| Anvik | City | \$59,202 | C |
| Arctic Village | Unincorporated | \$25,000 | C |
| Atka | City | \$58,095 | S |
| Atmautluak | Unincorporated | \$25,000 | S |
| Atkasuk | City | \$71,046 | T |
| Barrow | City | \$426,356 | T |
| Beaver | Unincorporated | \$25,000 | C |
| Bethel | City | \$552,632 | S |
| Bettles | City | \$52,812 | C |
| Big Salt | Unincorporated | \$25,000 | C |
| Birch Creek | Unincorporated | \$25,000 | C |
| Brevig Mission | City | \$76,755 | T |
| Bristol Bay Borough | Borough | \$344,153 | S |
| Buckland | City | \$84,935 | T |
| Central | Unincorporated | \$25,000 | C |
| Chalkyitsik | Unincorporated | \$25,000 | C |
| Chefornak | City | \$86,980 | S |
| Chenega | Unincorporated | \$25,000 | C |
| Chevak | City | \$125,322 | T |
| Chignik | City | \$57,583 | S |
| Chistochina | Unincorporated | \$25,000 | C |
| Chitina | Unincorporated | \$25,000 | C |
| Chuathbaluk | City | \$58,691 | C |
| Circle | Unincorporated | \$25,000 | C |
| Clark's Point | City | \$55,624 | S |
| Coffman Cove | City | \$63,889 | A |
| Cold Bay | City | \$58,095 | S |
| Copper Center | Unincorporated | \$25,000 | C |
| Cordova | City | \$252,109 | C |
| Craig | City | \$150,032 | C |
| Crooked Creek | Unincorporated | \$25,000 | C |
| Deering | City | \$61,162 | T |
| Delta Junction | City | \$133,843 | F |
| Deltana | Unincorporated | \$25,000 | C |
| Denali Borough | Borough | \$362,643 | D |
| Dillingham | City | \$252,194 | S |

Proposed Local Government Assistance (Under POMV, HJR 26, HB 298)

| Local Government | Type | Local Gov't Assistance | Senate District(s) |
|------------------------------|----------------|------------------------|--------------------|
| Diomedea | City | \$60,992 | T |
| Dot Lake Village | Unincorporated | \$25,000 | C |
| Dry Creek | Unincorporated | \$25,000 | C |
| Eagle | City | \$60,736 | C |
| Eagle Village | Unincorporated | \$25,000 | C |
| Edna Bay | Unincorporated | \$25,000 | C |
| Eek | City | \$74,710 | S |
| Egegik | City | \$57,157 | S |
| Ekwok | City | \$60,906 | S |
| Elfin Cove | Unincorporated | \$25,000 | A |
| Elim | City | \$79,055 | T |
| Emmonak | City | \$115,012 | T |
| Evansville | Unincorporated | \$25,000 | C |
| Fairbanks | City | \$2,562,392 | E |
| Fairbanks North Star Borough | Borough | \$4,602,506 | D & E & F |
| False Pass | City | \$55,879 | S |
| Fort Yukon | City | \$98,908 | C |
| Four Mile Road | Unincorporated | \$25,000 | C |
| Gakona | Unincorporated | \$25,000 | C |
| Galena | City | \$115,012 | C |
| Gambell | City | \$105,128 | T |
| Glennallen | Unincorporated | \$25,000 | F |
| Goldstream | Unincorporated | \$25,000 | C |
| Golovin | City | \$62,440 | T |
| Goodnews Bay | City | \$70,876 | S |
| Grayling | City | \$64,144 | C |
| Gulkana | Unincorporated | \$25,000 | C |
| Gustavus | City | \$87,320 | C |
| Haines Borough | Borough | \$448,275 | C |
| Healy Lake | Unincorporated | \$25,000 | C |
| Hollis | Unincorporated | \$25,000 | A |
| Holy Cross | City | \$67,808 | C |
| Homer | City | \$466,914 | R |
| Hoonah | City | \$122,511 | C |
| Hooper Bay | City | \$145,005 | T |
| Houston | City | \$164,091 | H |
| Hughes | City | \$55,538 | C |
| Huslia | City | \$74,795 | C |
| Hydaburg | City | \$81,526 | C |
| Hyder | Unincorporated | \$25,000 | C |
| City & Borough of Juneau | Borough | \$2,915,507 | B |
| Kachemak | City | \$90,303 | R |
| Kake | City | \$108,111 | C |
| Kaktovik | City | \$75,136 | T |
| Kaltag | City | \$69,512 | C |
| Kasaan | City | \$54,686 | C |
| Kasigluk | Unincorporated | \$25,000 | S |
| Kenai | City | \$657,095 | Q |
| Kenai Peninsula Borough | Borough | \$2,945,670 | C & P & Q & R |
| Kenny Lake | Unincorporated | \$25,000 | C |

Proposed Local Government Assistance (Under POMV, HJR 26, HB 298)

| Local Government | Type | Local Gov't Assistance | Senate District(s) |
|---------------------------|----------------|------------------------|--------------------|
| Ketchikan | City | \$731,820 | A |
| Ketchikan Gateway Borough | Borough | \$686,341 | A |
| Kiana | City | \$84,764 | T |
| King Cove | City | \$112,797 | S |
| Kipnuk | Unincorporated | \$25,000 | S |
| Kivalina | City | \$83,060 | T |
| Klawock | City | \$122,511 | C |
| Klukwan | Unincorporated | \$25,000 | C |
| Kobuk | City | \$60,651 | T |
| Kodiak | City | \$572,996 | R |
| Kodiak Island Borough | Borough | \$837,412 | R |
| Koliganek | Unincorporated | \$25,000 | S |
| Kongiganak | Unincorporated | \$25,000 | S |
| Kotlik | City | \$101,891 | T |
| Kotzebue | City | \$312,094 | T |
| Koyuk | City | \$78,970 | T |
| Koyukuk | City | \$59,458 | C |
| Kupreanof | City | \$52,556 | A |
| Kwethluk | City | \$112,201 | S |
| Kwigillingok | Unincorporated | \$25,000 | S |
| Lake & Peninsula Borough | Borough | \$327,879 | R & S |
| Lake Minchurnina | Unincorporated | \$25,000 | C |
| Larsen Bay | City | \$58,180 | R |
| Lime Village | Unincorporated | \$25,000 | C |
| Lower Kalskag | City | \$72,750 | S |
| Manley Hot Springs | Unincorporated | \$25,000 | C |
| Manokotak | City | \$84,509 | S |
| Marshall | City | \$81,356 | C |
| Matanuska-Susitna Borough | Borough | \$4,846,452 | F & G & H |
| McCarthy | Unincorporated | \$25,000 | C |
| McGrath | City | \$85,361 | C |
| Mekoryuk | City | \$67,467 | S |
| Mentasta Lake | Unincorporated | \$25,000 | C |
| Mettlakatla | City | \$169,118 | C |
| Minto | Unincorporated | \$25,000 | C |
| Mountain Village | City | \$113,905 | T |
| Municipality of Anchorage | Borough | \$23,596,771 | H - P |
| Napakiak | City | \$82,378 | S |
| Napaskiak | City | \$85,701 | S |
| Naukati Bay | Unincorporated | \$25,000 | C |
| Nelchina | Unincorporated | \$25,000 | F |
| Nenana | City | \$94,222 | C |
| New Stuyahok | City | \$92,007 | S |
| Newhalen | City | \$64,229 | R |
| Newtok | Unincorporated | \$25,000 | S |
| Nightmute | City | \$69,427 | S |
| Nikolai | City | \$60,821 | C |
| Nikolski | Unincorporated | \$25,000 | S |
| Nome | City | \$343,791 | T |
| Nondalton | City | \$68,490 | R |
| Noorvik | City | \$105,299 | T |

Proposed Local Government Assistance (Under POMV, HJR 26, HB 298)

| Local Government | Type | Local Gov't Assistance | Senate District(s) |
|--------------------------|----------------|------------------------|--------------------|
| North Pole | City | \$190,250 | F |
| North Slope Borough | Borough | \$273,943 | T |
| Northway Village | Unincorporated | \$25,000 | C |
| Northwest Arctic Borough | Borough | \$312,882 | T |
| Nuiqsut | City | \$85,446 | T |
| Nulato | City | \$79,141 | C |
| Nunam Iqua | City | \$67,382 | T |
| Nunapitchuk | City | \$92,433 | S |
| Old Harbor | City | \$67,979 | R |
| Oscarville | Unincorporated | \$25,000 | S |
| Ouzinkie | City | \$64,485 | R |
| Palmer | City | \$516,419 | G |
| Paxson | Unincorporated | \$25,000 | F |
| Pelican | City | \$59,628 | A |
| Petersburg | City | \$310,731 | A |
| Pilot Point | City | \$55,964 | S |
| Pilot Station | City | \$98,056 | T |
| Pitka's Point | Unincorporated | \$25,000 | T |
| Platinum | City | \$53,408 | S |
| Point Baker | Unincorporated | \$25,000 | C |
| Point Hope | City | \$111,775 | T |
| Port Alexander | City | \$55,964 | A |
| Port Heiden | City | \$57,413 | S |
| Port Lions | City | \$71,387 | R |
| Port Protection | Unincorporated | \$25,000 | C |
| Quinhagak | City | \$99,334 | S |
| Rampart | Unincorporated | \$25,000 | C |
| Red Devil | Unincorporated | \$25,000 | C |
| Ruby | City | \$64,400 | C |
| Russian Mission | City | \$76,414 | C |
| Saint George | City | \$62,696 | S |
| Saint Mary's | City | \$99,846 | T |
| Saint Michael | City | \$85,190 | T |
| Saint Paul | City | \$95,926 | S |
| Sand Point | City | \$130,690 | S |
| Savoonga | City | \$109,985 | T |
| Saxman | City | \$86,213 | A |
| Scammon Bay | City | \$90,047 | T |
| Selawik | City | \$110,954 | T |
| Seldovia | City | \$75,562 | R |
| Seward | City | \$282,869 | R |
| Shageluk | City | \$62,440 | C |
| Shaktolik | City | \$69,001 | T |
| Shishmaref | City | \$100,613 | T |
| Shungnak | City | \$72,494 | T |
| Silver Springs | Unincorporated | \$25,000 | C |
| City & Borough of Sitka | Borough | \$1,007,569 | A |
| Skagway | City | \$121,999 | C |
| Slana | Unincorporated | \$25,000 | C |
| Sleetmute | Unincorporated | \$25,000 | C |
| Soldotna | City | \$395,852 | Q |

Proposed Local Government Assistance (Under POMV, HJR 26, HB 298)

| Local Government | Type | Local Gov't Assistance | Senate District(s) |
|---------------------------|----------------|------------------------|--------------------|
| Stebbins | City | \$96,568 | T |
| Stevens Village | Unincorporated | \$25,000 | C |
| Stony River | Unincorporated | \$25,000 | C |
| Takotna | Unincorporated | \$25,000 | C |
| Tanacross | Unincorporated | \$25,000 | C |
| Tanana | City | \$74,710 | C |
| Tatitlek | Unincorporated | \$25,000 | C |
| Tazlina | Unincorporated | \$25,000 | C |
| Teller | City | \$70,620 | T |
| Tenakee Springs | City | \$59,032 | C |
| Tellin | Unincorporated | \$25,000 | C |
| Thorne Bay | City | \$90,899 | A |
| Togiak | City | \$120,210 | S |
| Tok | Unincorporated | \$25,000 | C |
| Toksook Bay | City | \$98,738 | S |
| Tolsora | Unincorporated | \$25,000 | F |
| Tuluksak | Unincorporated | \$25,000 | S |
| Tuntutuliak | Unincorporated | \$25,000 | S |
| Tununak | Unincorporated | \$25,000 | S |
| Twin Hills | Unincorporated | \$25,000 | S |
| Unalakleet | City | \$113,138 | T |
| Unalaska | City | \$423,885 | S |
| Upper Kalskag | City | \$69,683 | S |
| Valdez | City | \$395,937 | F |
| Venetie | Unincorporated | \$25,000 | C |
| Wainwright | City | \$97,119 | T |
| Wales | City | \$63,463 | T |
| Wasilla | City | \$622,160 | G |
| Whale Pass | Unincorporated | \$25,000 | C |
| White Mountain | City | \$68,234 | T |
| Whittier | City | \$65,167 | P |
| Wiseman | Unincorporated | \$25,000 | C |
| Wrangell | City | \$230,041 | A |
| City & Borough of Yakutat | Borough | \$308,878 | C |
| TOTAL | | \$66,691,122 | |

HJR 26 would have modernized the Permanent Fund's investment model to an endowment with a 5% limit on annual spending. HB 298 prescribed how the 5% should be spent: 50% to pay Permanent Fund dividends; 45% to fund K-12 education and the University of Alaska; and 5% for local government financial aid. For FY 05 this would have meant \$637 million for dividends; \$573 million for K-12 and the University of Alaska; and \$67 million for local government assistance.

Calculations under scenario preferred by DCED: \$250,000 minimum each borough; \$50,000 minimum each city; \$25,000 minimum each eligible unincorporated community in the Unorganized Borough. Balance allocated on a per capita basis to boroughs and cities (approximately \$85 per person).



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

June 4, 2004

The Honorable Frank Murkowski
Governor of Alaska
P.O. Box 110001
Juneau, AK 99811

Dear Governor Murkowski:

Municipal leaders thank you for your strong leadership in advocating for a viable fiscal plan for Alaska.

Municipal leaders strongly support the POMV Endowment approach and will coordinate efforts to have municipal leaders contact legislators. We will also work to encourage citizens and organizations to contact legislators.

We urge you to consider the following items for the Special Session:

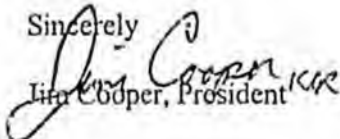
FY 05 critical one-time "lifelines" to ensure that communities remain viable until a fiscal plan is implemented:

- **Revenue Sharing "lifeline" for small communities.** (\$8 million, up to \$50K per community) Small communities are being devastated this year by the loss of revenue sharing, high oil prices, and other climbing costs. (See attached partial list of impacts.)
- **PERS "lifeline" for all municipalities.** (\$19 million) There is a growing public reaction to state cuts that fuel local tax increases or severe local public service cuts. Many municipalities have already had to raise property tax rates and/or cut public services due to state mandated PERS increases, the loss of revenue sharing, and broad local cost increases related to the high price of fuel. Communities with local tax caps cannot raise taxes and have primarily cut public services. A PERS "lifeline" will help alleviate local budget crises this year. (See attached PERS impacts by community)

Long-term Fiscal Plan

- **POMV Endowment plan adopted by the House with a Community-Dividend.** A state fiscal plan would be the most important state action taken in a decade. In addition, a Community Dividend would create a new relationship with local government to strengthen and expand the role and responsibility of local people and local governments.
- **Adopt House Bill 461** which gives municipalities a tool to adopt or raise a local telephone user fee to pay for e-911 and emergency dispatch. We also urge you to support a statewide bond issue for roads to improve community transportation systems.

Sincerely


Lisa Cooper, President

cc. Municipalities
Alaska Legislature

Revenue Sharing Impact Facts

- Per State DCED, the following 34 cities, relied on revenue sharing for 25% to 94% of all operating revenues with average total municipal operating budgets of \$112,000 per city. Manokotak, Bettles, Atkasuk, White Mountain, Kupreanof, Port Heiden, Napakiak, Napaskiak, Cheformak, Ekwok, Kasaan, Chuathbaluk, Selawik, Newhalen, Kivalina, Tenakee Springs, Teller, Anderson, Aniak, Koyukuk, Grayling, Buckland, Hughes, Point Hope, Fort Yukon, Eagle, Akhiok, Holy Cross, Allakaket, Upper Kalskag, Quinhagak, Noorvik, Anaktuvuk Pass, Huslia.
- 40-45 municipalities rely on their revenue sharing to buy fuel in bulk before barge transportation ceases for the winter, (According to Yukon Fuel). If a community cannot afford to purchase its winter fuel early, it costs \$1 to \$2 more per barrel to have it flown in. Communities are already facing over 25% higher fuel prices due to the high price of oil. Yukon Fuel directly serves: Akiak, Anvik, Chevak, Chuathbaluk, Eek, Ekwok, Grayling, Holy Cross, Kaltag, Kotlik, Koyuk, Koyukuk, Mekoryuk, New Stuyahok, Shageluk, Shaktoolik, Shishmaref, Stebbins, Toksook Bay, Wales.
- Loss of municipal insurance is a sign of a community in distress. (From the AML Joint Insurance Association -Kevin Smith, Executive Director):
 - This fiscal year, 71 of 140 municipal members are on payment contracts. (While several years ago payment contracts were unusual.)
 - Last year, 31 municipalities nearly had to be canceled for failure to pay their workers' compensation and liability contributions prior to the Governor's allocation of \$40,000 of federal funds for each community. Still, 9 municipalities lost their insurance or are pending cancellation.
- Without revenue sharing the following municipalities reported that they do not have "the financial resources necessary to provide minimum public services/continue as a city or borough." (3/04 Municipal Fiscal Conditions survey): Anaktuvuk Pass, Cordova, Deering, Elim, Gambell, Golovin, Hoonah, Hughes, Huslia, Larsen Bay, Little Diomedea, Mountain Village, McGrath, Napakiak, Nenana, Nondalton, Noorvik, Old Harbor, Ouzinkie, Savoonga, Selawik, St. Mary's, Togiak, White Mountain. About half of Alaska's municipalities responded so it is likely that the actual number of communities in distress are at least double the municipalities listed here.
- Loss of Public Safety and Maintenance: Per AML (Municipal Fiscal Survey, 10/03), many small municipalities have already been forced to eliminate or severely reduce basic services like public safety and road maintenance. Public safety cuts and/or road maintenance anticipated as of September-October 2003: Akiak (public safety), Atka (maintenance), Bettles (fire & maintenance), Buckland (maintenance); Chuathbaluk (maintenance), Chevak (public safety), Dillingham (maintenance); Egegik (maintenance), Elim (maintenance & public safety), Fort Yukon (maintenance), Golovin (maintenance & public safety), Hooper Bay (public safety), Huslia (maintenance), Kalskag (public safety), Kiana (public safety), Koyukuk (maintenance), Koyuk (maintenance), Manokotak (public safety & maintenance), Napakiak (public safety), Nenana (maintenance), North Pole (public safety), Northwest Arctic Borough for 5 cities (public safety and maintenance), Nuiqsut (maintenance), Ouzinkie (public safety), Pelican (public safety & maintenance), Savoonga (public safety), Selawick (public safety), Sand Point (maintenance), Tanana (public safety), Upper Kalskag (maintenance), Wrangel (public safety), White Mountain (maintenance), City and Borough Yakutat (public safety). Additionally, many more municipalities have already cut public safety, or never had it.

Public Employees' Retirement System (PERS) Municipalities & Hospitals Only

ESTIMATED FY 05 Change in Employer Contribution

* From Division of Retirement and Benefits

** Based on "2003 Alaska Taxable" DCED

| Fund | Employer | <<<PERS>>> 5.0% (D) | | | **Value of 1 "Mill" of Property Tax | **FY 05 Local Prop Tax Mill Rate Needed for PERS Increase! |
|------|---------------------------------|--|-----------------------|--|--|--|
| | | FY 05 Estimated Municipal Payroll | FY 05 Rate Incr | * FY 05 PERS Increase Dollars | | |
| PERS | PETERSBURG, CITY& MEDICAL CTR. | \$6,702,627 | 5.0% | \$335,131 | \$191,012 | 1.75 |
| PERS | CORDOVA, CITY & MEDICAL CENTER | \$4,427,511 | 5.0% | \$221,400 | \$111,769 | 1.98 |
| PERS | SAXMAN, CITY OF | \$415,247 | 5.0% | \$20,762 | \$12,100 | 1.72 |
| PERS | UNALASKA, CITY OF | \$9,508,993 | 5.0% | \$475,450 | \$342,385 | 1.39 |
| PERS | NENANA, CITY OF | \$373,857 | 5.0% | \$18,693 | \$14,705 | 1.27 |
| PERS | CRAIG, CITY OF | \$1,821,035 | 5.0% | \$91,052 | \$72,297 | 1.26 |
| PERS | SITKA, CITY/BOROUGH, & HOSPITAL | \$11,507,548 | 5.0% | \$732,470 | \$639,629 | 1.24 |
| PERS | WRANGELL, CITY OF | \$2,426,833 | 5.0% | \$121,342 | \$100,285 | 1.21 |
| PERS | WHITTIER, CITY OF | \$944,422 | 5.0% | \$47,221 | \$39,389 | 1.20 |
| PERS | NOME. CITY & UTILITIES | \$2,496,407 | 5.0% | \$173,791 | \$173,516 | 1.00 |
| PERS | SEWARD, CITY OF | \$3,720,505 | 5.0% | \$186,025 | \$200,255 | 0.93 |
| PERS | DILLINGHAM. CITY OF | \$2,355,455 | 5.0% | \$117,773 | \$130,552 | 0.90 |
| PERS | JUNEAU, CITY AND BOROUGH OF | \$43,232,840 | 5.0% | \$2,161,642 | \$2,640,000 | 0.82 |
| PERS | KETCHIKAN, CITY OF | \$8,020,487 | 5.0% | \$401,024 | \$547,376 | 0.73 |
| PERS | PELICAN, CITY OF | \$126,474 | 5.0% | \$6,324 | \$8,632 | 0.73 |
| PERS | KENAI, CITY OF | \$5,369,573 | 5.0% | \$268,479 | \$366,726 | 0.73 |
| PERS | KODIAK, CITY OF | \$5,663,400 | 5.0% | \$283,170 | \$388,182 | 0.73 |
| PERS | HOMER, CITY OF | \$4,738,657 | 5.0% | \$236,933 | \$332,626 | 0.71 |
| PERS | PALMER, CITY OF | \$2,563,992 | 5.0% | \$128,200 | \$189,946 | 0.67 |
| PERS | HAINES BOROUGH | \$2,037,530 | 5.0% | \$101,877 | \$175,187 | 0.58 |
| PERS | BRISTOL BAY BOROUGH | \$1,368,016 | 5.0% | \$68,401 | \$141,500 | 0.48 |
| PERS | SOLDOTNA, CITY OF | \$2,689,459 | 5.0% | \$134,473 | \$298,700 | 0.45 |
| PERS | NORTH POLE, CITY OF | \$2,073,587 | 5.0% | \$103,679 | \$259,625 | 0.40 |
| PERS | WASILLA, CITY OF | \$3,347,381 | 5.0% | \$167,369 | \$437,138 | 0.38 |
| PERS | SKAGWAY, CITY OF | \$1,398,477 | 5.0% | \$69,924 | \$205,046 | 0.34 |
| PERS | ANCHORAGE, MUNICIPALITY OF | \$127,572,934 | 5.0% | \$6,378,647 | \$19,126,104 | 0.33 |
| PERS | SELDOVIA, CITY OF | \$96,359 | 5.0% | \$4,818 | \$19,007 | 0.25 |
| PERS | VALDEZ, CITY OF | \$4,929,091 | 5.0% | \$246,455 | \$1,049,202 | 0.23 |
| PERS | FAIRBANKS, CITY OF | \$5,896,416 | 5.0% | \$294,821 | \$1,321,750 | 0.22 |
| PERS | NORTH SLOPE BOROUGH | \$47,405,369 | 5.0% | \$2,370,268 | \$10,714,796 | 0.22 |
| PERS | KETCHIKAN GATEWAY BOROUGH | \$3,978,212 | 5.0% | \$198,911 | \$935,122 | 0.21 |
| PERS | FAIRBANKS NORTH STAR BOROUGH | \$16,735,548 | 5.0% | \$836,777 | \$4,452,200 | 0.19 |
| PERS | SAXMAN SEAPORT | \$38,479 | 5.0% | \$1,924 | \$12,100 | 0.16 |
| PERS | KODIAK ISLAND BOROUGH | \$2,191,832 | 5.0% | \$109,592 | \$770,982 | 0.14 |
| PERS | KENAI PENINSULA BOROUGH | \$12,062,817 | 5.0% | \$603,141 | \$4,277,332 | 0.14 |
| PERS | MATANUSKA-SUSITNA BOROUGH | \$9,566,280 | 5.0% | \$478,314 | \$3,612,276 | 0.13 |
| PERS | KACHEMAK, CITY OF | \$59,167 | 5.0% | \$2,958 | \$28,614 | 0.10 |
| PERS | ALLAKAKET, CITY OF | \$49,434 | 5.0% | \$2,472 | none | |
| PERS | BARRON, CITY OF | \$1,036,873 | 5.0% | \$51,844 | none | |

| Fund | Employer | FY 05 Estimated Municipal Payroll | FY 05 Rate Incr | * FY 05 PERS Increase Dollars | ** Value of 1 "Mill" Property Tax | **Local Prop Tax Mill Rate Needed for PERS Increase! |
|--------------|------------------------------|--|-----------------------|--|--|---|
| PERS | DELTA JUNCTION, CITY OF | \$65,919 | 5.0% | \$3,296 | none | |
| PERS | HUSLIA, CITY OF | \$92,276 | 5.0% | \$4,614 | none | |
| PERS | KALTAG, CITY OF | \$28,529 | 5.0% | \$1,426 | none | |
| PERS | NORTHWEST ARCTIC BOROUGH | \$700,747 | 5.0% | \$35,037 | none | |
| PERS | RUBY, CITY OF | \$118,657 | 5.0% | \$5,933 | none | |
| PERS | SAINT GEORGE, CITY OF | \$366,136 | 5.0% | \$18,307 | none | |
| PERS | AKUTAN, CITY OF | \$287,937 | 5.0% | \$14,397 | sales tax only | |
| PERS | ALEUTIANS EAST BOROUGH | \$974,507 | 5.0% | \$48,725 | sales tax only | |
| PERS | ANDERSON, CITY OF | \$38,730 | 5.0% | \$1,936 | sales tax only | |
| PERS | ANGOON, CITY OF | \$307,662 | 5.0% | \$15,383 | sales tax only | |
| PERS | ATKA, CITY OF | \$71,502 | 5.0% | \$3,575 | sales tax only | |
| PERS | BETHEL, CITY OF | \$4,537,734 | 5.0% | \$226,887 | sales tax only | |
| PERS | DENALI BOROUGH | \$568,543 | 5.0% | \$28,427 | sales tax only | |
| PERS | EGEGIK, CITY OF | \$97,862 | 5.0% | \$4,893 | sales tax only | |
| PERS | ELIM, CITY OF | \$175,041 | 5.0% | \$8,752 | sales tax only | |
| PERS | FORT YUKON, CITY OF | \$295,768 | 5.0% | \$14,788 | sales tax only | |
| PERS | GALENA, CITY OF | \$1,320,610 | 5.0% | \$66,031 | sales tax only | |
| PERS | HOONAH, CITY OF | \$638,162 | 5.0% | \$31,908 | sales tax only | |
| PERS | HOOPER BAY, CITY OF | \$592,669 | 5.0% | \$29,633 | sales tax only | |
| PERS | KAKE, CITY OF | \$291,898 | 5.0% | \$14,595 | sales tax only | |
| PERS | KING COVE, CITY OF | \$1,035,132 | 5.0% | \$51,757 | sales tax only | |
| PERS | KLAWOCK, CITY OF | \$820,343 | 5.0% | \$41,017 | sales tax only | |
| PERS | KOTZEBUE, CITY OF | \$3,138,622 | 5.0% | \$156,931 | sales tax only | |
| PERS | KOYUK, CITY OF | \$21,463 | 5.0% | \$1,073 | sales tax only | |
| PERS | LAKE AND PENINSULA BOROUGH | \$632,700 | 5.0% | \$31,635 | sales tax only | |
| PERS | NOORVIK, CITY OF | \$351,910 | 5.0% | \$17,595 | sales tax only | |
| PERS | QUINHAGAK, CITY OF | \$29,932 | 5.0% | \$1,497 | sales tax only | |
| PERS | SAINT MARY'S, CITY OF | \$306,495 | 5.0% | \$15,325 | sales tax only | |
| PERS | SAINT PAUL, CITY OF | \$1,366,801 | 5.0% | \$68,340 | sales tax only | |
| PERS | SAND POINT, CITY OF | \$758,056 | 5.0% | \$37,903 | sales tax only | |
| PERS | SELAWICK, CITY OF | \$77,442 | 5.0% | \$3,872 | sales tax only | |
| PERS | TANANA, CITY OF | \$217,611 | 5.0% | \$10,881 | sales tax only | |
| PERS | THORNE BAY, CITY OF | \$279,855 | 5.0% | \$13,993 | sales tax only | |
| PERS | TOKSOOK BAY, CITY OF | \$16,994 | 5.0% | \$850 | sales tax only | |
| PERS | UNALAKLEET, CITY OF | \$264,140 | 5.0% | \$13,207 | sales tax only | |
| PERS | YAKUTAT, CITY AND BOROUGH OF | \$439,129 | 5.0% | \$21,956 | sales tax only | |
| PERS | ANCHORAGE PARKING AUTHORITY | \$1,020,063 | 5.0% | \$51,003 | see Anch | |
| TOTAL | | | | \$19,430,923 | | |

STATE BOARD OF
EDUCATION
& EARLY DEVELOPMENT

**Resolution
of the
State Board of Education & Early Development**

*Requesting the Legislature to Adopt a Long-Term Fiscal
Plan*

Resolution 01-2004

WHEREAS, the Alaska Legislature has committed itself to developing a quality state education system that holds the state schools accountable for results; and

WHEREAS, the public schools are attempting to meet higher expectations so that all students meet essential skills in reading, writing, mathematics and science by 2013; and

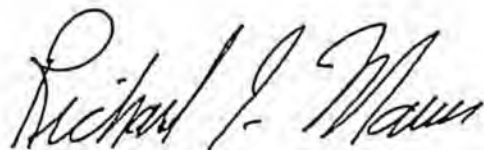
WHEREAS, public schools through no fault of their own are faced with burgeoning costs to the teacher and public employee retirement systems; and

WHEREAS, the Legislature has further demonstrated its commitment to education by increasing the public school foundation program by \$82 million for Fiscal Year 2005; and

WHEREAS, Governor Murkowski has called the Legislature into special session to address Alaska's long term fiscal problems aimed at assuring adequate funding of basic state services, such as education; and

WHEREAS, the Legislature will not be able meet its commitments to a quality system of public schools available to every child in Alaska without a long-term, stable source of state revenues; so

THEREFORE, the State Board of Education & Early Development requests the Alaska Legislature to adopt a long-term fiscal plan aimed at protecting essential state services, including education.



Chair, State Board of Education & Early Development

June 11, 2004

ALASKA COUNCIL



OF SCHOOL ADMINISTRATORS

326 Fourth Street, Suite 404 • Juneau, Alaska 99801
Phone: (907) 586-9702 • Fax: 586-5879
web site: www.alaskaacsa.org

Alaska Council of School Administrators

June 17, 2004

State Senate
House of Representatives
State Capitol Building
Juneau, AK 99801-1182

RECEIVED
JUN 17 2004
Alaska Department of Education
& Early Development

Dear Senators and Representatives:

As you recall, last October and again in March, ACSA signed a letter to encourage you to act on a fiscal plan this year. Despite recent high oil price projections, massive projected fiscal problems next year and beyond underscore the need for action this year.

Our organization is firmly supportive of the implementation of a 5% Percent of Market Value management of the Permanent Fund, and the use of Fund earnings to provide PFDs and a balanced state budget with adequate levels of public services.

Please take action to implement a fiscal plan during the special legislative session next week.

Respectfully,

Mary A. Francis, Ph.D.
Executive Director

MF:klc

cc: ACSA Board of Directors
bcc: Commissioner Roger Sampson

GREATER * FAIRBANKS CHAMBER OF COMMERCE

800 Cushman St, Suite 114, Fairbanks, AK 99701
phone: (907) 452-1105, fax: (907) 456-6968

e-mail: staff@fairbankschamber.org
website: www.fairbankschamber.org

April 20, 2004

Governor Frank Murkowski
Alaska State Capitol
FAX: (907) 465-3532

Dear Governor Murkowski,

The Greater Fairbanks Chamber of Commerce recognizes and applauds the efforts of the Governor and the Legislature to work towards a balanced state budget, while minimizing further withdrawals from the Constitutional Budget Reserve.

To that end, we have reviewed the discussion advanced by HJR 17 and by Sen. Gene Theriault in his presentation to the Senate Finance Committee on March 19.

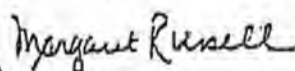
The GFCC has been in strong support of the POMV methodology as an investment discipline. We recognize that the POMV system would insulate the Fund's annual distribution from market and political volatility, ensure inflation proofing and provide a relatively uniform and predictable annual distribution. Therefore, it is included in the top 5 of our 2004 Legislative priorities.

Additionally, we have encouraged the Legislature to consider use of the Permanent Funds earnings reserves to help support state services, while inflation proofing the principal of the fund (rather than the market value), and continuing to pay a reasonable annual dividend. Although POMV is ultimately the key to a long term, stable annual distribution, the Legislature currently has the authority to, and should, use Permanent Fund earnings reserves under the current system as necessary.

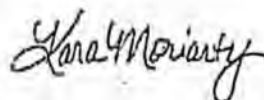
If further state revenues were needed after continued budget discipline and some use of the Permanent Fund's earnings reserves, the Legislature, only then, should consider implementation of a broad based, statewide tax.

With these positions in mind, we would urge the Legislature to reach a consensus on current and future use of the Permanent Fund earnings reserves, including POMV by the end of session. If a POMV measure is adopted this Legislative session, we are committed in using all of our resources to gain voter approval in November.

Sincerely,



Margaret Russell
Board Chair



Kara Moriarty
President/CEO

Benefactors

AGS Media LLC
Alaska Acoustic
Alaska Airlines
Alaska Communications Systems
Alaska Railroad
Alaska USA Federal Credit Union
Alvord Pipeline Service Company
A&E Faircom
BP Exploration Inc
Cellular One
ConocoPhillips Alaska Inc
Denali State Bank
Design Alaska
Exxon Mobil
Fairbanks Building & Construction Trades Council of the Unions
Fairbanks Gold Mining Inc
Fairbanks Memorial Hospital
Fairbanks Natural Gas LLC
First National Bank Alaska
Flowline Alaska
GCI
Golden Heart Billie
Kippen Valley Electric Association
Key Bank of Alaska
MAC Federal Credit Union
Mt. McKinley Bank
Northern Bank
Phone Directories Company
Safeway
Safeway Scruit Services
Santana Flowers & Gifts
Seeley Ford Lincoln Mercury
Tanana Valley Clinic
Tribal Security Technologies Inc
Totem Oceanic Express
University of Alaska Fairbanks
Usibell Coal Mine
Wells Fargo
Wendy's
Westmark Fairbanks Hotel & Conference Center
Williams Alaska Petroleum



everychild. one voice.

Immediate Enactment of a Long Term Fiscal Plan for Alaska

Whereas: Alaska state government currently spends more money than it receives as revenue each year; and

Whereas: The Constitutional Budget Reserve is being depleted and will soon be unavailable to continue to make up the difference between spending and revenue, and

Whereas: This fiscal gap threatens the stability of current and future educational funding; and

Whereas: The fiscal gap also threatens the state's ability to fund other programs and services essential to the wellbeing of Alaska's children; and

Whereas: The longer a solution to the fiscal gap is delayed the harder it will be to solve the problem; **therefore be it**

Resolved: That the Alaska PTA supports the enactment of a long term fiscal plan for Alaska during this legislative session.

The TRUST

The Alaska Mental Health Trust Authority

April 16, 2004

RECEIVED

APR 21 2004

Governor Frank Murkowski
Office of the Governor
P.O. Box 110001
Juneau AK 99811

GOVERNOR'S OFFICE

Dear Governor Murkowski :

As health and human service funders, we are writing to urge you to maintain essential state funding for health and human service programs and to develop a comprehensive, long-range fiscal plan for Alaska.

Providing health and human services to Alaskans in need is shared among government, the nonprofit sector, and private support. Each plays a critical and interconnected role. In particular, there has been a long and productive relationship between the state and nonprofit service providers. The state relies on nonprofits to provide services at less cost than government could do. Nonprofits rely upon the state for a core level of funding to keep the infrastructure viable. Nonprofits then leverage additional funds through other public and private donations that further reduce costs the state.

The system has been working well in Alaska. In fact, according to a November 2003 report prepared by the Nelson A. Rockefeller Institute of Government, Alaska is one of only four states that saw a decreased reliance upon government funding among health and human service nonprofit agencies. All other states reported that nonprofits needed more government funding over the study's 10-year review period. Alaska also had the most significant decrease in government funding of those four states that were relying less on government funds.

The Department of Health and Social Services proposed FY04 and FY05 funding cuts, and its plans for Medicaid refinancing undermine the stability of a system that serves our most vulnerable population. We understand that Medicaid is a serious financial drain and that creative refinancing approaches are important. However, it is shortsighted to drain other service programs to offset Medicaid costs. Increased reliance on Medicaid has led to immediate savings in state funds, but with looming federal deficits, it also increases the likelihood that those funds will not be available in the future. We urge you to move with caution in taking funding actions that are too optimistic about the level and pace of refinancing that can occur. Putting all of our eggs in that one basket is precipitously dangerous and jeopardizes the stability of the health and human services infrastructure.

We appreciate providing services requires money. We understand that the issues around creating a long-range fiscal plan are contentious and politically charged. Yet, the risks to Alaskans increase every year that we do not get our state finances in order.

In order to address Alaska's fiscal situation, we support an honest and full public debate over the proposed budget and its impacts, ongoing budget discipline, and the need for new revenues.



In order to have a vibrant future, we must all work together to ensure a capable and ready workforce, healthy citizens, and opportunities for our children. As you deliberate about a long-range fiscal plan and the level of health and human services you will provide, we ask you to carefully consider the consequences of budget cuts to programs that serve those less fortunate.

We must protect the health and welfare of Alaskans in need while creating a stable fiscal environment for everyone. You have the opportunity to create long-term stability for Alaskans, and a health and human services delivery system that improves the productivity of our citizens. We stand ready to work with you as you take the steps necessary to make this a reality.

Sincerely,

Alaska Mental Health Trust Authority
United Way of Anchorage
United Way of Matanuska-Susitna
United Way of Valdez



7595
GMB
LO
HB
DD
cc KR

March 28, 2004

Honorable Governor Frank Murkowski
State of Alaska
PO Box 110001
Juneau, AK 99811-0001

RECEIVED

APR - 5 2004

GOVERNOR'S OFFICE

Dear Governor Murkowski:

In February 2004, the ATIA board of directors met in Juneau to discuss long-term funding and our proposed legislation. We also met with our state legislators at our annual industry fly-in to obtain support for the assessment from our elected leaders.

During the board meeting significant discussion took place to identify a context for supporting the assessment that addresses other significant concerns for your administration and all Alaskans. To that end, the ATIA board approved a motion to support:

- (1) The Administration and Legislature's efforts to identify and implement a long-term fiscal plan for the state with continued focus on budget discipline; and
- (2) The appropriation of a portion of the earnings from the Permanent Fund to help support state services. Furthermore, we strongly support the creation of a "percent of market value" structure for the Permanent Fund. Using some of the Permanent Fund earnings for state government should not preclude the Alaska Permanent Fund Dividend program from continuing and growing.

ATIA, as the official statewide tourism-marketing arm for Alaska, carries a continuing obligation to its membership to promote their businesses and the industry. The assessment is the most likely means to fulfilling that mandate by making our state's tourism marketing efforts competitive with other major destinations.

The revenue generated from the assessment is significant for marketing purposes but falls short of closing the fiscal gap. It is our belief that implementing the POMV structure to the Permanent Fund, combined with sound budget discipline, will provide both you and the legislature with a meaningful way to address our state's current budget situation.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Peck', written over a horizontal line.

Ron Peck
President & COO

RP:jf

2600 Cordova Street, Suite 201
Anchorage, AK 99503-2745
Tel: 907-929-ATIA (2842)
Fax: 907-561-5727
ATIA@alaskatia.org
www.alaskatia.org

Alaska State Hospital & Nursing Home Association

We're helping people care for people!

cc: Kris

7765
OMBS
LO

April 15, 2004

Honorable Frank Murkowski
Governor, State of Alaska
Office of the Governor
P.O. Box 110001
Juneau, Alaska 99811

RECEIVED

APR 16 2004

GOVERNOR'S OFFICE,

Dear Governor Murkowski:

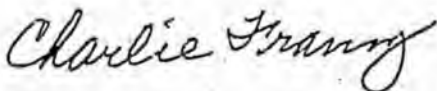
The Alaska State Hospital and Nursing Home Association membership wishes to go on record supporting your call for the Alaska Legislature to find a workable solution to the fiscal imbalance confronting the State. We stand ready to assist you and the Legislature in crafting a revenue solution that will serve Alaska well in the years ahead, and that will insure a quality of life that all Alaskans can agree is important to preserve for future generations.

Alaskans have shown a strong commitment to provide safety net programs that help low income families. Alaskans have also shown a long standing commitment to providing world class education to our children so they may compete more effectively in a global economy, and to provide a workforce that will attract employers to our State. Alaskans have supported state policies that ensure rural Alaskans have access to quality health care in hospitals and nursing homes close to home and family.

All of these programs directly impact quality of life, overall economic viability, and employment opportunities in our communities. We believe as an Association that the State cannot continue to ignore the revenue realities facing it. The recent Conference of Alaskans identified various solutions for addressing this problem. Conference participants and other Alaskans have advanced many good ideas for balancing the budget including use of permanent fund earnings, tobacco tax increases, and a host of other measures. We believe that some combination of these can be agreed upon by all to close the revenue gap that the State is now facing.

Unless bold and timely action is taken by the Legislature to work with your office to address this issue, we can only expect to see more erosion of critical state services and programs in the years ahead. The need for strong leadership is more critical than ever to chart the economic future of Alaska and we look forward to helping you and the Alaska Legislature accomplish that.

Sincerely,



Charlie Franz, Chairman
Board of Directors 1/2/06

426 Main Street, Juneau, Alaska 99801

Phone: 907 586 1700 • Fax: 907 463 3573 • Web: ashnhq.com



ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381
FAX: (907) 874-3952

June 18, 2004

Fax Received
JUN 18 2004
Office of the Governor

The Honorable Frank Murkowski
Office of the Governor
PO Box 11001
Fax 907-465-3532
Juneau, AK 99811-0001

Dear Governor Murkowski:

I am writing in support of the POMV and a Community Dividend.

I endorse the proposed 50:45:05 split, or hopefully a somewhat higher percentage being designated to municipal support.

It is my sincere hope that the upcoming Legislative Special Session will be very positive, and that our legislators approach the issues with the best interests of the state in their hearts and minds.

I want to personally thank you for your exemplary leadership in attempting to solve our state's financial crises.

Sincerely,

Robert S. Prunella
City Manager

SPENDING
LIMIT

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

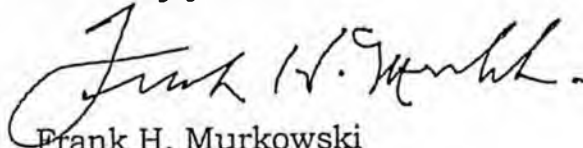
I have used as a model for this resolution the final Senate version of House Joint Resolution 9 (HJR 9), which was rejected by the Senate during the last regular session of the Legislature (SCS CS HJR 9(FIN)(fld S)). This joint resolution differs from SCS CS HJR 9(FIN)(fld S) in that it contains some technical changes that were recommended by the Department of Law. In the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical language changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with "teeth" in it. If approved by the Legislature and passed by the voters, it will control government spending. A leaner and more efficient state government will be produced. Passage of the resolution sends the signal the Legislature has heard the public's message and will allow Alaskans to vote on the issue.

The Honorable Gene Therriault
June 21, 2004
Page 2

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive style with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a resolution relating to an appropriation or "spending" limit. This resolution gives voters the chance to directly voice their opinion on a spending limit at the ballot box. A spending limit is an integral part of the transition to a long-range fiscal plan for Alaska.

The model for this resolution is the version of Committee Substitute House Joint Resolution 9 (CS HJR 9) as it passed the House in the regular session (CS HJR 9(FIN) am). There are some technical changes, which were recommended by the Department of Law. Specifically, in the list of appropriations excluded from the appropriation limit, references to "state lease debt" have been changed to "capital leases" to more accurately reflect the description of these obligations in governmental accounting. Other technical changes were made to more clearly provide that the "excluded" appropriations are to be excluded from the appropriation limit itself as well as from calculation of the appropriation limit.

The resolution presents the public with the opportunity to approve a spending limit with enough "teeth" in it to be effective. If approved by the Legislature and passed by the voters, it will prevent government spending from growing too large, too fast. Alaskans want spending controlled to produce a leaner, more efficient, effective state government. Passage of the resolution sends the signal the Legislature has heard the message and will allow Alaskans to vote on the issue.

I urge your prompt and favorable action on this resolution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

BILL

HOUSE JOINT RESOLUTION NO. 103

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to an
2 appropriation limit.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and
5 readopted to read:

6 Section 16. Appropriation Limit. (a) Appropriations made for a current
7 fiscal year shall not exceed the average amount appropriated for the earliest three of
8 the four fiscal years immediately preceding that current fiscal year, increased or
9 decreased by the lesser of

10 (1) seventy-five percent of the sum of the following:

11 (A) the percentage rate of change in the cost of living for the
12 three calendar years preceding the calendar year during which the immediately
13 preceding fiscal year began; plus

14 (B) the percentage rate of change in the State population for the
15 three calendar years preceding the calendar year during which the immediately

1 preceding fiscal year began; or

2 (2) the percentage rate of change in the personal incomes of State
3 residents for the three calendar years preceding the calendar year during which the
4 immediately preceding fiscal year began.

5 (b) The legislature shall implement (a) of this section by law.

6 (c) An appropriation that exceeds the limit under (a) of this section by not
7 more than two percent may be made for any public purpose upon affirmative vote of at
8 least two-thirds of the members of each house of the legislature. An appropriation that
9 exceeds the limit under (a) of this section by not more than four percent may be made
10 for any public purpose upon affirmative vote of at least three-fourths of the members
11 of each house. However, the total amount of appropriations under this subsection
12 made for a fiscal year may not exceed the limit under (a) of this section by more than
13 four percent. A bill making one or more appropriations under this subsection must be
14 confined to appropriations made under this subsection.

15 (d) The following are excluded from the appropriation limits in (a) and (c) of
16 this section and from the calculations made under (a) of this section:

17 (1) an appropriation to the Alaska permanent fund established in
18 Section 15 of this article;

19 (2) an appropriation for payments of permanent fund dividends to State
20 residents;

21 (3) an appropriation to meet a state of natural disaster declared by the
22 governor as prescribed by law;

23 (4) an appropriation to a separate fund or account in the general fund
24 from which expenditures may not be made without an additional appropriation from
25 that separate fund or account;

26 (5) an appropriation of State general obligation and revenue bond
27 proceeds or an appropriation of capital lease financing proceeds;

28 (6) an appropriation required to pay obligations under revenue or
29 general obligation bonds issued by the State or payments owed by the State under a
30 capital lease;

31 (7) an appropriation of money received from the federal government;

2 (8) a reappropriation of money already appropriated under an
unobligated appropriation that is not void under Section 13 of this article;

3 (9) an appropriation of money for expenditure by a State agency to
4 provide services to part of that same agency or to another State agency if the other part
5 or the other agency has also received an appropriation of the same money;

6 (10) an appropriation of money held in trust by the State for a
7 particular purpose;

8 (11) an appropriation of money from tuition of the University of
9 Alaska;

10 (12) an appropriation of money received by the state from a source
11 other than the state or federal government that is restricted to a specific use by the
12 terms of a gift, grant, bequest, or contract;

13 (13) an appropriation of money deposited into the budget reserve fund
14 under Section 17(d) of this article back to the funds and accounts from which the
15 money came;

16 (14) an appropriation of dedicated funds.

17 (e) An appropriation made under (c) of this section is excluded from the
18 calculations made under (a) of this section.

19 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new
20 section to read:

21 Section 30. Application, Transition, and Repeal of Appropriation Limit.

22 (a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) first
23 applies to appropriations made for fiscal year 2006; however, for purposes of making
24 calculations under the appropriation limit for fiscal years 2006 through 2008, it shall
25 be assumed that, excluding appropriations listed under Section 16(d) of Article IX, the
26 amount appropriated for

27 (1) fiscal year 2004 equals \$3,300,000,000; and

28 (2) fiscal year 2005 equals \$3,400,000,000.

29 (b) Section 16 of Article IX (appropriation limit) is repealed July 1, 2009.

30 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
31 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the

1 State of Alaska, and the election laws of the state.

SENATE JOINT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:
Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to an
2 appropriation limit.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and
5 readopted to read:

6 Section 16. Appropriation Limit. (a) Subject to (b) of this section,
7 appropriations made for a current fiscal year shall not exceed the average amount
8 appropriated for the earliest three of the four fiscal years immediately preceding that
9 current fiscal year, increased or decreased by the lesser of

10 (1) seventy-five percent of the sum of the following:

11 (A) the percentage rate of change in the cost of living for the
12 three calendar years preceding the calendar year during which the immediately
13 preceding fiscal year began; plus

14 (B) the percentage rate of change in the State population for the
15 three calendar years preceding the calendar year during which the immediately

1 preceding fiscal year began; or

2 (2) the percentage rate of change in the personal incomes of State
3 residents for the three calendar years preceding the calendar year during which the
4 immediately preceding fiscal year began.

5 (b) The legislature shall implement (a) of this section by law. If the
6 appropriation limit calculated under (a) of this section, as implemented by law, for a
7 current fiscal year is less than the appropriation limit amount calculated for the
8 immediately preceding fiscal year, the appropriation limit amount for the immediately
9 preceding fiscal year shall apply to the current fiscal year.

10 (c) An appropriation that exceeds the limit under this section by not more than
11 two percent may be made for any public purpose upon affirmative vote of at least two-
12 thirds of the members of each house of the legislature. An appropriation that exceeds
13 the limit under this section by not more than four percent may be made for any public
14 purpose upon affirmative vote of at least three-fourths of the members of each house.
15 However, the total amount of appropriations under this subsection made for a fiscal
16 year may not exceed the limit under this section by more than four percent. A bill
17 making one or more appropriations under this subsection must be confined to
18 appropriations made under this subsection.

19 (d) The following are excluded from the appropriation limits in (a) and (c) of
20 this section and from the calculations made under (a) of this section:

21 (1) an appropriation to the Alaska permanent fund established in
22 Section 15 of this article;

23 (2) an appropriation for payments of permanent fund dividends to State
24 residents;

25 (3) an appropriation to meet a state of natural disaster declared by the
26 governor as prescribed by law;

27 (4) an appropriation to a separate fund or account in the general fund
28 from which expenditures may not be made without an additional appropriation from
29 that separate fund or account;

30 (5) an appropriation of State general obligation or revenue bond
31 proceeds or an appropriation of capital lease financing proceeds;

2 (6) an appropriation required to pay obligations under revenue or
3 general obligation bonds issued by the State or payments owed by the State under a
4 capital lease;

5 (7) an appropriation of money received from the federal government;

6 (8) a reappropriation of money already appropriated under an
7 unobligated appropriation that is not void under Section 13 of this article;

8 (9) an appropriation of money for expenditure by a State agency to
9 provide services to part of that same agency or to another State agency if the other part
10 or the other agency has also received an appropriation of the same money;

11 (10) an appropriation of money held in trust by the State for a
12 particular purpose;

13 (11) an appropriation of money received as tuition, fees, contract
14 receipts, or from other sources apart from the general fund by the University of
15 Alaska;

16 (12) an appropriation of money received by the state from a source
17 other than the state or federal government that is restricted to a specific use by the
18 terms of a gift, grant, bequest, or contract;

19 (13) an appropriation of money deposited into the budget reserve fund
20 under Section 17(d) of this article back to the funds and accounts from which the
21 money came;

22 (14) an appropriation of dedicated funds.

23 (e) An appropriation made under (c) of this section is excluded from the
24 calculations made under (a) of this section.

25 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new
26 section to read:

27 **Section 30. Application, Transition, and Repeal of Appropriation Limit.**

28 (a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) first
29 applies to appropriations made for fiscal year 2006; however, for purposes of making
30 calculations under the appropriation limit for fiscal years 2006 through 2008, it shall
31 be assumed that, excluding appropriations listed under Section 16(d) of Article IX, the
amount appropriated for

1
2
3
4
5
6

(1) fiscal year 2004 equals \$3,150,000,000; and

(2) fiscal year 2005 equals \$3,250,000,000.

(b) Section 16 of Article IX (appropriation limit) is repealed July 1, 2009.

* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

FISCAL NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: Law Log No. 0167
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title Constitutional amendment relating RDU Elections
to spending limits. _____ Component Elections
Sponsor Rules
Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
Division Division of Elections Date/Time 6/7/04 2:46 PM
Approved by: Laura A. Glaiser, Director Date 6/7/2004
Agency Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: Law Log 0186
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Constitutional amendment relating to an RDU Elections
appropriation limit. Component Elections
Sponsor Rules
Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
Division: Division of Elections Date/Time 6/18/04 8:57 AM
Approved by: Laura A. Glaiser, Director Date 6/18/2004
Agency: Office of the Lt. Governor, Division of Elections

SECTIONAL

**Spending Limit – Proposal to the House
Based on CSHJR 9 (FIN) am**

Sectional Analysis

Section 1. Article IX, Appropriation Limit

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

(a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

(1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

(2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

(b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

(c) Allows the limit to be exceeded by:

- Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
- Up to four percent with a three-fourths vote.

- (d) Allows certain appropriations to remain exempt from the base limit calculation:
- (1) appropriations to the Permanent Fund
 - (2) appropriations of Permanent Fund dividends
 - (3) appropriations for a natural disaster declared by the Governor
 - (4) duplicated expenditures
 - (5) GO and revenue bond proceeds and capital lease financing proceeds
 - (6) GO and revenue bond debt service and capital lease finance obligations
 - (7) federal funds
 - (8) reappropriations
 - (9) reimbursable services agreements and interagency transfers
 - (10) monies held in trust
 - (11) University of Alaska tuition receipts
 - (12) gifts, grants, bequests or contracts
 - (13) deposits to the CBR and reverse sweep of GF accounts
 - (14) dedicated funds
- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

Section 2. Amends Article XV. Schedule of Transitional Measures.

- (a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.3 billion in FY 04 and \$3.4 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.
- (b) Sets a July 1, 2009 sunset date for the amendment.

Section 3.

Provides for the amendment to go before voters in the 2004 general election.

**Spending Limit – Proposal to the Senate
Based on SCS CSHJR 9 (FIN) (fld S)**

Sectional Analysis

Section 1. Article IX, Appropriation Limit

Repeals and replaces the existing Appropriation Limit in Article IX, Section 16 of the Alaska Constitution with the following:

- (a) Establishes a moving three-year average as the base for the application of the limit. The intent is to smooth out year-to-year variations to provide a more predictable limit for long-range planning.

The base is tied to actual appropriations, which are generally available two years prior to the fiscal year being considered. Thus the moving average is based on the earliest three of the previous four fiscal years. Each year's limit is computed separately from the previous year limit.

- (1) The rate of allowable annual change in the limit is determined by adding the two variables (inflation plus population growth) multiplied by 0.75.

(A) Establishes the average of the Anchorage Consumer Price Index (CPI) as one of the variables for determining the annual change in the spending. Like the base, the CPI used is a three-year average derived from the calendar years corresponding to the fiscal years upon which the base is determined.

(B) Sets the second variable in calculating the change in the spending limit as the average rate of annual population change for the same calendar years as the CPI variable.

- (2) Further restricts the rate of allowable change in the limit to be not more than annual growth in personal incomes of state residents.

- (b) Provides that the Legislature will implement by law the limit's calculation stipulated in (a).

Provides a "no ratchet-down" clause that stipulates if the calculated appropriation limit is less than the previous years' appropriation level, the default limit will be the previous year's appropriation level.

- (c) Allows the limit to be exceeded by:
 - Up to two percent through an affirmative vote of two thirds of the members of each house of the legislature; and
 - Up to four percent with a three-fourths vote.

- (d) Allows certain appropriations to remain exempt from the base limit calculation:
 - (1) appropriations to the Permanent Fund
 - (2) appropriations of Permanent Fund dividends
 - (3) appropriations for a natural disaster declared by the Governor
 - (4) duplicated expenditures
 - (5) GO and revenue bond proceeds and capital lease financing proceeds
 - (6) GO and revenue bond debt service and *capital lease finance* obligations
 - (7) federal funds
 - (8) reappropriations
 - (9) reimbursable services agreements and interagency transfers
 - (10) monies held in trust
 - (11) University of Alaska tuition receipts, *fees, contract receipts, or other non-General Fund sources*
 - (12) gifts, grants, bequests or contracts
 - (13) deposits to the CBR and reverse sweep of GF accounts
 - (14) dedicated funds

- (e) Excludes from the limit's calculation the amount by which the limit was overridden by a supermajority of the legislature as provided in Section 1, Subsection 2 (c) above.

Section 2. Amends Article XV. Schedule of Transitional Measures.

- (a) Specifies that the constitutional limit first applies to FY 2006 appropriations and establishes artificial base year limits of \$3.15 billion in FY 04 and \$3.25 billion in FY 05 to feed into the 3 year average for purposes of calculating the FY 06 appropriation limit.

- (b) Sets a July 1, 2009 sunset date for the amendment.

Section 3.

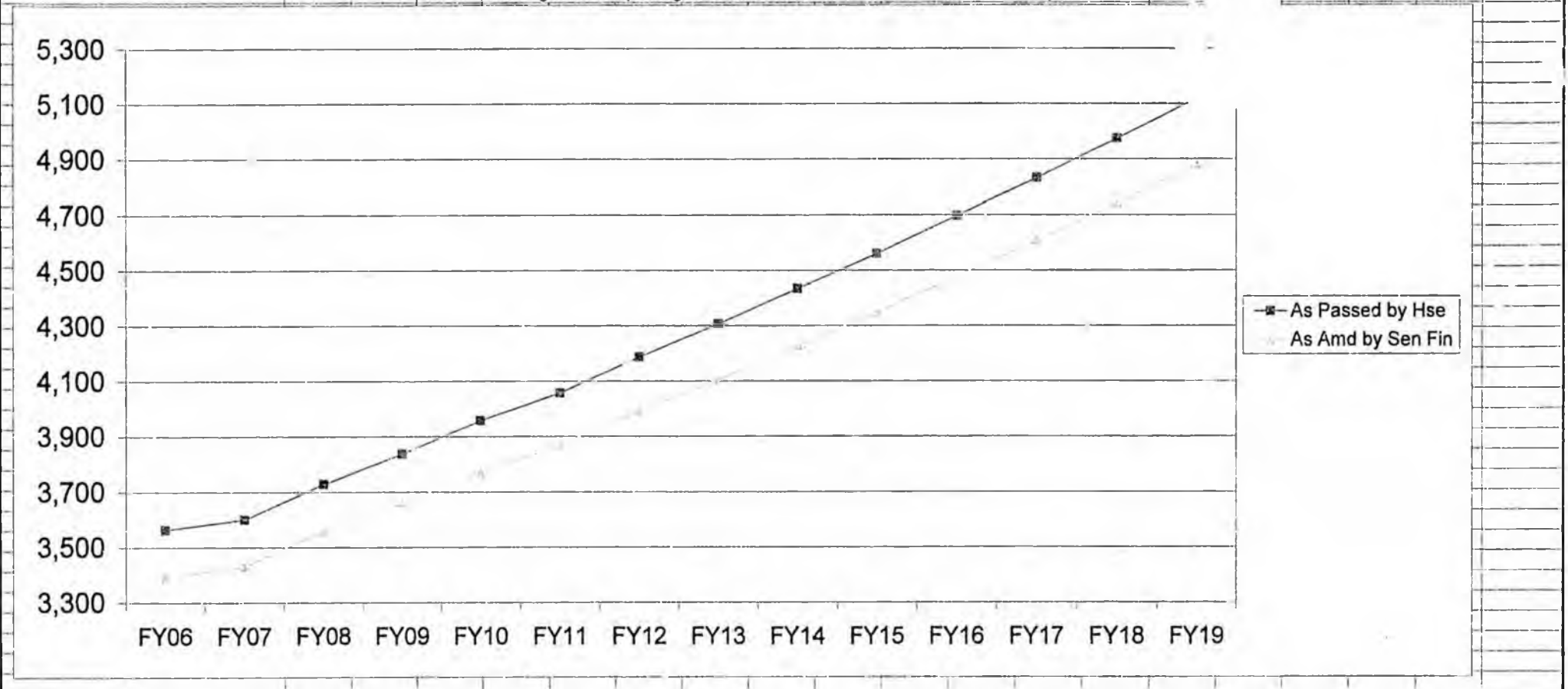
Provides for the amendment to go before voters in the 2004 general election.

BACK UP

| Variables: | | Spending Limit Comparison (As passed by House and amended by Sen Fin) | | | | | | | | | | | | | | | | | |
|--|-------|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--|
| Inflation | 3.0% | | | | | | | | | | | | | | | | | | |
| Population | 1.0% | | | | | | | | | | | | | | | | | | |
| | 4.0% | | | | | | | | | | | | | | | | | | |
| | 9.0% | | | | | | | | | | | | | | | | | | |
| CS HJR 9 (FIN) am (as passed by House) | FY02 | FY03 | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 | FY19 | |
| | 3,297 | 3,213 | 3,300 | 3,400 | 3,564 | 3,602 | 3,729 | 3,839 | 3,959 | 4,058 | 4,188 | 4,308 | 4,435 | 4,561 | 4,698 | 4,834 | 4,976 | 5,121 | |
| annual growth | | | | 3,038 | 164 | 37 | 128 | 110 | 120 | 100 | 130 | 120 | 127 | 127 | 137 | 136 | 142 | 145 | |
| annual % change | | | | 362 | | 1.05% | 3.54% | 2.94% | 3.12% | 2.52% | 3.20% | 2.85% | 2.94% | 2.86% | 3.00% | 2.89% | 2.93% | 2.91% | |
| SCS CS HJR 9 (FIN) (as amended by Sen Fin) | FY02 | FY03 | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 | FY19 | |
| | 3,143 | 3,046 | 3,150 | 3,250 | 3,393 | 3,432 | 3,558 | 3,661 | 3,773 | 3,870 | 3,994 | 4,107 | 4,228 | 4,349 | 4,479 | 4,608 | 4,744 | 4,882 | |
| annual growth | | | | 2,861 | 143 | 39 | 126 | 102 | 112 | 97 | 124 | 113 | 121 | 121 | 130 | 129 | 135 | 138 | |
| annual % change | | | | 389 | | 1.14% | 3.68% | 2.88% | 3.06% | 2.58% | 3.20% | 2.83% | 2.95% | 2.87% | 2.99% | 2.88% | 2.94% | 2.92% | |

← (Sunsets)

FY05 Conference Committee numbers after exemptions. The difference (\$362 or \$389) is to allow for all circumstances that may arise in the FY05 final budget and for expected growth such as PERS/TRS & medicaid in the next several years.



POMV

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a joint resolution proposing amendments to the Alaska Constitution relating to and limiting appropriations from the Alaska Permanent Fund based on an averaged Percent of Market Value (POMV) approach. The question presented to legislators by the joint resolution is whether to allow Alaskans to decide if management of the Alaska Permanent Fund should be modernized to a POMV approach. The POMV approach limits annual spending to five percent of the Alaska Permanent Fund's market value.

If adopted by the voters, the constitutional amendments in this joint resolution would change the way in which amounts available for appropriation from the Alaska Permanent Fund are determined. The joint resolution contains the same provisions as CS House Joint Resolution 26(FIN), which passed the House of Representatives during the second session of this Legislature. Under the provisions of this joint resolution, the Legislature could appropriate an amount that would not exceed five percent of the averaged market values of the Alaska Permanent Fund for the first five of the six fiscal years immediately preceding the fiscal year in which the money is appropriated. The provisions do not allocate the amount available for appropriation for a specific purpose.

I remain convinced that Alaskans expect us to resolve the state's long-term fiscal problem this year. This resolution is an important part of what must be a bi-partisan solution to the state's fiscal gap.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

BILL

HOUSE JOINT RESOLUTION NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:
Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to and limiting
2 appropriations from the Alaska permanent fund based on an averaged percent of the
3 fund market value.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. Article IX, sec. 15, Constitution of the State of Alaska, is amended to read:

6 Section 15. Alaska Permanent Fund. (a) At least twenty-five per cent of all
7 mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing
8 payments and bonuses received by the State shall be placed in a permanent fund.
9 Except as appropriated under (b) of this section, money in the permanent fund [,
10 THE PRINCIPAL OF WHICH] shall be used only for those income-producing
11 investments specifically designated by law as eligible for permanent fund investments.
12 [ALL INCOME FROM THE PERMANENT FUND SHALL BE DEPOSITED IN
13 THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW.]

14 * Sec. 2. Article IX, sec. 15, Constitution of the State of Alaska, is amended by adding a
15 new subsection to read:

1 (b) Appropriations from the permanent fund for a fiscal year may not exceed
2 five percent of the average of the market values of the fund on June 30 for the first
3 five of the six fiscal years immediately preceding that fiscal year.

4 * Sec. 3. Article XV, Constitution of the State of Alaska, is amended by adding a new
5 section to read:

6 Section 30. Transition. (a) On the effective date of the 2004 amendment
7 relating to the Alaska permanent fund (art. IX, sec. 15), the unencumbered,
8 unappropriated balance of the earnings reserve account established under
9 AS 37.13.145(a) is added to the balance in the Alaska permanent fund.

10 (b) The 2004 amendment relating to the Alaska permanent fund first applies to
11 appropriations for fiscal year 2006. Appropriations from the permanent fund for fiscal
12 year 2005 are subject to Section 15 of Article IX as that section read on June 30, 2004.

13 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of
14 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
15 State of Alaska, and the election laws of the state.

FISCAL
NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL# 0168
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Constitutional Amendment RDU AK Permanent Fund Corporation
Permanent Fund Income Component AK Permanent Fund Corporation
 Sponsor Rules
 Requester Governor Murkowski Component No. 109

Expenditures, Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This resolution would ask voters in the next general election whether to approve a constitutional amendment that would limit annual appropriations to no more than 5% of the average year-end market value of the Fund for the preceding five years.

This resolution would not affect the budgeted costs to manage and invest the Permanent Fund, nor would it change the amount of income earned by Permanent Fund investments.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
 Division Alaska Permanent Fund Corporation Date/Time 8/19/2004 /11:43:00 AM
 Approved by: Steve Porter, Deputy Commissioner Date 8/19/2004
 Agency Department of Revenue



Alaska Permanent Fund Corporation
Financial projection comparison of the Alaska Permanent Fund under
current statutes versus POMV 5% lump sum payout, median case. All
dollars in millions except per person dividend.

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| Current Statutes | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,893 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,817 | 4,074 | 4,668 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 939 | 865 | 8,132 |

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| | | | | | | | | | | | | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.
 POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: Law Log 0168
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Constitutional amendment relating to and RDU Elections
limiting appropriations from the APF based on an averaged Component Elections
percent of the fund market value.
Sponsor Rules
Requester Governor Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 1.5 | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 1.5 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 1.5 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Lauri Allred Phone 465-5347
Division: Division of Elections Date/Time 6/18/04 8:44 AM
Approved by: Laura A. Glaiser, Director Date 6/18/2004
Agency: Office of the Lt. Governor, Division of Elections

SECTIONAL



Alaska Permanent Fund Corporation
801 West 10th Street, Suite 302 Juneau, AK 99801
Tel: (907) 465-2047 Fax: (907) 586-2057

Sectional Analysis of WD 0168

Overview

The Resolution proposes changes to the Alaska Constitution Article IX, Section 15, which governs the Alaska Permanent Fund.

Summary of Changes

- 1) Page 1, line 9. Adds a reference to the new subparagraph (b) being added to the constitution.
- 2) Page 1, line 10. Removes the words "the principal of which" from the constitution. This change removes the distinction between the principal and the earnings reserve. The Fund becomes one pool of money versus two.
- 3) Page 1, lines 12 & 13. Deletes the guidance for where income of the Fund should be deposited. The intent is for all income to remain in the Fund until appropriated by the Legislature.
- 4) Page 2, lines 1 - 3. Adds a new subparagraph (b) that establishes an annual payout limit of 5% of the total market value of the Fund. The market value will be based on a five-year average. This is to protect the Fund from inflation and preserve the real value over the long term. Additionally, this provision allows the legislature and the administration to know one year in advance the amount available for appropriation.
- 5) Page 2, lines 6 - 9. Adds a transitional provision that makes clear the balance in the Fund's earnings reserve remains in the Permanent Fund. Some have argued that the earnings reserve belongs in the General Fund.
- 6) Page 2, lines 10 - 12. States that the changes first apply to appropriations for fiscal year 2006.
- 7) Page 2, lines 13 - 15. States that the amendments will be placed before the voters at the next general election.

BACK UP



Alaska Permanent Fund

A Fund overview and discussion of POMV

ACCOUNTABILITY

1

TO ALASKANS, FOR ALASKANS



"To benefit all generations..."

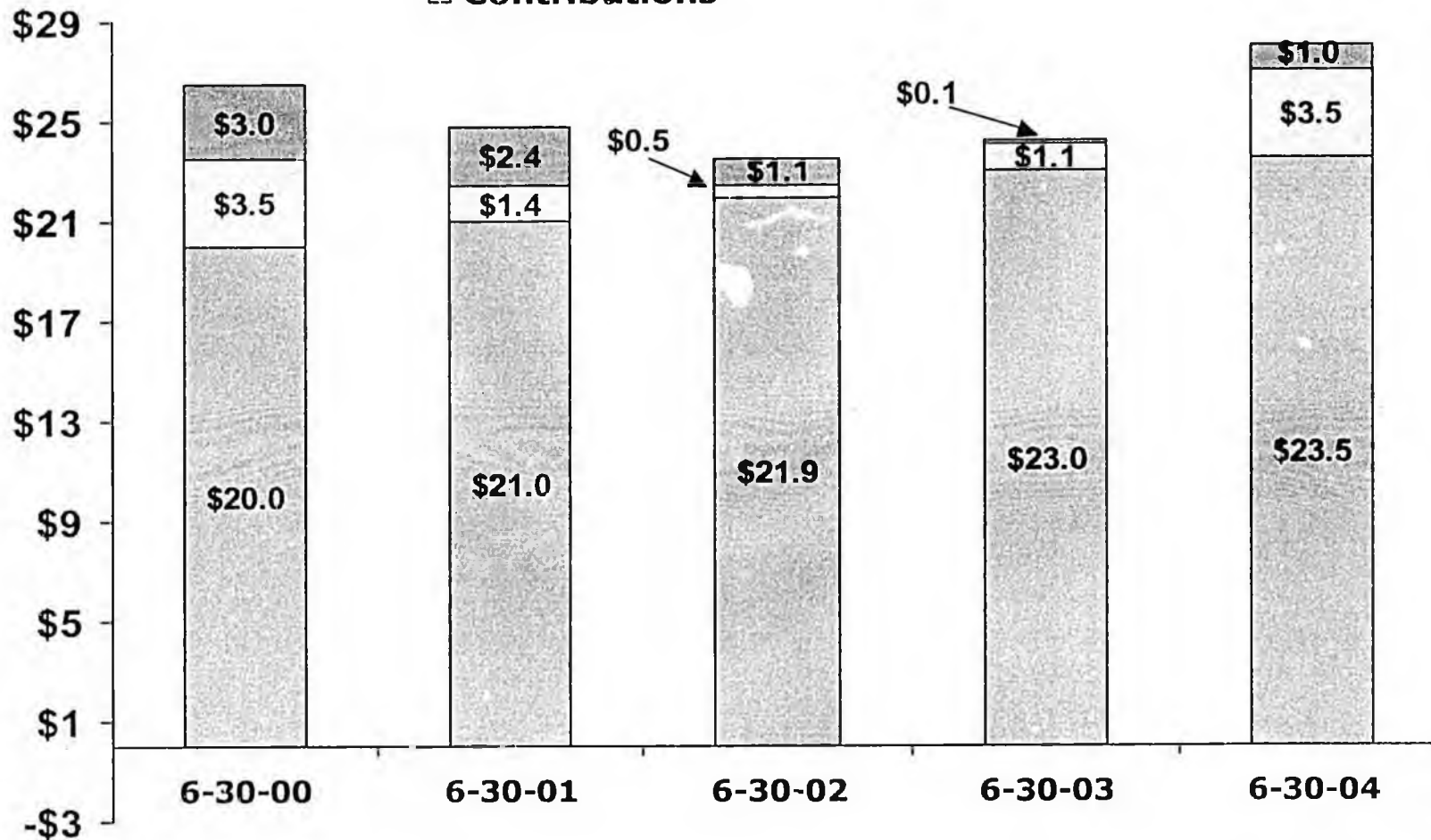
AS 37.13.020 (1)

...the Fund should provide
a means of conserving a portion
of the state's revenue from mineral resources
to benefit all generations of Alaskans.



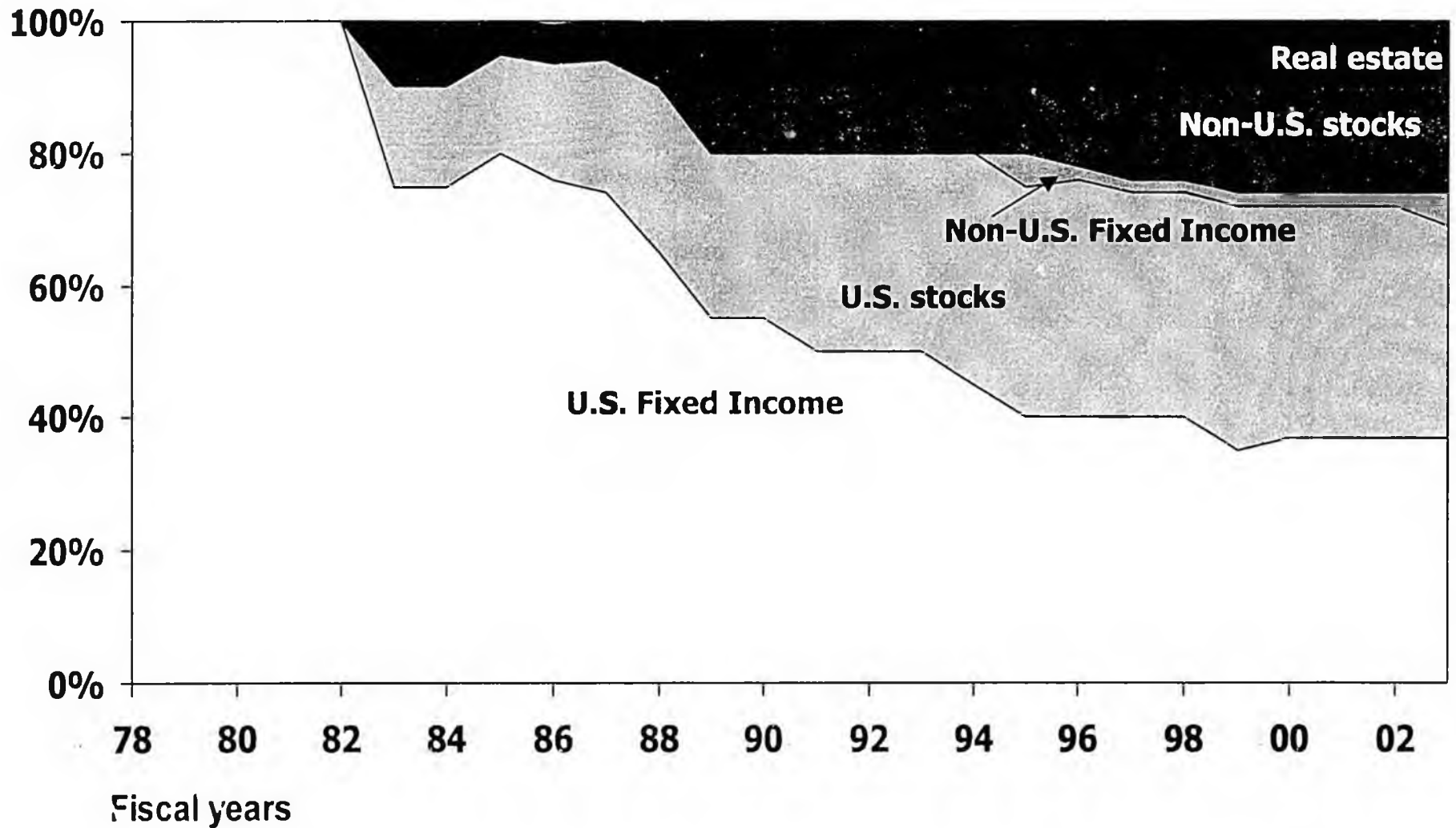
Permanent Fund market value

- Realized income account
- Unrealized earnings
- Contributions





Fund's historical asset allocation





What is POMV?

POMV is a spending limit for the Permanent Fund.

Under POMV, no more than five percent of the Fund's market value may be withdrawn each year.

Under the current system, all realized earnings are available for spending from the Fund.



Inflation Proofing

| | FY94 to FY03 | FY05 to FY14 |
|----------------------------|---------------------|---------------------|
| Total return | 7.8% | 7.6% |
| Inflation rate | 2.5% | 2.6% |
| Real rate of return | 5.3% | 5.0% |

If no more than 5% is withdrawn from the Fund each year, the gains that result from inflation will remain in the Fund. This will preserve the Fund's purchasing power for future generations.

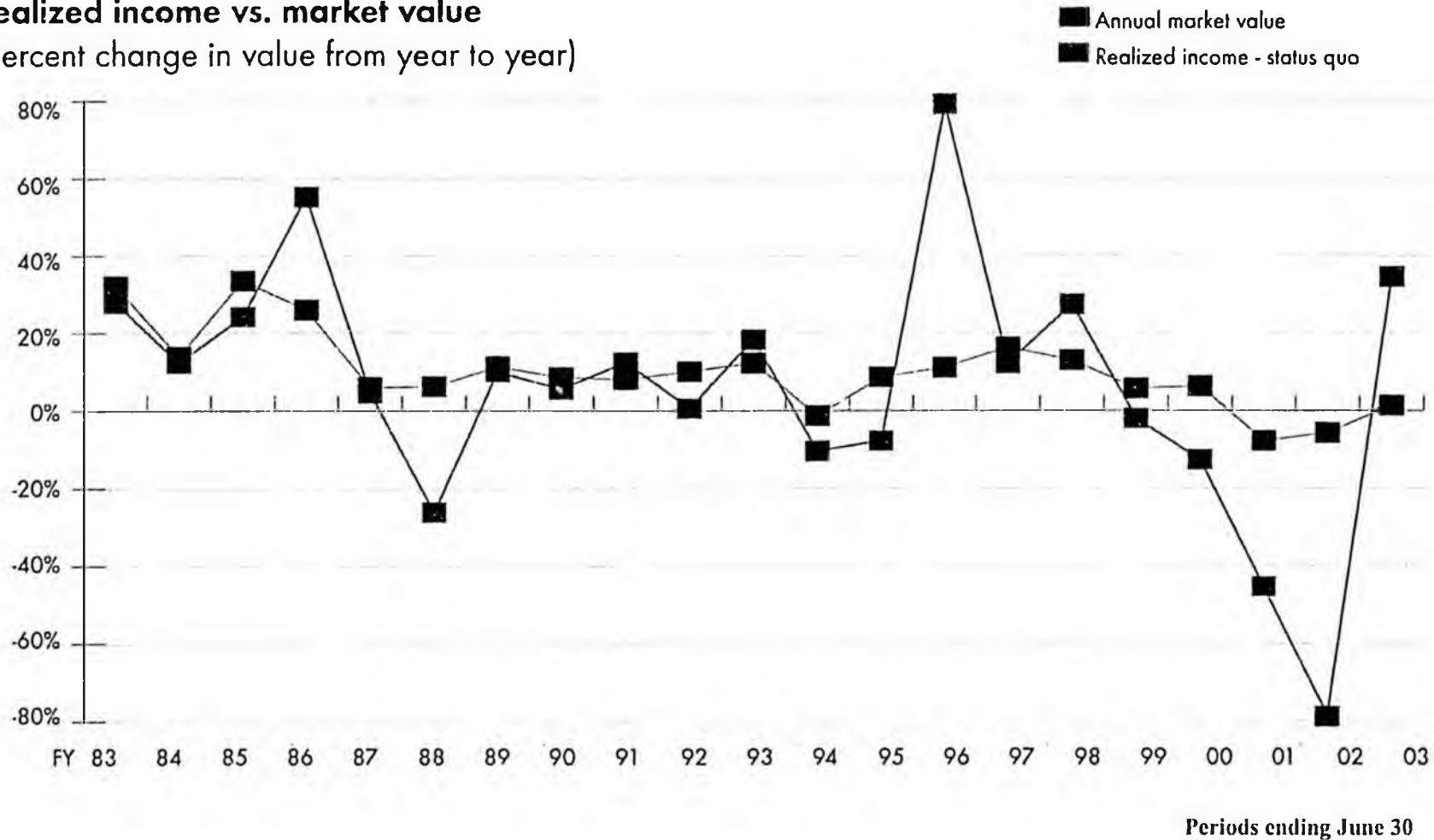


Realized income v. market value

Volatility

Realized income vs. market value

(percent change in value from year to year)



ACCOUNTABILITY



The dangers of overspending

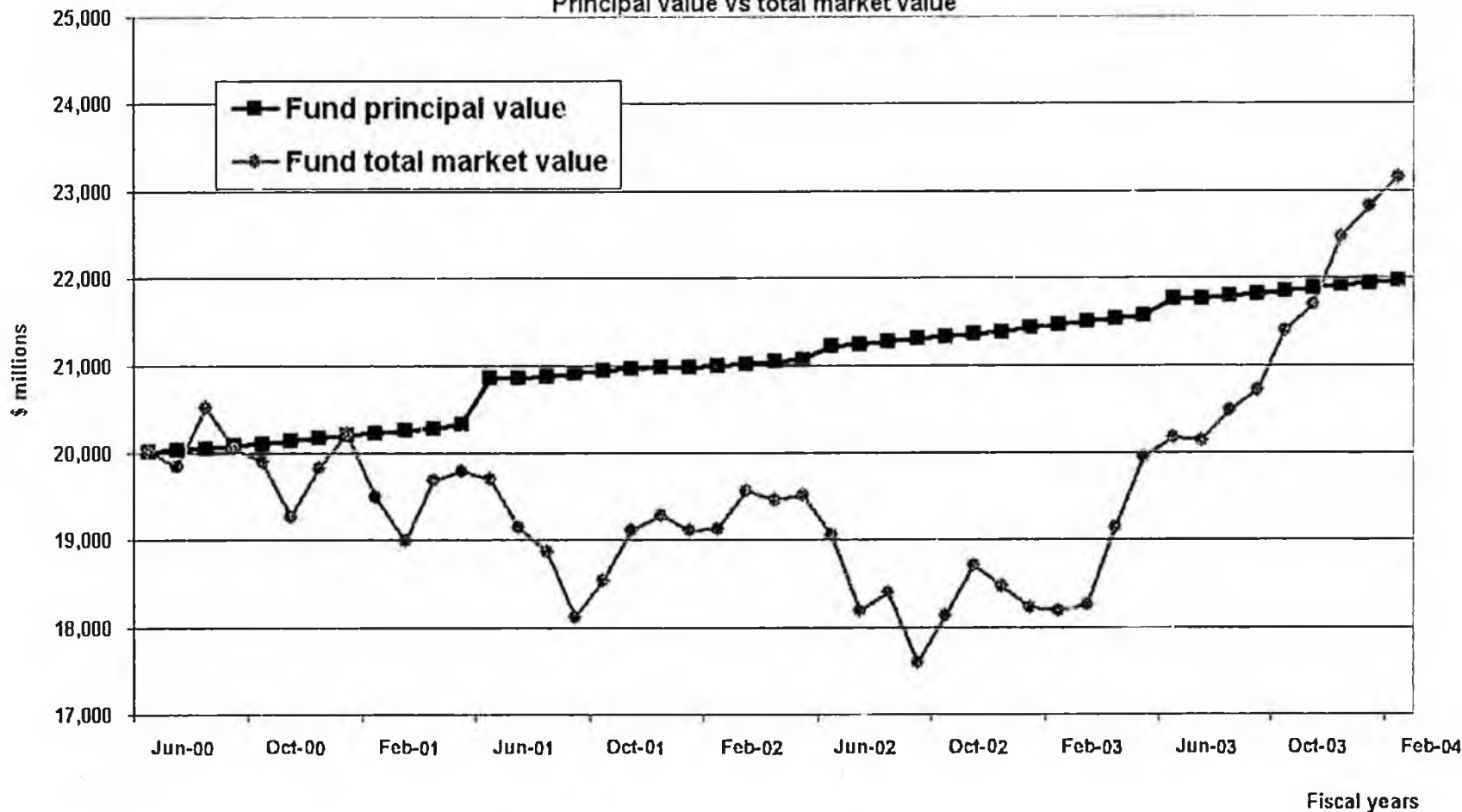
- Overspending in good years means there will be no cushion for down years, and funds may not be available for distribution.
- Overspending in the present decreases a fund's benefit to future generations.
- Overspending can cause recipients to become dependant on an inflated income stream. This will cause hard decisions in the down years, when income isn't as high.



The dangers of overspending

Alaska Permanent Fund

Principal value vs total market value



Assumption: June 30, 2000 all available earnings are paid out, total Fund value equals principal, all realized earnings are paid out in distributions and inflation proofing when possible.

ACCOUNTABILITY

9

TO ALASKANS, FOR ALASKANS



Who uses POMV?

- Anchorage, Fairbanks, North Slope Borough and Sitka residents voted to use POMV for municipal trust accounts.
- Private foundations such as the Rasmuson Foundation and the Ford Foundation are required by the IRS to pay out at least 5% of their market value.
- 83% of colleges and universities polled by the National Association of College and University Business Officers use some form of a POMV payout method.



Why do we need POMV?

For the present

- Ensure the option of an annual payout
- Make payout amounts more stable from year to year
- Make payout method compatible with investment strategy

For the future

- Prevent overspending in the good years
- Maintain purchasing power for the entire Fund



What are Alaskans asking?

- **Will this change leave the principal unprotected?**
- **How will POMV affect my dividend?**
- **Is POMV a raid on the Permanent Fund?**
- **Why fix the Permanent Fund if it isn't broken?**

STATUTORY DISTRIBUTION

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the income of and appropriations from the Alaska permanent Fund under article IX, section 15(b), Constitution of the State of Alaska, and making conforming amendments. This bill is substantially the same as CS House Bill 298(FIN) am, which passed the House during the second regular session, but with a few new provisions.

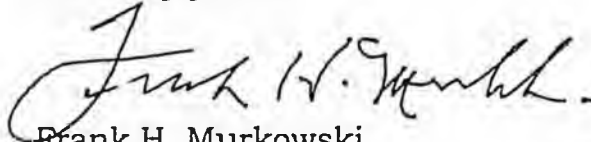
I have separately transmitted to you a joint resolution proposing a "Percent of Market Value" (POMV) amendment to the Alaska Constitution. This bill would make conforming amendments to the enabling act of the Alaska Permanent Fund Corporation necessary to implement that amendment. This bill also would make allocations of the amount available for appropriation from the Alaska Permanent fund after the POMV amendment is adopted. These allocations make provision for aid to municipalities and other communities, public education, and the Permanent Fund dividend. The allocation provisions would give moral force to the Legislature's intent to pay for these important public purposes. A new provision has been added that would adjust the allocation of amounts available for appropriation from the Alaska Permanent Fund so that the dividend will be kept at \$1,000 or more each year. The bill also contains provisions that will conform the Mental Health Trust fund revenue availability and accounting provisions to those proposed for the Alaska Permanent Fund. The Mental Health Trust fund is invested by the Alaska Permanent Fund Corporation and it will be more efficient if the computation of revenue available for appropriation is consistent for both funds.

The Honorable Pete Kott
June 21, 2004
Page 2

I believe that this bill provides a vehicle the Legislature can use to resolve how the POMV amendment would be implemented. By placing the implementing provisions in statute, the Legislature retains the power to make necessary adjustments to meet unforeseeable events.

I urge your prompt and favorable consideration of this bill.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

BILL

HOUSE BILL NO. 1003

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the income of and appropriations from the Alaska permanent fund
2 under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming
3 amendments; relating to permanent fund dividend payments of at least \$1,000; relating
4 to the determination of net income of the mental health trust fund; and providing for an
5 effective date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 * Section 1. AS 09.20.050(b) is amended to read:

8 (b) The jury list shall be based on a list prepared by the Department of
9 Revenue of all persons who filed an application for a [DISTRIBUTION OF
10 ALASKA] permanent fund dividend [INCOME] under AS 43.23 during the current
11 calendar year that shows an Alaska [ALASKAN] address, and of all persons who
12 volunteer for jury duty under (d) of this section. If considered necessary by the
13 administrative director of the Alaska Court System, the jury list shall incorporate a list

1 prepared by the Department of Administration of all persons who hold a valid Alaska
 2 driver's license. The departments shall submit their respective lists to the Alaska
 3 Court System not later than September 30 of each year. To the extent that it is
 4 available, the departments shall include on the lists they submit the following
 5 information for each person: first name, middle initial, and last name; mailing address,
 6 including the zip code; and birth date. The lists shall be recorded on magnetic tape
 7 compatible with Alaska Court System data processing equipment.

8 * Sec. 2. AS 24.20.206 is amended to read:

9 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

10 (1) [REPEALED

11 (2)] annually review the long-range operating plans of all agencies of
 12 the state that perform lending or investment functions;

13 (2) [(3)] review periodic reports from all agencies of the state that
 14 perform lending or investment functions;

15 (3) [(4)] prepare a complete report of investment programs, plans,
 16 performance, and policies of all agencies of the state that perform lending or
 17 investment functions and notify the legislature within 30 days after the convening of
 18 each regular session that the report is available;

19 (4) [(5)] in conjunction with the finance committee of each house,
 20 recommend annually to the legislature the investment policy for the general fund
 21 surplus and for the [INCOME FROM THE] permanent fund;

22 (5) [(6)] provide for an annual post audit and annual operational and
 23 performance evaluation of the Alaska Permanent Fund Corporation investments and
 24 investment programs;

25 (6) [(7)] provide for an annual operational and performance evaluation
 26 of the Alaska Housing Finance Corporation and the Alaska Industrial Development
 27 and Export Authority; the performance evaluation must include, but is not limited to, a
 28 comparison of the effect on various sectors of the economy by public and private
 29 lending, the effect on resident and nonresident employment, the effect on real wages,
 30 and the effect on state and local operating and capital budgets of the programs of the
 31 Alaska Housing Finance Corporation and the Alaska Industrial Development and

Export Authority;

2 (7) ~~[(8)]~~ provide assistance to the trustees of the trust established in
3 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415.

4 * Sec. 3. AS 37.13 is amended by adding a new section to read:

5 Sec. 37.13.143. Appropriations from the fund. (a) The total amount
6 available for appropriation from the fund for a specific fiscal year is determined under
7 art. IX, sec. 15(b), Constitution of the State of Alaska. However, if the annualized real
8 rate of return of the fund during the first 10 of the 11 fiscal years immediately
9 preceding the specific fiscal year was less than five percent, the amount available for
10 appropriation for that specific fiscal year may not exceed that 10-year annualized real
11 rate of return multiplied by the average of the fiscal year-end market values of the
12 fund for the first five of the six fiscal years immediately preceding that specific fiscal
13 year. For purposes of this subsection, "real rate of return" means the total rate of
14 return of the fund's investments for the period measured, minus the rate of inflation for
15 that period, stated on an annualized basis.

16 (b) The legislature may appropriate from the fund for each fiscal year the
17 amount for costs of the corporation associated with operating and investing the fund.

18 (c) After the appropriation under (b) of this section, appropriations by the
19 legislature for a specific fiscal year are limited as follows, based on the total amount
20 remaining available for appropriation under (a) of this section:

21 (1) not more than five percent may be appropriated for municipalities
22 and other communities;

23 (2) not more than 45 percent may be appropriated for public education;

24 (3) not more than 50 percent may be appropriated to the dividend fund
25 established under AS 43.23.045.

26 (d) Notwithstanding (c) of this section, the amount of a dividend payment for
27 residents of the state shall be no less than \$1,000 each year. If the appropriation made
28 under (c)(3) of this section would be insufficient to pay that amount, the percentages
29 specified in (c)(1) and (2) of this section are decreased for the applicable year, and the
30 percentage specified in (c)(3) of this section is increased, by the amount necessary to
31 fund the shortfall.

1 (e) The corporation shall transfer money appropriated under this section from
2 the fund within 14 days after the effective date of the appropriation.

3 (f) For purposes of (a) of this section, the corporation shall calculate the rate
4 of inflation using the annual year over year change in the Consumer Price Index for all
5 urban consumers for the time period specified.

6 * Sec. 4. AS 37.13.145(d) is amended to read:

7 (d) Income [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]
8 earned on money awarded in or received as a result of State v. Amerada Hess, et al.
9 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,
10 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the
11 outcome of this case, or interest earned on the money, or on the earnings of the money
12 shall be treated in the same manner as other income of the Alaska permanent fund,
13 except that it is not available for distribution to the dividend fund [, AND SHALL BE
14 ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA
15 PERMANENT FUND].

16 * Sec. 5. AS 37.13 is amended by adding a new section to read:

17 Sec. 37.13.148. **Market value of the fund.** For the purposes of art. IX, sec.
18 15(b), Constitution of the State of Alaska, the corporation shall determine the market
19 value of the fund annually as of the close of business on June 30 in accordance with
20 generally accepted accounting principles for the determination of fair value.

21 * Sec. 6. AS 37.13.150 is amended to read:

22 Sec. 37.13.150. **Corporation budget.** The [REVENUE GENERATED BY
23 THE FUND'S INVESTMENTS MUST BE IDENTIFIED AS THE SOURCE OF
24 THE] operating budget of the corporation shall be included in the state's operating
25 budget under AS 37.07 (Executive Budget Act). [THE UNEXPENDED BALANCE
26 OF THE CORPORATION'S ANNUAL OPERATING BUDGET DOES NOT LAPSE
27 AT THE END OF THE FISCAL YEAR BUT SHALL BE TREATED AS INCOME
28 UNDER AS 37.13.140.]

29 * Sec. 7. AS 37.14.031(c) is amended to read:

30 (c) The net income of the fund shall be determined by the Alaska Permanent
31 Fund Corporation annually as of the last day of the fiscal year in accordance with

2 generally accepted accounting principles [IN THE SAME MANNER THE
3 CORPORATION DETERMINES THE NET INCOME OF THE ALASKA
4 PERMANENT FUND UNDER AS 37.13.140].

5 * Sec. 8. AS 43.23.025(a) is amended to read:

6 (a) By October 1 of each year, the commissioner shall determine the value of
7 each permanent fund dividend for that year by

8 (1) determining the total amount available for dividend payments,
9 which equals

10 (A) the amount of money appropriated from [INCOME OF]
11 the Alaska permanent fund [TRANSFERRED] to the dividend fund under
12 AS 37.13.143 [AS 37.13.145(b)] during the current year;

13 (B) plus the unexpended and unobligated balances of prior
14 fiscal year appropriations that lapse into the dividend fund under
15 AS 43.23.045(d);

16 (C) less the amount necessary to pay prior year dividends from
17 the dividend fund in the current year under AS 43.23.005(h) and under
18 AS 43.23.055(3) and (7);

19 (D) less the amount necessary to pay dividends from the
20 dividend fund due to eligible applicants who, as determined by the department,
21 filed for a previous year's dividend by the filing deadline but who were not
22 included in a previous year's dividend computation;

23 (E) less appropriations from the dividend fund during the
24 current year, including amounts to pay costs of administering the dividend
25 program and the hold harmless provisions of AS 43.23.075;

26 (2) determining the number of individuals eligible to receive a
27 dividend payment for the current year and the number of estates and successors
28 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

29 (3) dividing the amount determined under (1) of this subsection by the
30 amount determined under (2) of this subsection.

31 * Sec. 9. AS 43.23.028(a) is amended to read:

(a) By October 1 of each year, the commissioner shall give public notice of

1 the value of each permanent fund dividend for that year and notice of the information
2 required to be disclosed under (3) of this subsection. In addition, the stub attached to
3 each individual dividend check and direct deposit advice must

4 (1) disclose the amount of each dividend attributable to [INCOME
5 EARNED BY THE PERMANENT FUND FROM] deposits to that fund required
6 under art. IX, sec. 15, Constitution of the State of Alaska;

7 (2) disclose the amount of each dividend attributable to all [INCOME
8 EARNED BY THE PERMANENT FUND FROM] appropriations to that fund plus
9 [AND FROM] amounts added to that fund before January 1, 2005, to offset the
10 effects of inflation;

11 (3) disclose the amount by which each dividend has been reduced due
12 to each appropriation from the dividend fund, including amounts to pay the costs of
13 administering the dividend program and the hold harmless provisions of
14 AS 43.23.075;

15 (4) include a statement that an individual is not eligible for a dividend
16 when

17 (A) during the qualifying year, the individual was convicted of
18 a felony;

19 (B) during all or part of the qualifying year, the individual was
20 incarcerated as a result of the conviction of a

21 (i) felony; or

22 (ii) misdemeanor if the individual has been convicted of
23 a prior felony or two or more prior misdemeanors;

24 (5) include a statement that the legislative purpose for making
25 individuals listed under (4) of this subsection ineligible is to

26 (A) obtain reimbursement for some of the costs imposed on the
27 state criminal justice system related to incarceration or probation of those
28 individuals;

29 (B) provide funds for services for and payments to crime
30 victims and for grants for the operation of domestic violence and sexual assault
31 programs;

2 (6) disclose the total amount that would have been paid during the
3 previous fiscal year to individuals who were ineligible to receive dividends under
4 AS 43.23.005(d) if they had been eligible;

5 (7) disclose the total amount appropriated for the current fiscal year
6 under (b) of this section for each of the funds and agencies listed in (b) of this section.

7 * Sec. 10. AS 37.13.140, 37.13.145(a), 37.13.145(b), 37.13.145(c), and 37.13.300(c) are
8 repealed.

9 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 CONDITIONAL EFFECT. This Act takes effect only if an amendment to art. IX, sec.
12 15, Constitution of the State of Alaska, relating to and limiting appropriations from the Alaska
13 permanent fund based on an averaged percent of the fund market value, is approved by the
14 voters during the 2004 general election and takes effect.

15 * Sec. 12. If this Act takes effect under sec. 11 of this Act, it takes effect January 1, 2005,
16 except as provided in sec. 13 of this Act.

* Sec. 13. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

FISCAL NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL#04- 0175
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Dist. Of Approps from PermFund RDU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation
 Sponsor Rules
 Requester Governor Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill would change the Alaska statutes that address distributions from the Permanent Fund to conform to a Percent of Market Value payout limit. It would not change the management or the cost of operations of the Fund.

See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
 Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:09 PM
 Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004
 Agency Department of Revenue



Alaska Permanent Fund Corporation
Financial projection comparison of the Alaska Permanent Fund under
current statutes versus POMV 5% lump sum payout, median case. All
dollars in millions except per person dividend.

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| Current Statutes | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 24,452 | 25,383 | 26,278 | 27,189 | 28,120 | 29,077 | 30,053 | 31,049 | 32,061 | 33,090 | 34,139 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,913 | 2,160 | 2,425 | 2,702 | 2,993 | 3,304 | 3,624 | 3,965 | 4,317 | 4,684 | |
| Realized earnings account (REA, after payouts) | 1,297 | 1,879 | 2,375 | 2,778 | 3,185 | 3,617 | 4,074 | 4,568 | 5,092 | 5,658 | 6,263 | |
| Total market value end of year (after payouts) | 27,433 | 29,176 | 30,814 | 32,393 | 34,007 | 35,688 | 37,431 | 39,241 | 41,118 | 43,065 | 45,087 | 45,087 |
| | | | | | | | | | | | | |
| Total lump sum dividend appropriation | 512 | 576 | 750 | 924 | 1,002 | 1,058 | 1,114 | 1,170 | 1,228 | 1,288 | 1,350 | 10,972 |
| Per person dividend under current statute | \$ 790 | \$ 890 | \$ 1,160 | \$ 1,420 | \$ 1,530 | \$ 1,600 | \$ 1,670 | \$ 1,740 | \$ 1,810 | \$ 1,880 | \$ 1,950 | \$ 16,440 |
| | | | | | | | | | | | | |
| Transfer status quo Inflation-proofing (REA to Principal) | 620 | 643 | 666 | 689 | 713 | 737 | 762 | 787 | 812 | 839 | 865 | 8,132 |

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,026 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,561 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | 26,695 | 27,707 | 28,703 | 29,712 | 30,730 | 31,768 | 32,824 | 33,900 | 34,991 | 36,099 | 37,224 | 37,224 |
| | | | | | | | | | | | | |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total 5 % lump sum average market value available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |

Assumptions:

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 08/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

| | <u>FY05</u> | <u>FY06</u> | <u>FY07</u> | <u>FY08</u> | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | <u>FY14</u> | <u>FY15</u> | <u>FY05-FY15</u> |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| POMV - 5% (beginning in FY05) | | | | | | | | | | | | Totals |
| Contributions & appropriations (principal) | 23,840 | 24,128 | 24,358 | 24,580 | 24,800 | 25,021 | 25,237 | 25,447 | 25,648 | 25,841 | 26,028 | |
| Unrealized appreciation/depreciation on assets | 1,683 | 1,892 | 2,103 | 2,322 | 2,548 | 2,781 | 3,026 | 3,274 | 3,532 | 3,793 | 4,059 | |
| Realized earnings account (REA, after payouts) | 1,173 | 1,687 | 2,243 | 2,809 | 3,382 | 3,965 | 4,581 | 5,179 | 5,811 | 6,465 | 7,139 | |
| Total market value end of year (after payouts) | <u>26,695</u> | <u>27,707</u> | <u>28,703</u> | <u>29,712</u> | <u>30,730</u> | <u>31,768</u> | <u>32,824</u> | <u>33,900</u> | <u>34,991</u> | <u>36,099</u> | <u>37,224</u> | 37,224 |
| 5 year average market value lagged one year | 25,851 | 25,902 | 26,508 | 27,614 | 28,846 | 30,012 | 31,066 | 32,140 | 33,234 | 34,344 | 35,472 | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| APFC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 625 | 620 | 640 | 657 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,001 |
| payout 45% after APFC costs for government services | 562 | 563 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,201 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Per person dividend | \$990 | \$990 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,410 |
| | | | | | | | | | | | | |
| Total available for appropriation | 1,293 | 1,295 | 1,325 | 1,381 | 1,442 | 1,501 | 1,553 | 1,607 | 1,662 | 1,717 | 1,774 | 16,549 |
| APFC management costs | (43) | (44) | (45) | (47) | (48) | (50) | (51) | (53) | (54) | (56) | (57) | (547) |
| payout 50% after APFC costs - lump sum dividend | 628 | 631 | 640 | 667 | 697 | 726 | 751 | 777 | 804 | 831 | 858 | 8,009 |
| payout 45% after APFC costs for government services | 559 | 558 | 576 | 600 | 627 | 653 | 676 | 699 | 723 | 748 | 772 | 7,193 |
| payout 5% after APFC costs for municipal dividend | 62 | 63 | 64 | 67 | 70 | 73 | 75 | 78 | 80 | 83 | 86 | 800 |
| Guarantee \$1,000 minimum dividend | \$1,000 | \$1,000 | \$1,000 | \$1,040 | \$1,090 | \$1,130 | \$1,160 | \$1,200 | \$1,230 | \$1,270 | \$1,310 | \$12,430 |

SECTIONAL

BACK UP

**This section
intentionally left blank
at this time**

TOBACCO TAX

**This section
intentionally left blank
at this time**

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. BOX 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill that increases the cigarette excise tax by \$1.00 a pack and makes other changes in our current statutes. The tax on "other tobacco products" such as smokeless tobacco would be increased from 75 percent to 100 percent of the wholesale cost.

Passage of these tax increases is supported by the health benefits alone. Tobacco is the number one preventable cause of death, disability, and chronic illness in Alaska. It is public health enemy number one. I want these tax increases to reduce consumption of tobacco products in Alaska. Such a decrease will benefit adult smokers who decide to quit, teenagers and pre-teens who decide to quit or not start smoking, and Alaskans that choose not to smoke but suffer the ill effects of second hand smoke.

Current estimates are that passage of the cigarette tax should result in a 15 percent drop in illegal teen smoking. A 15 percent drop in youth smoking rates from current levels translates into 1,800 lives saved from premature death due to tobacco addiction. My hope is that even more Alaska teens decide not to try smoking or break their addiction to cigarettes.

Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death. Smoking among expectant mothers would also be reduced significantly; resulting in 850 babies being spared from exposure to maternal smoking prior to delivery during the next five years.

Alaska Natives should particularly benefit from reduced smoking. While smoking rates are declining within the U.S. general population, the rate of smoking is unchanged among Alaska Native adults and, at 44 percent, is

The Honorable Pete Kott
June 21, 2004
Page 2 of 2

almost double that of non-Natives. Currently, 44 percent of Alaska Native high school students smoke almost four times the rate among non-Native students. Lung cancer, the leading cause of cancer deaths, is increasing at an alarming rate among Alaska Natives of both sexes. Cardiovascular disease, including heart disease and stroke, is also linked with tobacco use, and kills approximately 120 Alaska Natives each year.

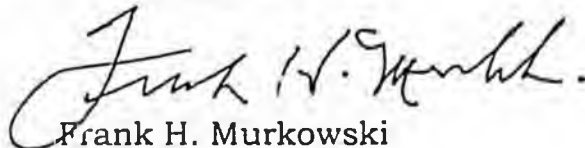
In order to ensure we achieve these health benefits, I have included language that earmarks part of the tax revenues for the smoking education, tobacco use prevention, and tobacco control program. At the level I have included, Alaska would become one of five states that fund tobacco cessation programs at or above the level recommended by the Centers for Disease Control.

I have also included a significant increase in the tax on smokeless tobacco. Other forms of tobacco such as chew or cigars also present serious risks to the health of users. For example, smokeless tobacco users may be up to twice as likely as non-users to die from heart disease and other cardiovascular conditions due to increased blood pressure.

There is also an important fiscal benefit in this bill. The new revenues generated by the tax increases will help reimburse a portion of the approximately \$270 million in annual costs for direct medical expenses and lost productivity attributed to tobacco use in Alaska. The financial burden all Alaskans are stuck with because some Alaskans smoke should be reduced. This bill targets users and asks them to pay a bit more of the costs they impose on all Alaskans. I believe many Alaskans would argue they should not be stuck with any costs for someone else's voluntary choice to use a dangerous product.

Given the health impact, cost savings, and revenue to be generated from the proposed tobacco tax, I urge your support for this legislation.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

BILL

HOUSE BILL NO. (008)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to taxes on cigarettes and tobacco products, to tax stamps on
2 cigarettes, to forfeiture of cigarettes and of property used in the manufacture,
3 transportation, possession, or sale of unstamped cigarettes, to accounting for and use of
4 part of the proceeds of the additional cigarette tax, and to licenses and licensees under
5 the Cigarette Tax Act; relating to unfair cigarette sales; and providing for an effective
6 date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 INTENT. It is the intent of the legislature to provide aggregate funding to meet the
11 minimum amount of tobacco control programs recommended by the United States
12 Department of Health and Human Services, Centers for Disease Control and Prevention, from
13 tobacco taxes and other revenue sources accounted for in the tobacco use education and

1 cessation fund established in AS 37.05.580.

2 * Sec. 2. AS 43.50.030(a) is amended to read:

3 (a) For each license issued to a manufacturer, and for each renewal, the fee is
4 \$50 [\$5].

5 * Sec. 3. AS 43.50.030(c) is amended to read:

6 (c) For each license issued to a vending machine operator, and for each
7 renewal, the fee is \$50 [\$25].

8 * Sec. 4. AS 43.50.030(d) is amended to read:

9 (d) For each license issued to a direct-buying retailer, and for each renewal,
10 the fee is \$50 [\$25].

11 * Sec. 5. AS 43.50.035 is repealed and reenacted to read:

12 **Sec. 43.50.035. Wholesaler-distributor license.** (a) A person outside of this
13 state who sells or distributes cigarettes into this state and is not required to be licensed
14 under AS 43.50.010 may apply for a wholesaler-distributor license.

15 (b) A person outside of this state who sells or distributes cigarettes into this
16 state, who is not required to be licensed under AS 43.50.010, and who wishes to
17 purchase stamps under this chapter is required to be licensed as a wholesaler-
18 distributor.

19 (c) The department shall adopt reasonable regulations necessary for the
20 collection of cigarette taxes on cigarette sales or distributions made by a wholesaler-
21 distributor licensee into this state and standards for

22 (1) application and issuance of the license; and

23 (2) refusal to issue the license.

24 * Sec. 6. AS 43.50.090(a) is amended to read:

25 (a) There is levied an excise tax of 38 mills on each cigarette imported or
26 acquired in the state. The tax shall be paid through the use of stamps as provided in
27 AS 43.50.500 - 43.50.700. A person who imports or acquires cigarettes in the
28 state upon which a stamp required by this chapter has not been affixed in
29 accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps
30 as required by AS 43.50.540(a), and who fails to pay the tax through the use of
31 stamps is not relieved [THE FAILURE TO PAY THE TAX THROUGH THE USE

OF STAMPS DOES NOT RELIEVE A PERSON] of the obligation to pay taxes due under this chapter. The person shall still pay the tax, and the tax is due on or before the end of the month following the month in which cigarettes were manufactured, imported, acquired, or sold in this state. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

* Sec. 7. AS 43.50.090(d) is amended to read:

(d) The tax imposed under (a) of this section does not apply to the first 400 cigarettes personally transported into the state by an individual for that individual's personal consumption [100 CIGARETTES IMPORTED BY AN INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month.

* Sec. 8. AS 43.50.105(g) is amended to read:

(g) A person who violates the provisions of this section is guilty of a

- (1) class A misdemeanor if the person unlawfully ships, causes to be shipped, or transports at least one but fewer than 5,000 [1,000] cigarettes;
- (2) class C felony if the person unlawfully ships, causes to be shipped, or transports 5,000 [1,000] or more cigarettes.

* Sec. 9. AS 43.50.105 is amended by adding a new subsection to read:

(i) A person who violates the provisions of this section is jointly and severally liable for the taxes imposed by AS 43.50.090 and 43.50.190. To the fullest extent permitted by the Constitution of the United States, a person who violates the provisions of this section is required to collect the taxes and pay them to the department.

* Sec. 10. AS 43.50.170(1) is amended to read:

(1) "buyer" means a person who imports or acquires cigarettes for the person's own consumption from any source other than a manufacturer, distributor, direct-buying retailer, [OR] retailer, or wholesaler-distributor;

* Sec. 11. AS 43.50.170(3) is amended to read:

(3) "direct-buying retailer" means a person who is engaged in the sale of cigarettes at retail in this state, and who brings cigarettes or causes cigarettes to be brought [CIGARETTES] into the state that are not purchased from a wholesaler-distributor;

1 * Sec. 12. AS 43.50.170(4) is amended to read:

2 (4) "distributor" means a person who brings cigarettes that are not
3 purchased from a wholesaler-distributor, or has cigarettes that are not purchased
4 from a wholesaler-distributor brought into the state, and who sells or distributes at
5 least 75 percent [PER CENT] of the cigarettes to others for resale in the state;

6 * Sec. 13. AS 43.50.170(12) is amended to read:

7 (12) "wholesaler-distributor" means a person outside this state who
8 sells or distributes cigarettes into this state, [AND] who is not required to be licensed
9 under AS 43.50.010, and who is licensed under AS 43.50.035.

10 * Sec. 14. AS 43.50.190(a) is amended to read:

11 (a) There is levied an excise tax of 62 [12] mills on each cigarette imported or
12 acquired in this state.

13 * Sec. 15. AS 43.50.190(c) is amended to read:

14 (c) The tax imposed under (a) of this section does not apply to the first 400
15 cigarettes personally transported into the state by an individual for that
16 individual's personal consumption [100 CIGARETTES IMPORTED BY AN
17 INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month.

18 * Sec. 16. AS 43.50.190 is amended by adding a new subsection to read:

19 (d) Notwithstanding (b) of this section, a portion of the annual proceeds of the
20 tax levied under (a) of this section equal to 8.9 percent of the total proceeds of the tax
21 shall be deposited into the tobacco use education and cessation fund established in
22 AS 37.05.580. This deposit shall be in addition to any sums deposited into the fund
23 under AS 37.05.580(a).

24 * Sec. 17. AS 43.50.300 is amended to read:

25 Sec. 43.50.300. Excise tax levied. An excise tax is levied on tobacco
26 products in the state at the rate of 130 [75] percent of the wholesale price of the
27 tobacco products. The tax is levied when a person

28 (1) brings, or causes to be brought, a tobacco product into the state
29 from outside the state for sale;

30 (2) makes, manufactures, or fabricates a tobacco product in the state
31 for sale in the state; [OR]

1 (3) ships or transports a tobacco product to a retailer in the state for
2 sale by the retailer or to an individual for personal consumption; or

3 (4) brings, or causes to be brought, a tobacco product into the state
4 from outside the state for personal consumption.

5 * Sec. 18. AS 43.50.320(a) is repealed and reenacted to read:

6 (a) Except as provided in (g) of this section, a person engaging in an activity
7 described in AS 43.50.300(1) - (3) must be licensed by the department as a distributor,
8 and a person engaging in an activity described in AS 43.50.300(4) must be licensed as
9 a buyer.

10 * Sec. 19. AS 43.50.320(b) is amended to read:

11 (b) The department, upon application and payment of a fee of \$50, shall issue
12 a license for one year to a person who applies for a distributor license [UNDER (a)
13 OF THIS SECTION]. The department, upon application and payment of a fee of
14 \$25, shall issue a license for one year to a person who applies for a buver license.

15 * Sec. 20. AS 43.50.320(d) is amended to read:

16 (d) A distributor license issued under this section must include the name and
17 address of the licensee, the type of business to be conducted, and the year for which
18 the license is issued.

19 * Sec. 21. AS 43.50.320(e) is amended to read:

20 (e) The department may renew a distributor license issued under this section
21 for a fee of \$50. The department may renew a buver license issued under this
22 section for a fee of \$25.

23 * Sec. 22. AS 43.50.330(a) is amended to read:

24 (a) On or before the last day of each calendar month, a licensee shall file a
25 return with the department. The return must state the number or amount of tobacco
26 products sold or imported for personal consumption by the licensee during the
27 preceding calendar month, the selling price or purchase price of the tobacco
28 products, and the amount of tax imposed on the tobacco products.

29 * Sec. 23. AS 43.50.390(1) is amended to read:

30 (1) "distributor" means a person who

31 (A) brings, or causes to be brought, a tobacco product into the

1 state from outside the state for sale;

2 (B) makes, manufactures, or fabricates a tobacco product in the
3 state for sale in the state; or

4 (C) ships or transports a tobacco product to a retailer in the
5 state for sale by the retailer or to an individual for personal consumption;

6 * Sec. 24. AS 43.50.390(2) is amended to read:

7 (2) "licensee" means a distributor or buyer who is

8 (A) licensed under AS 43.50.320; or

9 (B) exempted by AS 43.50.320(g) from licensing under
10 AS 43.50.320;

11 * Sec. 25. AS 43.50.390 is amended by adding a new paragraph to read:

12 (6) "buyer" means a person who imports tobacco products for the
13 person's own consumption from any source other than a licensee.

14 * Sec. 26. AS 43.50.540(f) is amended to read:

15 (f) Title to the stamps passes immediately to the licensee at the time the
16 stamps are obtained in person or, if the stamps are shipped or transported, at the time
17 the stamps are placed in the United States mail or received by the common or private
18 carrier. The licensee bears all costs associated with shipping or transporting the
19 stamps. The department may replace stamps lost or damaged in transit if the
20 licensee provides proof acceptable to the department verifying that the loss or
21 damage occurred while the stamps were in the possession of the shipping
22 company and the shipping company substantiates the loss or damage. Damaged
23 stamps must be returned to the department before the department may replace
24 them [AND ALL RISKS OF POSSIBLE LOSS OR DAMAGE WHILE IN
25 TRANSIT].

26 * Sec. 27. AS 43.50.550(b) is amended to read:

27 (b) A licensee who submits an application for the purchase of stamps on a
28 deferred-payment basis shall, as a condition of approval of the application, post a
29 bond acceptable to the department in an amount equal to

30 (1) 200 percent of the maximum dollar amount of allowed monthly
31 purchases under this section; or

1 (2) 100 percent of the maximum dollar amount of allowed monthly
 2 purchases under this section if the licensee

3 (A) holds a license issued under AS 43.50.010 for a physical
 4 location in this state; and

5 (B) has been in full compliance with the provisions of this
 6 title and regulations adopted under this title during the preceding 60
 7 months [AS A CONDITION OF APPROVAL OF THE APPLICATION].

8 * Sec. 28. AS 43.50.580(b) is amended to read:

9 (b) A licensee may possess unstamped cigarettes in this state if

10 (1) the licensee posts a surety bond in an amount satisfactory to the
 11 department to ensure performance of its duties under this chapter, and

12 (2) unstamped cigarettes are necessary for the conduct of the licensee's
 13 business in making sales or distributions

14 (A) to an instrumentality of the federal government or an
 15 Indian tribal organization authorized by law to possess cigarettes not taxed
 16 under this chapter; or

17 (B) to customers outside the state and the licensee provides
 18 proof acceptable to the department that the licensee is properly licensed in
 19 the jurisdictions outside the state where the sales or distributions are
 20 made.

21 * Sec. 29. AS 43.50.590(a) is amended to read:

22 (a) The department shall adopt procedures for a refund or credit to a licensee
 23 in the amount of the denominated value, less the discount given under AS 43.50.540,

24 . . .

25 (1) unused or damaged stamps; [OR]

26 (2) stamps affixed to cigarette packages that have become unfit for use
 27 or sale, are destroyed, or are returned to the manufacturer for credit or replacement if
 28 the licensee provides proof acceptable to the department that the cigarettes have not
 29 been and will not be consumed in this state; or

30 (3) stamps affixed to cigarette packages that are sold or
 31 distributed outside the state if the licensee provides proof acceptable to the

1 department that the cigarettes have not been and will not be consumed in this
 2 state and the licensee is properly licensed in the jurisdictions outside the state
 3 where the sales or distributions are made.

4 * **Sec. 30.** AS 43.50 is amended by adding a new section to read:

5 **Sec. 43.50.625. Forfeiture of other property.** (a) Upon a showing of
 6 probable cause that a person has committed the crime of misconduct involving
 7 unstamped cigarettes or stamps in the first degree under AS 43.50.640, the following
 8 are subject to forfeiture:

9 (1) material and equipment used in the manufacture, sale, offering for
 10 sale, or possession for sale of cigarettes in this state in violation of AS 43.50.500 -
 11 43.50.640 or 43.50.660 - 43.50.700;

12 (2) aircraft, vehicles, or vessels used to transport or facilitate the
 13 transportation of cigarettes manufactured, sold, offered for sale, or possessed for sale
 14 in this state in violation of AS 43.50.500 - 43.50.640 or 43.50.660 - 43.50.700;

15 (3) money, securities, negotiable instruments, or other things of value
 16 used in financial transactions derived from activity prohibited under AS 43.50.500 -
 17 43.50.640 or 43.50.660 - 43.50.700.

18 (b) Property subject to forfeiture under this section may be actually or
 19 constructively seized under an order issued by the superior court upon a showing of
 20 probable cause that the property is subject to forfeiture under this section.
 21 Constructive seizure is effected upon posting a signed notice of seizure on the item to
 22 be forfeited, stating the violation and the date and place of seizure. Seizure without a
 23 court order may be made if

24 (1) the seizure is incident to a valid arrest or search;

25 (2) the property subject to seizure is the subject of a prior judgment in
 26 favor of the state; or

27 (3) there is probable cause to believe that the property is subject to
 28 forfeiture under (a) of this section; property seized under this paragraph may be held
 29 for not more than 48 hours unless an order of forfeiture is issued by the court before
 30 the end of that time period.

31 (c) Within 30 days after a seizure under this section, the Department of Public

1 Safety shall make reasonable efforts to ascertain the identity and whereabouts of any
2 person holding an interest, or an assignee of a person holding an interest, in the
3 property seized, including a right to possession, or a lien, mortgage, or conditional
4 sales contract. The Department of Public Safety shall notify the person ascertained to
5 have an interest in the seized property of the impending forfeiture, and, before
6 forfeiture, the Department of Public Safety shall publish, once a week for four
7 consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of
8 general circulation in the judicial district in which the seizure was made, or if a
9 newspaper is not published in that judicial district, in a newspaper published in the
10 state and distributed in that judicial district.

11 (d) Property subject to forfeiture under (a) of this section may be forfeited

12 (1) upon conviction of a person for a violation of AS 43.50.640; or

13 (2) upon judgment by the superior court in a proceeding in rem that the
14 property was used in a manner subjecting it to forfeiture under (a) of this section.

15 (e) The owner of property subject to forfeiture under (a) of this section is
16 entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an
17 action under (d) of this section, the owner shows that the owner

18 (1) was not a party to the violation;

19 (2) did not have actual knowledge or reasonable cause to believe that
20 the property was used or was to be used in violation of the law; and

21 (3) did not have actual knowledge or reasonable cause to believe that
22 the person committing the violation had, within the last 10 years,

23 (A) been convicted of violating this chapter; or

24 (B) committed other violations of this chapter.

25 (f) The court may allow the owner of property that is subject to forfeiture
26 under (a) of this section to redeem the property by paying an amount determined by
27 the court to be the fair market value of the property.

28 (g) A person other than the owner holding, or the assignee of, a lien,
29 mortgage, or conditional sales contract on, or the right to possession of property
30 subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in
31 the nature of remission of the forfeiture if, in an action under (d) of this section, the

1 person shows that the person

2 (1) was not a party to the violation subjecting the property to
3 forfeiture;

4 (2) did not have actual knowledge or reasonable cause to believe that
5 the property was used or was to be used in violation of the law; and

6 (3) did not have actual knowledge or reasonable cause to believe that
7 the person committing the violation had, within the last 10 years,

8 (A) been convicted of violating this chapter; or

9 (B) committed other violations of this chapter.

10 (h) It is not a defense in an in rem forfeiture proceeding brought under (d)(2)
11 of this section that a criminal proceeding is pending or has resulted in conviction or
12 acquittal of a person charged with violating AS 43.50.640.

13 (i) Property forfeited under this section shall be placed in the custody of the
14 commissioner of public safety for disposition according to an order entered by the
15 court. The court shall order destroyed any property forfeited under this section that is
16 harmful to the public and may order any property forfeited under this section that was
17 seized in a municipality to be transferred to the municipality in which the property was
18 seized or to another municipality affected by the crime for which the property was
19 forfeited. The Department of Public Safety shall notify all municipalities affected by
20 the crime of the forfeiture proceeding. Other property shall be ordered sold and the
21 proceeds used for payment of expenses of the proceedings for forfeiture and sale,
22 including expenses of seizure, custody, and court costs. The remainder of the
23 proceeds shall be deposited in the general fund.

24 (j) The title to a vehicle or vessel forfeited to the state under this section may
25 be transferred by the state to a municipality or the local governing body of a village
26 for official use by the municipality or village, on condition that the vehicle or vessel
27 not be available for use by the defendant.

28 * Sec. 31. AS 43.50.640(a) is amended to read:

29 (a) A person commits the crime of misconduct involving unstamped cigarettes
30 or stamps in the first degree if the person

31 (1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes 5,000 [1,000] or more unstamped cigarettes in a single transaction;

(B) owns or possesses 5,000 [1,000] or more unstamped cigarettes with the intent to sell; or

(C) acquires, holds, transports, imports, or possesses 10,000 or more unstamped cigarettes; or

(2) with reckless disregard that the stamp was previously affixed to another cigarette package [;]

(A) affixes a previously used stamp to a cigarette package; or

(B) possesses, sells, or distributes a previously used stamp.

* Sec. 32. AS 43.50.650(a) is amended to read:

(a) A person commits the crime of misconduct involving unstamped cigarettes or stamps in the second degree if the person

(1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes at least one but fewer than 5,000 [1,000] unstamped cigarettes in a single transaction;

(B) owns or possesses at least one but fewer than 5,000 [1,000] unstamped cigarettes, with intent to sell; [OR]

(C) acquires, holds, transports, imports, or possesses at least 401 [ONE] but fewer than 10,000 unstamped cigarettes; or

(D) acquires, holds, transports, imports, or possesses at least one but fewer than 401 unstamped cigarettes that are not for personal consumption: or

(2) is not licensed under this chapter or otherwise authorized by the department to possess stamps and possesses a stamp that is not affixed to a cigarette package.

* Sec. 33. AS 43.50.710 is amended by adding a new subsection to read:

(e) Nothing in this section prohibits a manufacturer from offering promotions to a wholesaler or a retailer provided the wholesale promotion is the same for all participating wholesalers and the retail promotion is the same for all participating retailers.

1 * Sec. 34. AS 43.50.720 is amended to read:

2 **Sec. 43.50.720. Sale at less than cost; with gift or concession.** In all
3 advertisements, offers for sale, or sales involving two or more items when at least one
4 of the items is cigarettes at a combined price, and in all advertisements, offers for sale,
5 or sales involving the giving of any gift, concession, or coupon of any kind in
6 conjunction with the sale of cigarettes, the wholesaler's or retailer's combined selling
7 price may not be below the actual cost to the wholesaler or the actual cost to the
8 retailer, respectively, of the total of all articles, products, commodities, gifts, and
9 concessions included in the transactions, except that, if any articles, products,
10 commodities, gifts, or concessions are not cigarettes, the actual [BASIC] cost shall be
11 determined as provided under AS 43.50.800.

12 * Sec. 35. AS 43.50.760(b) is amended to read:

13 (b) The presumptive actual [WHOLESALE AND PRESUMPTIVE RETAIL]
14 cost of cigarettes as determined by the department under AS 43.50.800 [FROM
15 MANUFACTURER'S PRICE LIST] is considered competent evidence in a court
16 action or proceeding as tending to prove actual cost to the wholesaler or retailer
17 complained against. A party against whom the presumptive actual [WHOLESALE
18 OR PRESUMPTIVE RETAIL] cost as determined by the department is introduced in
19 evidence has the right to offer evidence tending to prove any inaccuracy of the
20 presumptive actual [WHOLESALE OR PRESUMPTIVE RETAIL] cost or any
21 statement of facts that would impair its probative value.

22 * Sec. 36. AS 43.50.770 is amended to read:

23 **Sec. 43.50.770. Determination of cost of cigarettes purchased outside of**
24 **ordinary channels of trade.** In establishing the actual [BASIC] cost of cigarettes to
25 a wholesaler or retailer, the invoice cost [OR THE ACTUAL COST] of cigarettes
26 purchased at a forced, bankrupt, or closeout sale, or other sale outside the ordinary
27 channels of trade may not be used.

28 * Sec. 37. AS 43.50.790(a) is amended to read:

29 (a) The department

30 (1) shall administer AS 43.50.710 - 43.50.849;

31 (2) may adopt regulations relating to the administration and

1 enforcement of AS 43.50.710 - 43.50.849;

2 (3) may determine the actual [BASIC] cost of cigarettes to a
3 wholesaler or retailer as provided in AS 43.50.800 [FROM INFORMATION
4 OBTAINED FROM A MANUFACTURER];

5 (4) may, after reasonable notice and hearing, revoke or suspend a
6 license issued under AS 43.50.010 or 43.50.035 to a person who refuses or neglects to
7 comply with a provision of AS 43.50.710 - 43.50.849.

8 * Sec. 38. AS 43.50.800 is repealed and reenacted to read:

9 Sec. 43.50.800. Presumptions applicable to determination of cost. (a) The
10 presumptive actual cost of cigarettes to a wholesaler is, for purposes of AS 43.50.710 -
11 43.50.849, the presumptive wholesale cost as calculated by the department plus an
12 amount equal to four and one-half percent of the presumptive wholesale cost to
13 account for business costs.

14 (b) The presumptive actual cost of cigarettes to a retailer is, for purposes of
15 AS 43.50.710 - 43.50.849, the presumptive actual cost of cigarettes to the wholesaler
16 as calculated by the department under (a) of this section, plus an amount equal to six
17 percent of the presumptive actual cost of cigarettes to the wholesaler to account for
18 business costs.

19 (c) A wholesaler or retailer that wishes to advertise, offer to sell, or sell
20 cigarettes at less than the presumptive actual cost to the wholesaler or retailer as
21 calculated under (a) or (b) of this section must first obtain approval from the
22 department. The department may grant approval only if the wholesaler or retailer
23 provides proof satisfactory to the department that the wholesaler or retailer's actual
24 cost is lower than presumed. Approval for cigarette sales at less than the presumptive
25 actual cost as determined under (a) or (b) of this section may not be granted for a
26 period longer than one year. In reviewing proof of actual wholesale or retail cost, the
27 department may consider the costs reflected on the actual invoice, but may not
28 consider cash discounts. In reviewing proof of actual costs, the department may
29 consider the standards and methods of accounting regularly employed, and must
30 include labor costs, rent, depreciation, selling costs, maintenance of equipment,
31 delivery costs, all types of licenses, taxes, insurance, advertising, preopening

1 expenses, provision for impaired assets and closing costs, interest expenses, and
 2 provision for merger and restructuring expenses. The department shall adopt
 3 regulations to determine the wholesaler's and retailer's actual costs for purposes of
 4 AS 43.50.710 - 43.50.849.

5 (d) For purposes of this section, the presumptive wholesale cost is the
 6 manufacturer's list price, less trade discounts, plus the full face value of all cigarette
 7 taxes.

8 * Sec. 39. AS 43.50.740(b), 43.50.849(1), 43.50.849(6), and 43.50.849(7) are repealed.

9 * Sec. 40. The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 **TRANSITION: FLOOR STOCK TAX FOR CERTAIN CIGARETTES IN THE**
 12 **STATE ON THE EFFECTIVE DATE OF SECS. 2 - 39 OF THIS ACT.** (a) Notwithstanding
 13 any other provision to the contrary, a floor stock tax is imposed at 12:01 a.m. on the effective
 14 date of secs. 2 - 39 of this Act upon every person in control or possession of cigarettes for sale
 15 or distribution in the state that were taxed at the rate in effect before the effective date of secs.
 16 2 - 39 of this Act. The floor stock tax is the difference between the tax computed on each
 17 cigarette as provided in AS 43.50.190(a), as amended by sec. 14 of this Act, on the effective
 18 date of secs. 2 - 39 of this Act and the tax actually paid on each cigarette as required by
 19 AS 43.50.190(a) as it read on the day before the effective date of secs. 2 - 39 of this Act. The
 20 person subject to the floor stock tax under this section must provide proof that the tax required
 21 by AS 43.50.190(a), as it read on the day before the effective date of secs. 2 - 39 of this Act,
 22 on each cigarette was previously paid or the tax actually paid on each cigarette is considered
 23 to be zero.

24 (b) A person subject to the floor stock tax under this section shall file a report not
 25 later than the last day of the month in which secs. 2 - 39 of this Act take effect on a form
 26 prescribed by the Department of Revenue and pay the tax to the Department of Revenue in six
 27 sequential monthly installments. The first installment shall be paid not later than the last day
 28 of the month in which secs. 2 - 39 of this Act take effect. The penalty, interest, and taxpayer
 29 remedy provisions of AS 43.05 apply to the floor stock tax under this section.

30 * Sec. 41. The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
2 regulations necessary to implement the changes made by secs. 2 - 40 of this Act. The
3 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
4 effective date of secs. 2 - 40 of this Act.

5 * Sec. 42. Section 41 of this Act takes effect immediately under AS 01.10.070(c).

6 * Sec. 43. Except as provided in sec. 42 of this Act, this Act takes effect September 1,
7 2004.

FISCAL

NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: LL#04-0170
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Cigarette and Tobacco Products Tax Increase RDU: Revenue Programs & Services
Component: Tax Division
Sponsor: Governor
Requester: Rules Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 466.1 | 466.1 | 466.1 | 466.1 | 466.1 | 466.1 |
| Travel | 60.0 | 60.0 | 60.0 | 60.0 | 60.0 | 60.0 |
| Contractual | 248.0 | 246.8 | 246.8 | 246.8 | 246.8 | 246.8 |
| Supplies | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| Equipment | 48.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 828.1 | 778.9 | 778.9 | 778.9 | 778.9 | 778.9 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|----------|----------|----------|----------|----------|----------|
| CHANGE IN REVENUES () | 29,100.0 | 35,000.0 | 35,000.0 | 35,000.0 | 35,000.0 | 35,000.0 |
|------------------------|----------|----------|----------|----------|----------|----------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 828.1 | 778.9 | 778.9 | 778.9 | 778.9 | 778.9 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 828.1 | 778.9 | 778.9 | 778.9 | 778.9 | 778.9 |

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | 6 | 6 | 6 | 6 | 6 | 6 |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Cigarette and Tobacco Products Tax Increase - Bill Analysis (December 24, 2003)

Bill Language: This bill will increase the cigarette tax from \$1 per pack of twenty cigarettes to \$2 per pack and the tobacco products tax (OTP) from 75% to 100% of the wholesale cost. This bill will also institute a floor stock tax on existing cigarette inventories held for sale in an attempt to reduce the amount of stockpiling of cigarettes on the effective date. In an attempt to reduce the amount of cigarette smuggling and tax evasion, this bill will also allow the Department of Public Safety to seize and dispose of equipment, vehicles, monies and other assets used in activities which violate the cigarette and tobacco products statutes.

(cont. on page 2)

Prepared by: Johanna Bales Phone 269-6628
Division: Tax Division Date/Time 6/15/04 9:53 AM
Approved by: Steve Porter, Deputy Commissioner Date 6/15/2004
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. LL#04-0170

ANALYSIS CONTINUATION

Assumptions: The Department of Revenue (DOR) will have primary enforcement responsibility for the cigarette and tobacco products excise tax program. However, DOR will work with the Department of Public Safety (DPS) and Department of Law (DOL) as part of a task force responsible for cigarette tax stamp enforcement in the state. DPS, at the request of DOR, will provide investigative support through a reimbursable services agreement (RSA). The amount of this RSA has been estimated by DPS. Monies for the RSA are included in the Contractual costs requested in this fiscal note. This fiscal note does not include additional costs that may be incurred by DOL as a result of this legislation. From information obtained from other states with cigarette tax rates of \$1.50 to \$2.05 per pack, DOR expects that the increase in the tax rates will result in a significant increase in incidents of cigarette smuggling and tax evasion.

Program Summary: DOR will conduct periodic inspections of cigarette and tobacco products licensees as well as retailers who hold tobacco endorsements with the Department of Community and Economic Development for unstamped cigarettes. In addition, DOR will be the primary contact for complaints from the public and compliant retailers regarding unstamped cigarettes. DOR will work with DPS and DOL to develop cases against cigarette smugglers, including seizing unstamped product and assets used in activities that violate the cigarette and tobacco products statutes. DOR will prepare assessments for unstamped cigarettes and untaxed cigarettes and OTP imported into the state by individuals for personal use and/or resale and work with federal agencies to stop out-of-state entities, specifically Internet sellers, from shipping cigarettes into the state in violation of existing statutes.

Positions: DOR expects that it will need 6 additional positions, 1 Revenue Auditor Supervisor II, 2 Investigator III's, 1 Revenue Auditor III, 1 Accounting Technician III and 1 Appeals Officer (Revenue Auditor V), to manage the workload of the task force, conduct investigations, prepare assessments, and work appeals filed in disputes involving assessments, seized cigarettes, and seized assets. These six positions, along with the two existing investigator positions already assigned to tobacco cases, will represent DOR as part of the task force explained above. DOR estimates the total cost of these additional positions to be \$466,100 each year.

Other Operating Expenditures: (1) Travel - DOR estimates it will need \$60,000 for travel costs for investigators to conduct routine inspections of the approximate 1,600 known cigarette retail establishments throughout the state each year. DOR estimates that each investigator will need to conduct, at a minimum, ten separate inspections/investigations in villages within the state each year to insure an effective enforcement program and respond to complaints from the public of unstamped product. (2) Contractual - Contractual costs in the amount of \$248,000 in the first year and \$246,800 each year thereafter are primarily to fund an RSA between DOR and DPS and for the lease, operation and maintenance of two vehicles to be used by investigators to conduct inspections/investigations in the Anchorage, Mat-Su and Kenai Peninsula areas of the state where most cigarette retail establishments are located. Investigators must be able to respond to complaints of unstamped product quickly and perform unscheduled inspections of retail establishments on an ongoing basis. Contractual costs also include leasing office space and providing phone service for 6 additional employees and renting storage facilities for seized cigarettes and other assets. (3) Supplies - DOR estimates \$1,000 per each FTE each year (a total of \$6,000) for supplies needed to perform the duties of these positions. (4) Equipment - DOR expects equipment expense of \$8,000 per FTE (a total of \$48,000) in the first year for computers, telephones, cubicle parts, software, and other one-time purchases of office equipment needed to perform the duties of these positions.

Revenue: DOR estimates cigarette and tobacco products revenues to increase between \$33 and \$37 million each year. However, DOR believes these revenues will be much smaller unless we institute an aggressive investigation and enforcement program. Although we believe the provision for cigarette tax stamps, which took effect January 1, 2004, will be an effective tool in enforcement of the cigarette excise tax, its success depends upon aggressive enforcement. Even at \$1.00 per pack, the incentive for smuggling and tax evasion is great. At \$2.00 per pack, it will be much more attractive. An aggressive enforcement program will help protect the projected revenue increase.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: 0170-DPS-ABADE-6-14-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title: Act Relating to Tobacco Tax
Sponsor: Rules Committee
Requester: Governor
Dept. Affected: Public Safety
RDU: Alaska State Troopers
Component: Bureau of Alcohol and Drug Enforcement
Component No.: 2745

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 171.4 | 171.4 | 171.4 | 171.4 | 171.4 | 171.4 |
| Travel | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| Contractual | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 | 15.0 |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 |
| TOTAL | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 | 206.4 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill will increase the cigarette tax from \$1 per pack of twenty to \$2 per pack and the other tobacco products (OTP) tax from 75% to 100% of the wholesale costs. The Department of Public Safety (DPS) will be required to seize and dispose of assets used in illegal activities related to tobacco products statutes.

The DPS will provide investigative support to the Department of Revenue through a reimbursable services agreement. The DPS estimates the services of two full-time investigators and associated field travel, training, communication and vehicle usage will be needed to implement this legislation. The use of these investigative assets and any, as yet unidentified expenses associated with cigarette tax stamp enforcement, will be coordinated between the two agencies and reimbursed at actual cost.

Prepared by: Captain Al Storey Phone 269-5682
Division: Alaska State Troopers Date/Time 6/14/04 9:26 AM
Approved by: Commissioner William Tandeske Date 6/14/2004
Agency: Department of Public Safety

SECTIONAL

Special Session Tobacco Tax Bill

Sectional Analysis Departments of Revenue and Law

- Sections 1, 16:** Section 1 outlines the intent by the legislature to provide funding for tobacco control programs at the minimum level recommended by the U.S. Department of Health and Human Services from tobacco tax revenues collected by the state. Section 16 implements this intent by taking 8.9% of annual cigarette tax revenues levied under AS 43.50.190(a) to be deposited into the tobacco use education and cessation fund.
- Sections 2-4:** These sections raise the various cigarette license fees to \$50—to make them the same as the current license fee for distributors.
- Sections 5, 10-13:** These sections make technical corrections to the wholesaler-distributor cigarette license type. They also ensure that in-state individuals and retailers are not double-taxed on product that is sold to them by an entity holding a wholesaler-distributor license.
- Section 6:** This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month.
- Sections 7 and 15:** These sections exempt the first 400 cigarettes (2 cartons) that an individual personally transports into the state each month from the cigarette tax.
- Section 8:** This section changes the definition of a class A misdemeanor for violations of the cigarette shipping restrictions from one but fewer than 1,000 cigarettes to one but fewer than 5,000 cigarettes. This section also changes the definition of a class C felony for violations of the shipping restrictions from 1,000 or more cigarettes to 5,000 or more cigarettes. The intention in raising the threshold for a class C felony is to make it consistent with the current threshold for a class C felony theft, which requires the value of the property or services to be at least \$500. The tax that would be due on 5,000 cigarettes under this bill would be \$500.
- Section 9:** This section makes a person who shipped cigarettes to Alaska in violation of our cigarette shipping restrictions jointly and severally

liable for cigarette taxes to the fullest extent permitted by the U.S. Constitution.

- Section 14:** This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20 cigarettes. The increase in this tax will go into the general fund.
- Section 17:** This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost and also levies the tax on other tobacco products sold or imported into the state for personal consumption.
- Section 18:** This section requires that individuals that import other tobacco products into the state must have a license as a "buyer".
- Section 19:** This section requires that a fee of \$25 must be paid for a tobacco products "buyer" license
- Section 20:** This section requires distributors to provide information about the type of tobacco business they are conducting to the Department of Revenue.
- Section 21:** This section allows distributors and buyers to renew their tobacco products license each year for a fee of \$50 and \$25, respectively.
- Section 22:** This section requires individuals who import tobacco products for personal consumption to file a return each month indicating the amount and purchase price of the tobacco products and the tax due on those tobacco products.
- Section 23:** This section changes the definition of a "distributor" to include entities that sell cigarettes to individuals for personal consumption.
- Section 24:** This section changes the definition of "licensee" in the tobacco products statute to include the new buyer license type.
- Section 25:** This section provides a definition for "buyer" in the tobacco products statutes.
- Section 26:** This section allows a licensee to request that the department replace cigarette tax stamps that were lost or damaged in transit.

Section 27:

This section allows licensees with a physical location in the state and who have been in full compliance with cigarette tax statutes for the preceding 5 years to reduce their bond requirement from 200% to 100% of their monthly purchases of tax stamps when payment is made on a deferred payment basis.

Section 28:

This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales.

Section 29:

This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska.

Section 30:

This is the forfeiture section which allows seizure of assets used by a person when the person commits, supported by a showing of probable cause, the crime of misconduct involving unstamped cigarettes in the first degree under AS 43.50.640. This section further outlines the types of assets that may be seized, procedures to be used to seize such assets, and procedures to be used in disposing of seized assets.

Section 31:

This section changes the definition of misconduct involving unstamped cigarettes in the first degree from sales of or possession with intent to sell 1,000 or more unstamped cigarettes to sales of or possession with intent to sell 5,000 or more unstamped cigarettes.

Section 32:

This section changes the definition of misconduct involving unstamped cigarettes in the second degree from sales of one but fewer than 1,000 unstamped cigarettes to sales of one but fewer than 5,000 unstamped cigarettes and from possession of one but fewer than 10,000 unstamped cigarettes to possession of 401 but fewer than 10,000 unstamped cigarettes. This section also includes importation or possession of one but fewer than 401 unstamped cigarettes as misconduct involving unstamped cigarettes in the second degree if the cigarettes are not possessed for personal consumption.

- Section 33:** This section allows manufacturers to offer cigarette promotions in the state provided the promotion offered at the wholesale level is the same for all wholesalers who participate in the promotion and the promotion offered at the retail level is the same for all retailers who participate in the promotion.
- Section 34:** This section makes a technical change to AS 43.50.720 so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 35:** This section makes a technical change to AS 43.50.760(b) so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 36:** This section makes a technical change to AS 43.50.770 so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 37:** This section makes a technical change to AS 43.50.790(a) so that the language in that statute conforms to the changes made in section 38 of this bill.
- Section 38:** This section changes the calculation of cost of cigarettes as defined in the Unfair Cigarette Sales Act that went into effect January 1, 2004 as the result of the passage last session of SB 168. The Unfair Cigarette Sales Act prohibits all cigarette wholesalers and retailers from selling cigarettes below cost. This section modifies the Unfair Cigarette Sales Act by prohibiting wholesalers and retailers from reducing their cost by cash discounts received from the manufacturers. This section also requires wholesalers and retailers to obtain prior approval from the Department of Revenue before selling cigarettes at a cost below the amount posted by the Department of Revenue.
- Section 39:** This section repeals sections of the Unfair Cigarette Sales Act that conflict with the new language inserted in section 38.
- Section 40:** This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old rate and the tax due at the new tax rate. The floor stock tax applies to cigarettes only. The floor stock tax must be remitted to

the Department of Revenue in six sequential monthly installments with the first installment due no later than 30 days after the effective date of this bill. The floor stock tax is needed to reduce the amount of stockpiling by retailers and distributors and the windfall they will get by collecting, but not paying, tax at the new rate on the stockpiled cigarettes.

Section 41: This section provides an effective date of September 1, 2004.

BACKUP

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

State of Alaska
Epidemiology



Bulletin

Recommendations
and
Reports

Department of Health and Social Services
Joel Gilbertson, Commissioner

Division of Public Health
Doug Bruce, Director

Section of Epidemiology
John Middaugh, MD, Editor

3601 C Street, Suite 540, PO Box 240249, Anchorage, Alaska 99524-0249 (907) 269-8000
24-Hour Emergency Number 1-800-478-0084

<http://www.akepi.org>

Volume No. 7 Number 4
November 4, 2003

Youth Tobacco Use Falls

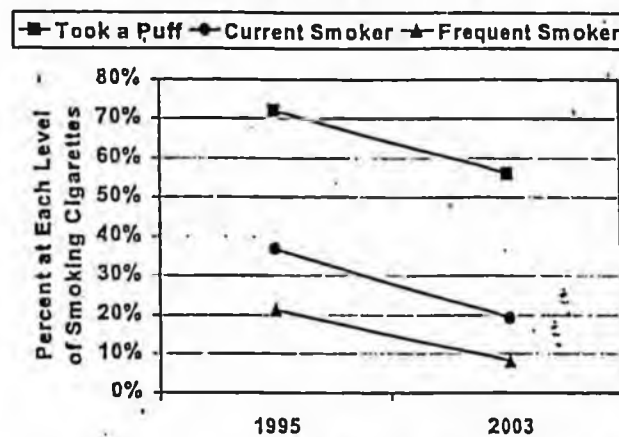
Results From the
2003 Youth Risk Behavior Survey

Smoking among Alaskan high school students has been cut in half since 1995, according to results of the 2003 Youth Risk Behavior Survey (YRBS).

Only 19 percent of the state's high school students say they have smoked at least one cigarette in the past month, down from 37 percent in 1995 (Figure 1). Frequent smoking, in which students report using cigarettes on at least 20 days in the previous month, fell from 21 percent in 1995 to just 8 percent. Just 56 percent of high school youth say they have even taken a single puff on a cigarette, down from 72 percent in 1995.

Figure 1. Percentage of High School Youth Who Ever Took a Puff or Are Current or Frequent Smokers By Year, Alaska YRBS, 2003

| | 1995 | 2003 |
|-----------------|------|------|
| Took a Puff | 72% | 56% |
| Current Smoker | 37% | 19% |
| Frequent Smoker | 21% | 8% |



*"Took a Puff" = took at least a puff of a cigarette in lifetime; "Current Smoker" = smoked on at least 1 out of the last 30 days; "Frequent Smoker" = smoked on at least 20 out of the last 30 days

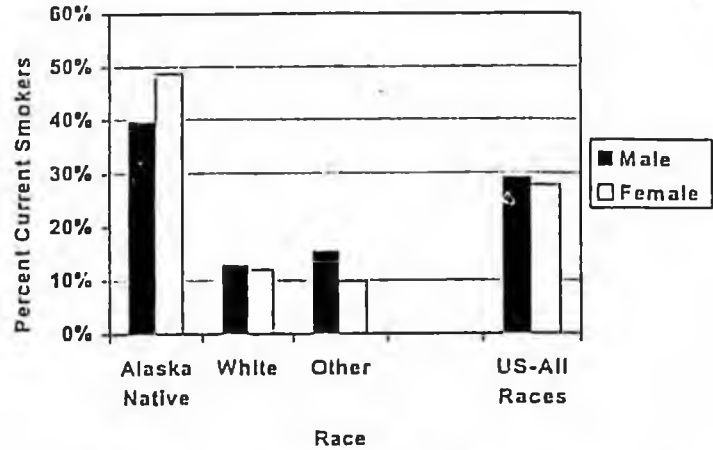
The YRBS, conducted jointly in Alaska by the Department of Health and Social Services and the Department of Education and Early Development, was administered to 1,500 Alaskan high school students who were randomly chosen from nearly every school district in the state. The 2003 YRBS is the first statistically valid statewide health survey of Alaskan youth since 1995.

While smoking rates have declined overall, the YRBS shows that smoking among Alaska Native youth far exceeds that seen in all other races. Approximately 49 percent of Alaska Native females and 40 percent of Alaska Native males say they have smoked at least once during the previous month (Figure 2). About one in five Alaska Native students of both sexes report smoking at least 20 days per month.

Figure 2. Percentage of High School Youth Who Are Current Smokers, By Sex and Race
Alaska YRBS (2003), US YRBS (2001)

| | Alaska Native | White | Other Race |
|--------|---------------|-------|------------|
| Male | 40% | 13% | 15% |
| Female | 49% | 12% | 10% |

US YRBS, 2001 (all races)
males = 29%, females = 28%

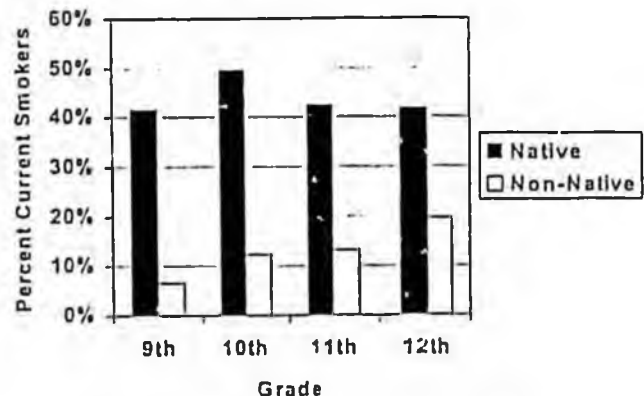


"Current Smoker" = smoked on at least 1 out of the last 30 days

Smoking among Alaska Native youth surpasses that of non-native youth at every grade level (Figure 3). While the likelihood of smoking increases among non-native youths as they progress through high school, it is already near maximum levels by the 9th grade among Alaska Natives.

Figure 3. Percentage of High School Youth Who Are Current Smokers By Race and Grade
Alaska YRBS, 2003

| | 9th | 10th | 11th | 12th |
|------------|-----|------|------|------|
| Native | 42% | 50% | 42% | 42% |
| Non-Native | 7% | 12% | 13% | 20% |



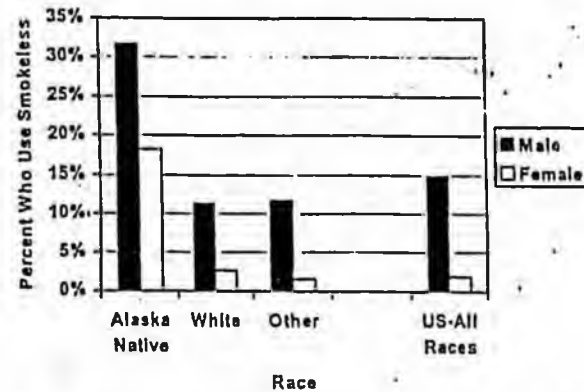
"Current Smoker" = smoked on at least 1 out of the last 30 days

The YRBS also shows that about 11 percent of Alaskan youth have used smokeless tobacco in the previous month. Smokeless tobacco use is especially high among Alaska Natives, where rates among boys are double the national average and rates among girls are nine times higher than the national norm (Figure 4).

Figure 4. Percentage of High School Youth Who Use Smokeless Tobacco, By Sex and Race
Alaska YRBS (2003), US YRBS (2001)

| | Alaska Native | White | Other Race |
|--------|---------------|-------|------------|
| Male | 32% | 11% | 12% |
| Female | 18% | 3% | 2% |

US YRBS, 2001 (all races)
males = 15%, females = 2%

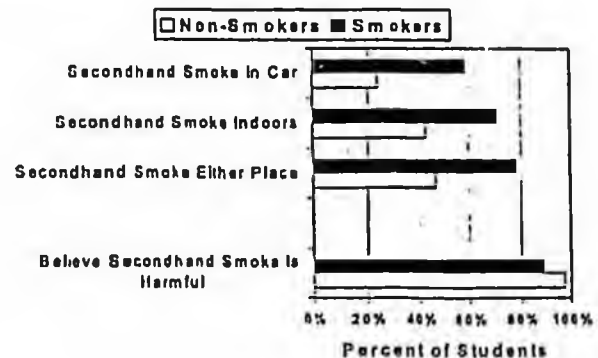


"Use Smokeless Tobacco" = used any smokeless tobacco product on at least 1 of the last 30 days

The YRBS confirms that youth exposure to environmental tobacco smoke in Alaska remains high, despite increased restrictions on smoking in public places. Nearly 50 percent of Alaskan youth who do not smoke say they have been exposed in the past week to secondhand smoke inside of buildings or cars (Figure 5). More than 95 percent of youth say they believe that secondhand smoke is harmful. This view was even expressed by 89 percent of those who smoke.

Figure 5. Percentage of High School Smokers and Non-Smokers Exposed to Secondhand Smoke in Past Week
Alaska YRBS, 2003

| | Non-Smokers | Smokers |
|-------------------------------------|-------------|---------|
| Secondhand Smoke in Car | 24% | 59% |
| Secondhand Smoke Indoors | 43% | 70% |
| Secondhand Smoke Either Place | 47% | 78% |
| Believe Secondhand Smoke is Harmful | 98% | 89% |



Other findings from the 2003 YRBS bring to light important social and behavioral risk factors associated with youth smoking:

- Students who report that their parents never talk to them about school are almost twice as likely to smoke as students whose parents do talk with them about school (32 percent vs. 18 percent).
- Students who get mostly C's or worse in school are four times as likely to smoke as those who get mostly A's (32 percent vs. 8 percent).
- Students who do not participate in after-school activities are almost twice as likely to smoke as students who participate in one or more such activities per week (26 percent vs. 14 percent).
- Students older than 16 years of age who smoke are twice as likely to have used alcohol in the past month, and are four times as likely to have used marijuana during that time, compared to those who do not smoke (70 percent vs. 36 percent, and 62 percent vs. 16 percent, respectively.)
- Students older than 16 years of age who smoke are three times as likely to have ever used inhalants, and four times as likely to have ever tried cocaine, heroin, methamphetamine or ecstasy, compared to those who do not smoke (24 percent vs. 8 percent, and 43 percent vs. 11 percent, respectively.)
- Students older than 16 years of age who smoke are almost twice as likely to have had sex in the previous three months, compared to those who do not smoke (55 percent vs. 29 percent).
- Students who smoke are twice as likely to have been in a physical fight in the past year, and four times as likely to have been driving while intoxicated during the past 30 days, compared to those who do not smoke (46 percent vs. 22 percent, and 28 percent vs. 7 percent, respectively).

The steep drop in youth smoking was achieved after Alaska invested heavily in a comprehensive tobacco prevention and control program. This program thrives on the strong partnership between state government and the Alaska Tobacco Control Alliance, whose members include the Alaska Native Health Board, the American Cancer Society, the American Heart Association, and the American Lung Association of Alaska.

Components of the state tobacco program include:

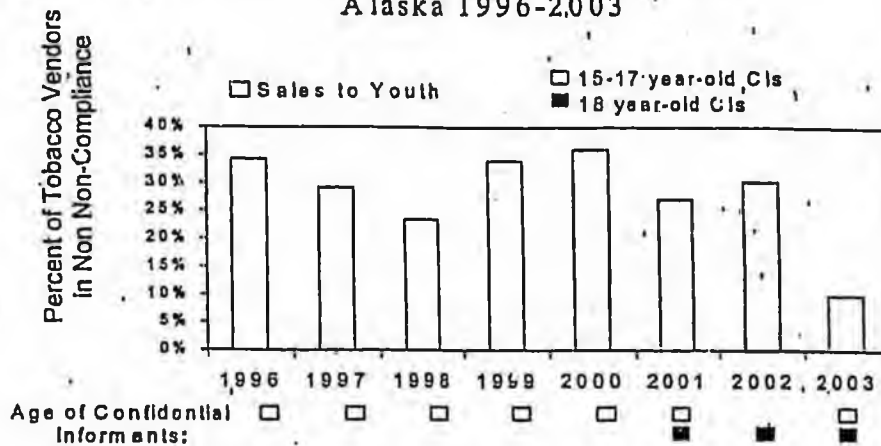
- An aggressive anti-tobacco media campaign aimed especially at curbing tobacco use by youth.
- A statewide excise tax designed to put tobacco products out of the reach of kids by boosting the price of cigarettes by \$1 per pack.
- Community-based advocacy programs that discourage the initiation of tobacco use by youth and promote the enactment of local ordinances that reduce environmental tobacco smoke exposure.
- Renewed efforts to reduce illegal sales of tobacco to youth through improved vendor training and increased enforcement actions across Alaska.

Last year, undercover sting operations found that more than 30 percent of Alaskan tobacco outlets were unlawfully selling cigarettes and other tobacco products to minors. During 2003, illegal sales to youth fell to 10 percent (Figure 6). Clean indoor air ordinances are now in force in Anchorage,

Juneau, Bethel, Barrow, Dillingham, Kenai and Soldotna. Many other smaller communities have adopted informal non-smoking policies.

Figure 6. Illegal Tobacco Sales to Youth and Age of Confidential Informants Alaska 1996-2003

| Percent of Tobacco Vendors in Non-Compliance | |
|--|-----|
| 1996 | 34% |
| 1997 | 29% |
| 1998 | 24% |
| 1999 | 34% |
| 2000 | 36% |
| 2001 | 27% |
| 2002 | 30% |
| 2003 | 10% |



Tobacco-attributable disease in Alaska accounts for approximately 600 deaths per year, more than five times as many deaths as those caused by motor vehicle crashes, and nearly 100 times as many deaths as those caused by AIDS. Of the death toll due to tobacco, 120 lives are lost each year because of secondhand smoke. Beyond this, tobacco use accounts for more than \$260 million in direct and indirect medical costs in Alaska each year.

The persistently high levels of smoking among Alaska Native youth do not bode well for reducing racial disparities in the burden of chronic disease in Alaska. Lung cancer mortality among Alaska Natives, once rare, now exceeds that of non-natives (Figures 7 and 8). The high levels of smokeless tobacco use among Alaska Native youth are also worrisome, as continued use into adulthood will increase the likelihood of developing oral cancers, periodontal disease and other disorders.

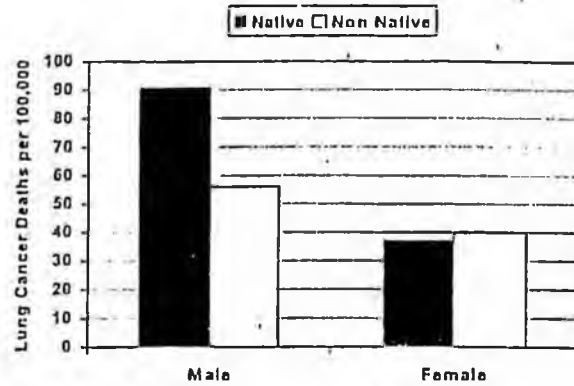
Reductions in youth smoking are critical in decreasing the long-term burden of heart disease, stroke, cancer and other chronic diseases in Alaska. Approximately three-quarters of smokers initiate tobacco use as adolescents.¹ Young people who are refusing to use tobacco today are unlikely to start smoking later in life.

Investments in tobacco prevention and control programs have a strong effect on reducing tobacco use, as long as programs can continue to dedicate significant and sustained resources to prevention activities.² Alaska currently spends approximately \$5.2 million per year on tobacco prevention and control, including \$3.1 million provided by the 1998 Master Settlement Agreement between states and the tobacco industry. This total falls short of the \$8.1 million minimum budget recommended by the federal Centers for Disease Control and Prevention for Alaska, and is well below the CDC's recommended spending level of \$16.5 million.

Figure 7. Lung Cancer Mortality Rates (per 100,000)
by Race and Sex
Alaska 1996-1999

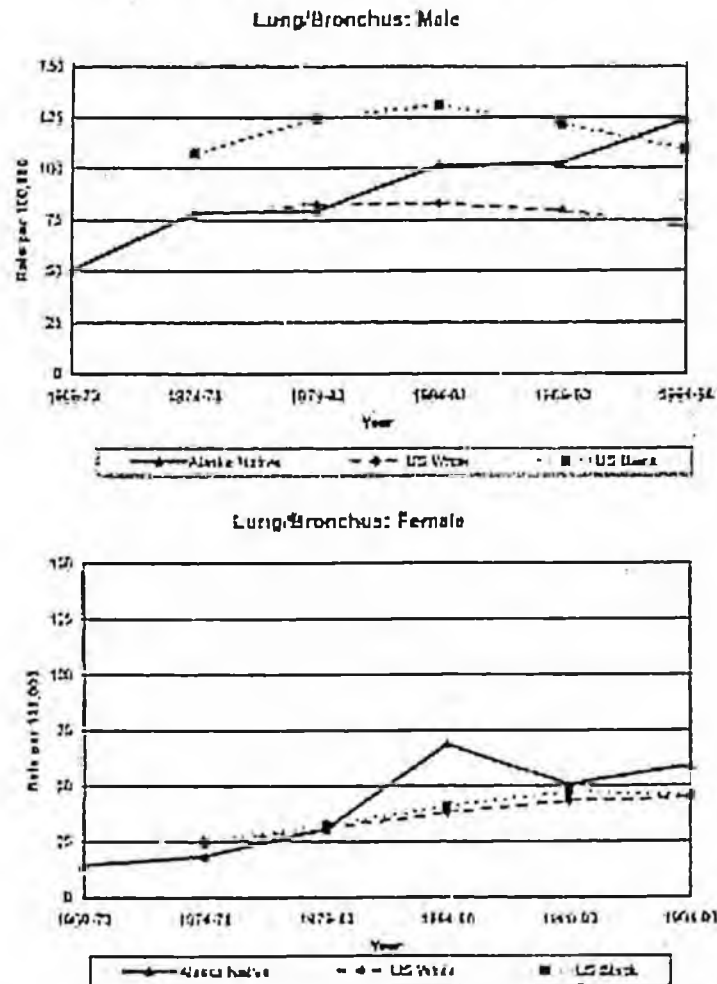
| | Male | Female |
|------------|------|--------|
| Native | 91.0 | 37.2 |
| Non-Native | 56.1 | 39.9 |

Data Source: Alaska Cancer Registry



Data Source: Alaska Cancer Registry

Figure 8. Cancer of Lung/Bronchus
Average Annual Age-Adjusted Cancer Incidence Rates
Alaska Natives 1969-1998 and US 1974-1997



(This figure provided by the Alaska Native Tribal Health Consortium Alaska Native Tumor Registry.)

¹ Substance Abuse and Mental Health Services Administration. (2003). *Results from the 2002 National Survey on Drug Use and Health: National Findings* (Office of Applied Studies, NHSDA Series H-22, DHHS Publication No. SMA 03-3836). Rockville, MD.

² Farrelly M J, Pechacek TF, Chaloupka FJ. The impact of tobacco control program expenditures on aggregate cigarette sales: 1981-2000. *J Health Economics*. 2003;22:843-859.

State of Alaska
Epidemiology



Bulletin

Recommendations
and
Reports

State of Alaska, Section of Epidemiology
PO Box 240249
Anchorage, AK 99524-0249

PRSR STD
U.S. POSTAGE
PAID
ANCHORAGE, AK
PERMIT NO. 1034

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|---|---|---|
| | Section 1. This section outlines the intent by the legislature to provide funding to tobacco control programs at minimum levels recommended by the U.S. Department of Health and Human Services from tobacco tax revenues collected by the state. | Section 1. This section outlines the intent by the legislature to provide funding to tobacco control programs at minimum levels recommended by the U.S. Department of Health and Human Services from tobacco tax revenues collected by the state. |
| | Section 2. This section increases the cigarette license fee for manufacturers from \$5 to \$50. | Section 2. This section increases the cigarette license fee for manufacturers from \$5 to \$50. |
| | Section 3. This section increases the cigarette license fee for vending machine operators from \$25 to \$50. | Section 3. This section increases the cigarette license fee for vending machine operators from \$25 to \$50. |
| Section 1. This section increases the cigarette license fee for direct-buying retailers from \$25 to \$50. This increase makes the license fee the same for distributors and direct-buying retailers who are engaged in substantially similar activities. | Section 4. This section increases the cigarette license fee for direct-buying retailers from \$25 to \$50. This increase makes the license fee the same for distributors and direct-buying retailers who are engaged in substantially similar activities. | Section 4. This section increases the cigarette license fee for direct-buying retailers from \$25 to \$50. This increase makes the license fee the same for distributors and direct-buying retailers who are engaged in substantially similar activities. |
| Section 2. This section is a technical correction to the wholesaler-distributor cigarette license type. This correction ensures that in-state individuals and retailers are not double taxed on product that is sold to them by an entity holding a wholesaler-distributor license. | Section 5. This section is a technical correction to the wholesaler-distributor cigarette license type. This correction ensures that in-state individuals and retailers are not double taxed on product that is sold to them by an entity holding a wholesaler-distributor license. | Section 5. This section is a technical correction to the wholesaler-distributor cigarette license type. This correction ensures that in-state individuals and retailers are not double taxed on product that is sold to them by an entity holding a wholesaler-distributor license. |
| Section 3. This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month. | Section 6. This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month. | Section 6. This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month. |
| | Section 7. This section allows individuals to personally transport up to 600 cigarettes (3 cartons) each month without incurring cigarette tax liability imposed by AS 43.50.090. | Section 7. This section allows individuals to personally transport up to 400 cigarettes (2 cartons) each month without incurring cigarette tax liability imposed by AS 43.50.090. |

Comparison of CS SB 368, version I.A to CS HB 538, version S, & Special Session Draft Legislation
 Prepared: June 7, 2004, 11:45 AM

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|--|---|---|
| | <p>Section 8. This section changes the definition of a class A misdemeanor for violations of the cigarette shipping restrictions from one but fewer than 1,000 cigarettes to one but fewer than 5,000 cigarettes. This section changes the definition of a class C felony for violations of the cigarette shipping restrictions from 1,000 or more cigarettes to 5,000 or more cigarettes. The intention in raising the threshold for the class C felony is to make it consistent with the threshold for C felony theft (theft in the 2nd degree), which requires a value of \$500. The tax due on 5,000 cigarettes under this bill would be \$500.</p> | <p>Section 8. This section changes the definition of a class A misdemeanor for violations of the cigarette shipping restrictions from one but fewer than 1,000 cigarettes to one but fewer than 5,000 cigarettes. This section changes the definition of a class C felony for violations of the cigarette shipping restrictions from 1,000 or more cigarettes to 5,000 or more cigarettes. The intention in raising the threshold for the class C felony is to make it consistent with the threshold for C felony theft (theft in the 2nd degree), which requires a value of \$500. The tax due on 5,000 cigarettes under this bill (\$1.00 per pack increase) would be \$500.</p> |
| | <p>Section 9. This section provides that any person who violates the cigarette shipping restrictions is jointly and severally liable for the cigarette excise taxes and is required, as permitted by the U.S. Constitution, to collect and remit the cigarette excise taxes to the department. This section will enhance the ability of the Department to collect taxes from out-of-state sellers who violate the state's shipping laws. Current U.S. Supreme Court precedent (<i>Quill Corp. v. North Dakota</i>) requires some in-state physical presence before states can impose excise tax collection requirements on sellers. At some point in the future, however, Congress may overrule the <i>Quill</i> decision or the Court may reconsider it, at which point the State will be in a position to be able to collect tobacco taxes from out-of-state sellers that violate the</p> | <p>Section 9. This section provides that any person who violates the cigarette shipping restrictions is jointly and severally liable for the cigarette excise taxes and is required, as permitted by the U.S. Constitution, to collect and remit the cigarette excise taxes to the department. This section will enhance the ability of the Department to collect taxes from out-of-state sellers who violate the state's shipping laws. Current U.S. Supreme Court precedent (<i>Quill Corp. v. North Dakota</i>) requires some in-state physical presence before states can impose excise tax collection requirements on sellers. At some point in the future, however, Congress may overrule the <i>Quill</i> decision or the Court may reconsider it, at which point the State will be in a position to be able to collect tobacco taxes from out-of-state sellers that violate the</p> |

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|--|---|---|
| | state's shipping law, even if such shippers have no physical presence in the state. | state's shipping law, even if such shippers have no physical presence in the state. |
| Section 4. This section is a technical correction to the definition of a "buyer" that ensures that an individual bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 10. This section is a technical correction to the definition of a "buyer" that ensures that an individual bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 10. This section is a technical correction to the definition of a "buyer" that ensures that an individual bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. |
| Section 5. This section is a technical correction to the definition of "direct-buying retailer" that ensures that a retailer bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 11. This section is a technical correction to the definition of "direct-buying retailer" that ensures that a retailer bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 11. This section is a technical correction to the definition of "direct-buying retailer" that ensures that a retailer bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. |
| Section 6. This section is a technical correction to the definition of "distributor" that ensures that a distributor bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 12. This section is a technical correction to the definition of "distributor" that ensures that a distributor bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. | Section 12. This section is a technical correction to the definition of "distributor" that ensures that a distributor bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax. |
| Section 7. This section is a technical correction to the definition of "wholesaler-distributor" that ensures that entities outside the state who make sales of cigarettes into the state are properly licensed. | Section 13. This section is a technical correction to the definition of "wholesaler-distributor" that ensures that entities outside the state who make sales of cigarettes into the state are properly licensed. | Section 13. This section is a technical correction to the definition of "wholesaler-distributor" that ensures that entities outside the state who make sales of cigarettes into the state are properly licensed. |
| Section 8. This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20. The increase in this tax will all go into the general fund. | Section 14. This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20. The increase in this tax will all go into the general fund. | Section 14. This section increases the tax on cigarettes by 50 mills or \$1.00 per pack of 20. The increase in this tax will all go into the general fund. |
| | Section 15. This section allows individuals to personally transport up to 600 cigarettes (3 cartons) each month without incurring cigarette tax liability imposed by AS 43.50.190. | Section 15. This section allows individuals to personally transport up to 400 cigarettes (2 cartons) each month without incurring cigarette tax liability imposed by AS 43.50.190. |

Comparison of CS SB 368, version I.A to CS HB 538, version S, & Special Session Draft Legislation

Prepared: June 7, 2004, 11:45 AM

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|--|---|--|
| | Section 16. This section requires 8.9% of annual cigarette tax revenues levied under AS 43.50.190(a) to be deposited in the tobacco use education and cessation fund. | Section 16. This section requires 8.9% of annual cigarette tax revenues levied under AS 43.50.190(a) to be deposited in the tobacco use education and cessation fund. |
| Section 9. This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost and also levies the tax on other tobacco products sold or imported into the state for personal consumption. | Section 17. This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost. | Section 17. This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost and also levies the tax on other tobacco products sold or imported into the state for personal consumption. |
| Section 10. This section requires that individuals that import other tobacco products into the state must have a license as a "buyer". | | Section 18. This section requires that individuals that import other tobacco products into the state must have a license as a "buyer". |
| Section 11. This section requires that a fee of \$25 must be paid for a tobacco products "buyer" license. | | Section 19. This section requires that a fee of \$25 must be paid for a tobacco products "buyer" license. |
| Section 12. This section requires distributors to provide information about the type of tobacco business they are conducting to the Department of Revenue. | | Section 20. This section requires distributors to provide information about the type of tobacco business they are conducting to the Department of Revenue. |
| Section 13. This section allows distributors and buyers to renew their tobacco products license each year for a fee of \$50 and \$25, respectively. | | Section 21. This section allows distributors and buyers to renew their tobacco products license each year for a fee of \$50 and \$25, respectively. |
| Section 14. This section requires individuals who import tobacco products for personal consumption to file a return each month indicating the amount and purchase price of the tobacco products and the tax due on those tobacco products. | | Section 22. This section requires individuals who import tobacco products for personal consumption to file a return each month indicating the amount and purchase price of the tobacco products and the tax due on those tobacco products. |
| | | Section 23. This section changes the definition of a "distributor" to include entities that sell cigarettes to individuals for personal consumption. |

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|---|---|---|
| Section 15. This section changes the definition of "licensee" in the tobacco products statutes to include the new "buyer" license type. | | Section 24. This section changes the definition of "licensee" in the tobacco products statutes to include the new "buyer" license type. |
| Section 16. This section provides a definition for "buyer" in the tobacco products statutes. | | Section 25. This section provides a definition for "buyer" in the tobacco products statutes. |
| Section 17. This section allows a licensee to request that the department replace cigarette tax stamps that were lost or damaged in transit. | Section 18. This section allows a licensee to request that the department replace cigarette tax stamps that were lost or damaged in transit. | Section 26. This section allows a licensee to request that the department replace cigarette tax stamps that were lost or damaged in transit. |
| Section 18. This section allows licensees with a physical location in the state and who have been in full compliance with cigarette tax statutes for the preceding 5 years to reduce their bond requirement from 200% to 100% of their monthly purchases of cigarette tax stamps when payment is made on a deferred payment basis. | Section 19. This section allows licensees with a physical location in the state and who have been in full compliance with cigarette tax statutes for the preceding 5 years to reduce their bond requirement from 200% to 100% of their monthly purchases of stamps when payment is made on a deferred payment basis. | Section 27. This section allows licensees with a physical location in the state and who have been in full compliance with cigarette tax statutes for the preceding 5 years to reduce their bond requirement from 200% to 100% of their monthly purchases of stamps when payment is made on a deferred payment basis. |
| Section 19. This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales. | Section 20. This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales. | Section 28. This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales. |
| Section 20. This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska. | Section 21. This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska. | Section 29. This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska. |

Comparison of CS SB 368, version I.A to CS HB 538, version S, & Special Session Draft Legislation
 Prepared: June 7, 2004, 11:45 AM

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|--|--|--|
| <p>Section 21. This section allows for the seizure of assets used by a person when the person commits, or the state has probable cause to believe that the person has committed, a violation of the Cigarette Tax Act. This section further outlines the types of assets that may be seized, procedures for seizing assets, and procedures for the disposition of assets after they are seized. This section further provides that assets used as sole transportation in a village cannot be seized.</p> | <p>Section 22. This section allows for the seizure of assets used by a person when the person commits, or the state has probable cause to believe that the person has committed, the felony of misconduct involving unstamped cigarettes or stamps in the first degree. This section further outlines the types of assets that may be seized, procedures for seizing assets, and procedures for the disposition of assets after they are seized.</p> | <p>Section 30. This section allows for the seizure of assets used by a person when the person commits, or the state has probable cause to believe that the person has committed, the felony of misconduct involving unstamped cigarettes or stamps in the first degree. This section further outlines the types of assets that may be seized, procedures for seizing assets, and procedures for the disposition of assets after they are seized.</p> |
| <p>Section 22. This section changes the definition of misconduct involving unstamped cigarettes in the first degree from sales of or possession with intent to sell 1,000 or more unstamped cigarettes to sales of or possession with intent to sell 5,000 or more unstamped cigarettes.</p> | <p>Section 23. This section changes the definition of misconduct involving unstamped cigarettes in the first degree from sales of or possession with intent to sell 1,000 or more unstamped cigarettes to sales of or possession with intent to sell 5,000 or more unstamped cigarettes.</p> | <p>Section 31. This section changes the definition of misconduct involving unstamped cigarettes in the first degree from sales of or possession with intent to sell 1,000 or more unstamped cigarettes to sales of or possession with intent to sell 5,000 or more unstamped cigarettes.</p> |
| <p>Section 23. This section changes the definition of misconduct involving unstamped cigarettes in the second degree from sales of, or possession with the intent to sell, one but fewer than 1,000 unstamped cigarettes to sales of, or possession with the intent to sell, one but fewer than 5,000 unstamped cigarettes.</p> | <p>Section 24. This section changes the definition of misconduct involving unstamped cigarettes in the second degree from sales of one but fewer than 1,000 unstamped cigarettes to sales of one but fewer than 5,000 unstamped cigarettes and from possession of one but fewer than 10,000 unstamped cigarettes to possession of <u>601</u> but fewer than 10,000 unstamped cigarettes. This section also includes importation or possession of one but fewer than <u>601</u> unstamped cigarettes as misconduct involving unstamped cigarettes in the first degree if the cigarettes are not possessed for personal consumption.</p> | <p>Section 32. This section changes the definition of misconduct involving unstamped cigarettes in the second degree from sales of one but fewer than 1,000 unstamped cigarettes to sales of one but fewer than 5,000 unstamped cigarettes and from possession of one but fewer than 10,000 unstamped cigarettes to possession of <u>401</u> but fewer than 10,000 unstamped cigarettes. This section also includes importation or possession of one but fewer than <u>401</u> unstamped cigarettes as misconduct involving unstamped cigarettes in the first degree if the cigarettes are not possessed for personal consumption.</p> |

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|---|---|---|
| Section 24. This section allows manufacturers to offer cigarette promotions in the state provided the promotion offered at the wholesale level is the same for all wholesalers who participate in the promotion and the promotion offered at the retail level is the same for all retailers who participate in the promotion. | Section 25. This section allows manufacturers to offer cigarette promotions in the state provided the promotion offered at the wholesale level is the same for all wholesalers who participate in the promotion and the promotion offered at the retail level is the same for all retailers who participate in the promotion. | Section 33. This section allows manufacturers to offer cigarette promotions in the state provided the promotion offered at the wholesale level is the same for all wholesalers who participate in the promotion and the promotion offered at the retail level is the same for all retailers who participate in the promotion. |
| Section 25. This section makes a technical change to AS 43.50.720 so that the language in that statute conforms to changes made in Section 28 of this bill. | Section 26. This section makes a technical change to AS 43.50.720 so that the language in that statute conforms to changes made in Section 30 of this bill. | Section 34. This section makes a technical change to AS 43.50.720 so that the language in that statute conforms to changes made in Section 38 of this bill. |
| Section 26. This section makes a technical change to AS 43.50.760(b) so that the language in that statute conforms to changes made in Section 28 of this bill. | Section 27. This section makes a technical change to AS 43.50.760(b) so that the language in that statute conforms to changes made in Section 30 of this bill. | Section 35. This section makes a technical change to AS 43.50.760(b) so that the language in that statute conforms to changes made in Section 38 of this bill. |
| Section 27. This section makes a technical change to AS 43.50.770 so that the language in that statute conforms to changes made in Section 28 of this bill. | Section 28. This section makes a technical change to AS 43.50.770 so that the language in that statute conforms to changes made in Section 30 of this bill. | Section 36. This section makes a technical change to AS 43.50.770 so that the language in that statute conforms to changes made in Section 38 of this bill. |
| | Section 29. This section makes a technical change to AS 43.50.790(a) so that the language in that statute conforms to changes made in Section 30 of this bill. | Section 37. This section makes a technical change to AS 43.50.790(a) so that the language in that statute conforms to changes made in Section 38 of this bill. |
| Section 28. This section changes the calculation of cost of cigarettes as defined in the Unfair Cigarette Sales Act that went into effect January 1, 2004 as the result of the passage last session of SB 168. The Unfair Cigarette Sales Act prohibits all cigarette wholesalers and retailers from selling | Section 30. This section changes the calculation of cost of cigarettes as defined in the Unfair Cigarette Sales Act that went into effect January 1, 2004 as the result of the passage last session of SB 168. The Unfair Cigarette Sales Act prohibits all cigarette wholesalers and retailers from selling | Section 38. This section changes the calculation of cost of cigarettes as defined in the Unfair Cigarette Sales Act that went into effect January 1, 2004 as the result of the passage last session of SB 168. The Unfair Cigarette Sales Act prohibits all cigarette wholesalers and retailers from selling |

Comparison of CS SB 368, version I.A to CS HB 538, version S, & Special Session Draft Legislation
 Prepared: June 7, 2004, 11:45 AM

| CSSB 368 Version I.A (As passed by Senate) | CSHB 538 Version S (House L&C) | Special Session Tobacco Tax Bill (Draft) |
|--|--|--|
| cigarettes below cost. This section modifies the Unfair Cigarette Sales Act by prohibiting wholesalers and retailers from reducing their cost by cash discounts received from manufacturers. This section also requires wholesalers and retailers to obtain prior approval from the Department of Revenue before selling cigarettes at a cost below the amount posted by the Department of Revenue. | cigarettes below cost. This section modifies the Unfair Cigarette Sales Act by prohibiting wholesalers and retailers from reducing their cost by cash discounts received from the manufacturers. This section also requires wholesalers and retailers to obtain prior approval from the Department of Revenue before selling cigarettes at a cost below the amount posted by the Department of Revenue. | cigarettes below cost. This section modifies the Unfair Cigarette Sales Act by prohibiting wholesalers and retailers from reducing their cost by cash discounts received from the manufacturers. This section also requires wholesalers and retailers to obtain prior approval from the Department of Revenue before selling cigarettes at a cost below the amount posted by the Department of Revenue. |
| Section 29. This section repeals sections of the Unfair Cigarette Sales Act that conflict with the new language inserted in Section 28. | Section 31. This section repeals sections of the Unfair Cigarette Sales Act that conflict with the new language inserted in Section 30. | Section 39. This section repeals sections of the Unfair Cigarette Sales Act that conflict with the new language inserted in Section 38. |
| Section 30. This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old rate and the tax due at the new tax rate. The floor stock tax applies to cigarettes only. The floor stock tax must be remitted to the Department of Revenue in six sequential monthly installments with the first installment due no later than 30 days after the effective date of this bill. The floor stock tax is needed to reduce the amount of stockpiling by retailers and distributors and the windfall they will get by collecting, but not paying, tax at the new rate on the stockpiled cigarettes. | Section 32. This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old rate and the tax due at the new tax rate. The floor stock tax applies to cigarettes only. The floor stock tax must be remitted to the Department of Revenue in six sequential monthly installments with the first installment due no later than 30 days after the effective date of this bill. The floor stock tax is needed to reduce the amount of stockpiling by retailers and distributors and the windfall they will get by collecting but not paying tax at the new rate on the stockpiled cigarettes. | Section 40. This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old rate and the tax due at the new tax rate. The floor stock tax applies to cigarettes only. The floor stock tax must be remitted to the Department of Revenue in six sequential monthly installments with the first installment due no later than 30 days after the effective date of this bill. The floor stock tax is needed to reduce the amount of stockpiling by retailers and distributors and the windfall they will get by collecting but not paying tax at the new rate on the stockpiled cigarettes. |
| Section 31. The section provides an effective date of July 1, 2004. | Section 33. The section provides an effective date of July 1, 2004. | Section 41. The section provides an effective date of September 1, 2004. |

CAMPAIGN For TOBACCO-FREE Kids®

BENEFITS FROM A CIGARETTE TAX INCREASE IN ALASKA

Current State Cigarette Tax: 1 Dollar Per Pack (12th among all states)

Smoking-caused costs in state per taxed pack sold: \$6.38

Average retail price per pack: \$4.34 (state share from excise and sales taxes: \$1.00)

Total state Medicaid program smoking costs each year: \$60 million

State cigarette tax revenue each year: \$40.4 million (2002)

Last Alaska Cigarette Tax Increase: 10/01/97

Projected Benefits From Increasing the State Cigarette Tax By 1 Dollar Per Pack

- New state cigarette tax revenues each year: \$30.7 million
- New sales tax revenues: State has no sales tax.
- Pack sales decline in state: -4.6 million
- Percent decrease in youth smoking: 15.0%
- Increase in total number of kids alive today who will not become smokers: 9,100
- Number of current adult smokers in the state who would quit: 4,500
- Number of smoking affected births avoided over next five years: 1,300
- Number of current adult smokers saved from smoking-caused death: 900
- Number of kids alive today saved from premature smoking-caused death: 2,900
- 5-Year healthcare savings from fewer smoking-affected pregnancies & births: \$1.6 million
- 5-year healthcare savings from fewer smoking-caused heart attacks & strokes: \$1.8 million
- Long-term healthcare savings in state from adult & youth smoking declines: \$146.3 million

These projections provide careful estimates of the new revenues and public health benefits the state would obtain from the cigarette tax increase above and beyond what it would get if it does not raise the tax. These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and tax revenues) from new tax avoidance efforts after the tax increase by continuing in-state smokers. The projections are also based on research findings that a 10% cigarette price increase reduces youth smoking rates by 6.5%, adult rates by 2%, and total consumption by 4%, and assume that the state tax will keep up with inflation. Nevertheless, cigarette tax increases both reduce smoking levels and increase state revenues because the increased tax per pack brings in more new revenue than is lost from the decrease in the number of packs sold. Sales tax rate is 0.0%. Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over lifetimes of persons who stop smoking or never smoke because of tax increase.

Sources. Chaloupka, F, "Macro-Social Influences: Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research*, 1999, and other price studies at <http://liqger.uic.edu/~fjc> and www.uic.edu/oras/impactteen. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. USDA Economic Research Service, www.ers.usda.gov/Briefing/tobacco. State tax offices. Farrelly, M. et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), In press. CDC, *State Highlights 2002: Impact and Opportunity, April 2002*, www.cdc.gov/tobacco/StateHighlights.htm. Miller, P., et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3(1): 25-35, February 2001. Lightwood, J. & S. Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation - Myocardial Infarction and Stroke," *Circulation* 96(4): 1089-1096, August 19, 1997, <http://circ.ahajournals.org/cgi/content/full/96/4/1089>. Hodgson, T., "Cigarette Smoking and Lifetime Medical Expenditures," *The Millbank Quarterly* 70(1), 1992. U.S. Census. Nat'l Center for Health Statistics.

For more information, see the Campaign fact sheets -- including *Raising State Tobacco Taxes Always Reduces Tobacco Use (& Always Increases State Revenues)* -- at <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18> and <http://tobaccofreekids.org/reports/prices>.

National Center for Tobacco-Free Kids 10.30.03 / Eric Lindblom, October 30, 2003

CAMPAIGN For TOBACCO-FREE KidsTM

RAISING CIGARETTE TAXES REDUCES SMOKING, ESPECIALLY AMONG KIDS (AND THE CIGARETTE COMPANIES KNOW IT)

The cigarette companies have opposed tobacco tax increases by arguing that raising cigarette prices would not reduce adult or youth smoking. But the companies' internal documents, disclosed in the tobacco lawsuits, show that they know very well that raising cigarette prices is one of the most effective ways to prevent and reduce smoking, especially among kids.

- RJ Reynolds: *If prices were 10% higher, 12-17 incidence [the percentage of kids who smoke] would be 11.9% lower.*¹
- Philip Morris: *It is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.*²
- Philip Morris: *Jeffrey Harris of MIT calculated . . . that the 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. . . . We don't need to have that happen again.*³
- Philip Morris: *A high cigarette price, more than any other cigarette attribute, has the most dramatic impact on the share of the quitting population. . . . price, not tar level, is the main driving force for quitting.*⁴

The companies have even publicly admitted the effectiveness of tax increases to deter smoking in their required filings with the U.S. Securities and Exchange Commission.

- Philip Morris: *[I]ncreases in excise and similar taxes have had an adverse impact on sales of cigarettes. Any future increases, the extent of which cannot be predicted, could result in volume declines for the cigarette industry. [10-Q Report, May 11, 2001.]*
- Loews/Lorillard Tobacco: *Significant increases in federal and state excise taxes on cigarettes . . . have, and are likely to continue to have, an adverse effect on cigarette sales. [Loews (parent corporation of the Lorillard cigarette company) 10-K Report, March 31, 1999.]*
- R.J. Reynolds: *[S]ubstantial increases in state and federal excise taxes on cigarettes. . . have had and will likely continue to have an adverse effect on cigarette sales. [10-Q Report, August 1, 2001.]*

Economic Research On Cigarette Tax Increases Reducing Smoking

Numerous economic studies in peer-reviewed journals have documented that cigarette tax or price increases reduce both adult and underage smoking. The general consensus is that every 10 percent increase in the real price of cigarettes will reduce overall cigarette consumption by approximately three to five percent and reduce the number of kids who smoke by about six or seven percent.⁵ Research studies have also made the following related findings:

- Among all adults or all youths, cigarette price increases work even more effectively to prevent and reduce smoking among males, Blacks, Hispanics, and lower-income persons.⁶
- Higher taxes on spit tobacco reduce its use, particularly among young males.⁷

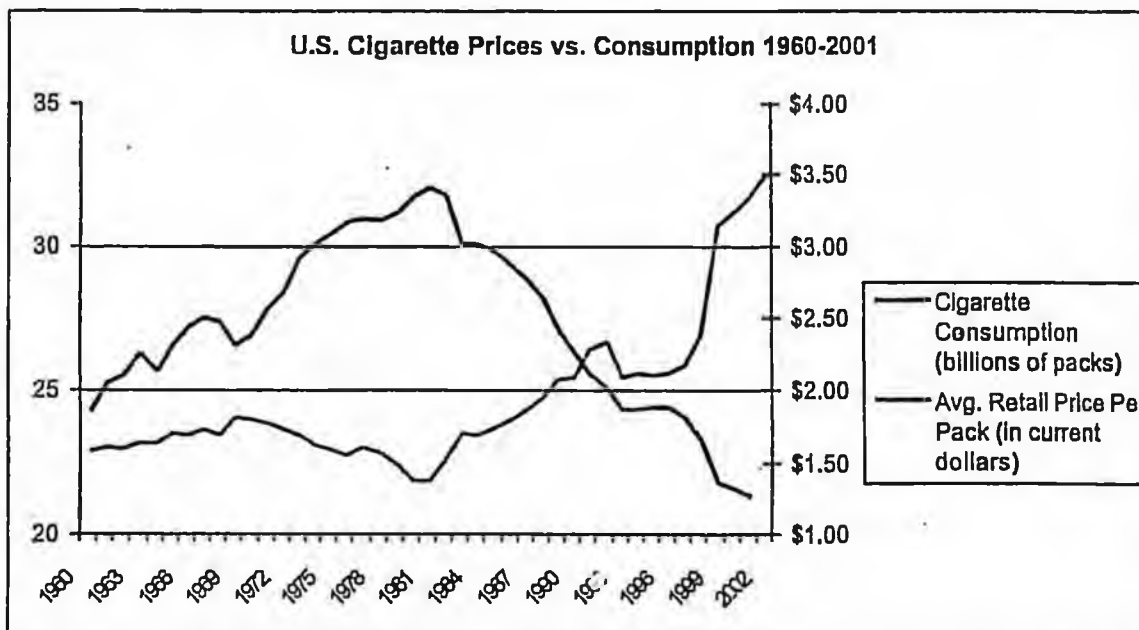
- Kids do not smoke more marijuana if they reduce their cigarette smoking. In fact, cigarette price increases not only reduce youth smoking but also reduce both the number of kids who smoke marijuana and the amount of marijuana consumed by continuing regular users.⁸

Expert Conclusions on Cigarette Prices and Smoking Levels

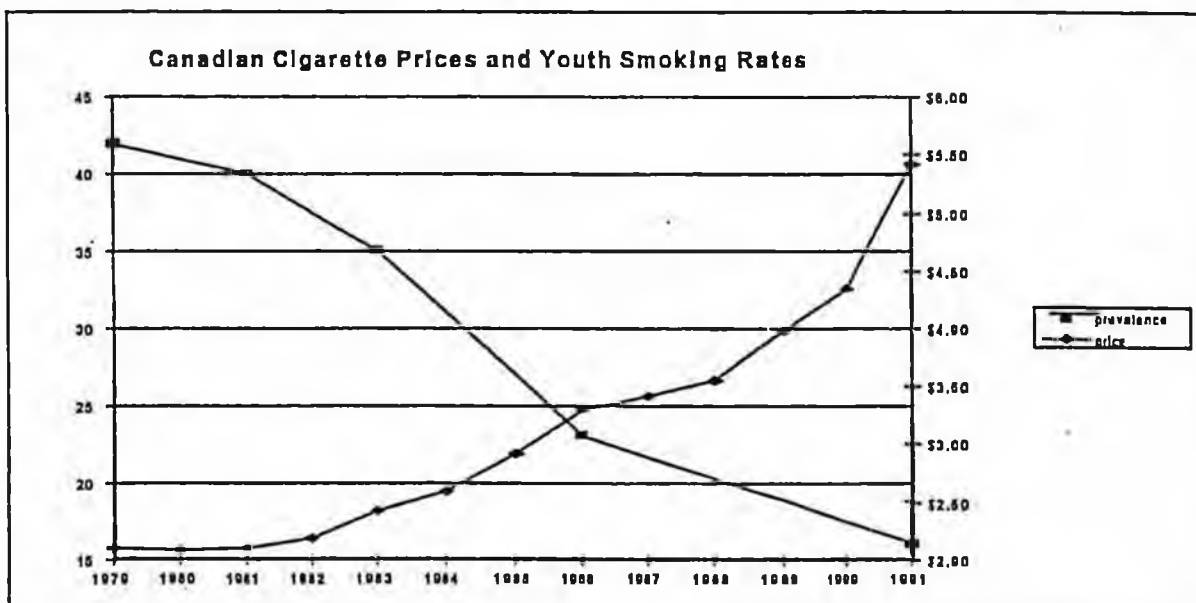
- The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that increasing the price of tobacco products would decrease the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases would lead to "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies.⁹
- The 1999 World Bank report *Curbing The Tobacco Epidemic: Governments and the Economics of Tobacco Control* carefully evaluated existing research and data, worldwide, and concluded that "the most effective way to deter children from taking up smoking is to increase taxes on tobacco. High prices prevent some children and adolescents from starting and encourage those who already smoke to reduce their consumption."¹⁰
- Wall Street tobacco industry analysts have long recognized the powerful role increased cigarette taxes and rising cigarette prices play in reducing U.S. smoking levels. For example, a December 1998 "Sensitivity Analysis on Cigarette Price Elasticity" by Credit Suisse First Boston Corporation settled on a "conservative" estimate that cigarette consumption will decline by four percent for every 10 percent increase in price.
- In its 1998 report, *Taking Action to Reduce Tobacco Use*, the National Academy of Sciences' Institute of Medicine concluded that "the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use."¹¹
- A National Cancer Institute Expert Panel reported in 1993 that "a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption," and "an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults."

Increasing U.S. Cigarette Prices and Declining Consumption

Although there are many other factors involved, comparing the trends in cigarette prices and overall U.S. cigarette consumption from 1970 to 2001 shows that there is a strong correlation between increasing prices and decreasing consumption (see chart below). While U.S. cigarette prices are largely controlled by the cigarette companies' price-setting decisions, from 1970 to 2002, the federal tax on cigarettes also increased from eight cents to 39 cents per pack and the average state cigarette tax increased from 11 to 44 cents per pack. Without these federal and state tax increases, U.S. cigarette prices would be much lower and U.S. smoking levels would be much higher.



The Canadian Experience. From 1979 to 1991 real prices in Canada increased from \$2.09 to \$5.42 and smoking among 15 to 19 year olds fell from 42 to 16 percent. As the President of the Canadian Tobacco Manufacturers Council then admitted to a legislative committee, "there is no question that consumption is down measurably over the last five years, and there is no question in our minds that taxes have been a significant factor."¹² But when Canada subsequently reduced its cigarette taxes (to reduce tax-avoidance smuggling supported by the cigarette companies), youth smoking immediately increased for the first time in nearly fifteen years.¹³



For more information, please go to the Campaign's special website page on tobacco taxes at <http://tobaccofreekids.org/reports/prices>

¹ R.J. Reynolds Executive D. S. Burrows, "Estimated Change In Industry Trend Following Federal Excise Tax Increase" RJR Document No. 501988846 -8849, September 20, 1982, www.rjtdocs.com.

² Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," PM Document No. 2001255224, September 17, 1981, www.pmdocs.com.

³ Philip Morris Executive Jon Zoler, "Handling An Excise Tax Increase," PM Document No. 2022216179, September 3, 1987, www.pmdocs.com.

⁴ Philip Morris Executive Claude Schwab, "Cigarette Attributes and Quitting," PM Doc. 2045447810, March 4, 1993, www.pmdocs.com.

⁵ See, e.g., Tauras, J., et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and other price studies at www.uic.edu/orgs/impacteen. Chaloupka, F., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research*, 1999, and other price studies at <http://tiqer.uic.edu/~fic>; Chaloupka, F. & R. Pacula, "An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies," National Bureau of Economic Research, Working Paper 6541, April 1998), <http://tiqer.uic.edu/~fic>. Emery, S., et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001. Evans, W. & L. Huang, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998, www.bsos.umd.edu/econ/evans/wrkpap.htm. Harris, J. & S. Chan, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2) 3-12, February 1998, www.mit.edu/people/jeffrey.

⁶ See, e.g., U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups – United States 1976-1993," *Morbidity and Mortality Weekly Report (MMWR)* 47(29): 605-609 July 31, 1998, www.cdc.gov/mmwr; Chaloupka & Pacula, April 1998.

⁷ Chaloupka, F., J. Tauras & M. Grossman, "Public Policy and Youth Smokeless Tobacco Use," *Southern Economic Journal* 64(2): 503-16, October 1997, <http://tiqer.uic.edu/~fic>.

⁸ Chaloupka, F., et al., *Do Higher Cigarette Prices Encourage Youth to Use Marijuana?*, National Bureau of Economic Research, Working Paper No. 6939, February 1999, <http://tiqer.uic.edu/~fic>. Farrelly, M., et al., "The Joint Demand for Cigarettes and Marijuana: Evidence from the National Household Surveys on Drug Abuse," *Journal of Health Economics* 20: 51-68, 2001. See, also, Campaign for Tobacco Free Kids fact sheet, *Smoking and Other Drug Use*, <http://tobaccofreekids.org/research/factsheets/pdf/0106.pdf>.

⁹ Available at www.cdc.gov/tobacco/sqrpage.htm.

¹⁰ Available at <http://www1.worldbank.org/tobacco/reports.htm>.

¹¹ Available at www.nap.edu/books/0309060389/html/index.html.

¹² Bill Neville, President, Canadian Tobacco Manufacturers Council, testifying before Legislative Committee F on Bill C-10, *An Act to Amend the Excise Tax Act and the Excise Act*, September 26, 1991.

¹³ Canadian Cancer Society, et al., *Surveying the Damage: Cut Rate Tobacco Products and Public Health in the 1990s*, October 1999, www.nsr-a-dnf.ca/english/oct99taxrep.html.

CAMPAIGN for TOBACCO-FREE Kids[®]

STATE CIGARETTE TAX RATES & RANK, DATE OF LAST INCREASE, ANNUAL PACK SALES & REVENUES, AND RELATED DATA

30 states, DC, and Puerto Rico have implemented or passed higher cigarette tax rates since 1/1/2002, but 14 states have not increased their tax for at least ten years, five of those have not increased their tax since the 1980s, and Kentucky and Virginia have not made any increase for more than 30 years. As time passes, inflation erodes the real value of state tobacco tax rates and revenues, as they account for increasingly small portions of the total retail price of a pack of cigarettes. Cigarette tax increases can quickly restore state tobacco tax revenues to historical levels or higher – while also reducing state smoking levels and related costs and saving lives.

Overall State Average: 70.5 cents per pack. Major Tobacco State Average: 12.4 cents per pack. Other State Average: 78.2 cents per pack.

| State | Cigarette Tax Per Pack | National Rank (1 = high) | Date of Last State Tax Increase | FY 2002 Cigarette Pack Sales (millions) | FY 2002 Cigarette Tax Revenue (millions) | Retail Price Per Pack With All Taxes | CDC State Smoking Costs Per Pack Sold | Adult Smokers | Youth Smoking Rate | Adult Smoking Rate | Adult Smoking Rank (1=low) |
|----------------|------------------------|--------------------------|---------------------------------|---|--|--------------------------------------|---------------------------------------|---------------|--------------------|--------------------|----------------------------|
| All States | \$0.70.5 avg. | /// | /// | 20.4 billion | \$8.4 billion | \$3.72 | \$7.18 | 48 million | 28.1% | 22.8% | /// |
| Alabama | \$0.16.5 | 47th | 7/1/84 | 378.5 | \$61.7 | \$3.15 | \$7.33 | 794,359 | 23.7% | 23.9% | 30 |
| Alaska | \$1.00 | 12th | 10/1/97 | 40.4 | \$40.4 | \$4.34 | \$6.38 | 113,852 | 33.9% | 26.1% | 44 |
| Arizona | \$1.18 | 11th | 11/26/02 | 276.1 | \$158.6 | \$4.44 | \$8.35 | 809,192 | 19.0% | 21.5% | 12 |
| Arkansas | \$0.59 | 26th | 6/1/03 | 234.8 | \$76.8 | \$3.70 | \$6.46 | 510,216 | 34.7% | 25.6% | 40 |
| California | \$0.87 | 19th | 1/1/99 | 1,234.90 | \$1,065.2 | \$4.11 | \$11.38 | 4,234,953 | 21.6% | 17.2% | 2 |
| Colorado | \$0.20 | 43rd | 7/1/86 | 292.6 | \$56.2 | \$3.01 | \$6.21 | 716,904 | 25.3% | 22.4% | 19 |
| Connecticut | \$1.51 | 1st | 3/15/03 | 227.4 | \$149.8 | \$4.74 | \$9.16 | 533,286 | 25.6% | 20.8% | 8 |
| Delaware | \$0.55 | 29th | 7/31/03 | 113.4 | \$27.0 | \$2.98 | \$4.32 | 147,842 | 24.2% | 25.1% | 38 |
| Washington, DC | \$1.00 | 12th | 1/1/03 | 25.4 | \$16.3 | \$4.14 | \$16.02 | 95,070 | 14.7% | 20.8% | 9 |
| Florida | \$0.33.9 | 41st | 7/1/90 | 1,277.30 | \$426.3 | \$3.33 | \$8.26 | 2,775,609 | 19.0% | 22.5% | 22 |
| Georgia | \$0.37 | 37th | 4/1/71 | 666.2 | \$76.5 | \$3.01 | \$6.38 | 1,426,081 | 23.7% | 23.7% | 29 |
| Hawaii | \$1.30 | 7th | 7/1/03 | 62.6 | \$62.6 | \$4.57 | \$10.15 | 188,649 | 24.5% | 20.6% | 7 |
| Idaho | \$0.57 | 27th | 6/1/03 | 83.6 | \$23.4 | \$3.38 | \$6.03 | 182,210 | 19.1% | 19.7% | 3 |
| Illinois | \$0.98 | 17th | 7/1/02 | 885.2 | \$464.3 | \$4.02 | \$8.53 | 2,165,027 | 34.0% | 23.6% | 27 |
| Indiana | \$0.55.5 | 28th | 7/1/02 | 742.1 | \$110.3 | \$3.52 | \$5.14 | 1,239,174 | 31.6% | 27.5% | 47 |
| Iowa | \$0.36 | 38th | 6/1/91 | 249.7 | \$88.0 | \$3.22 | \$6.40 | 486,776 | 32.7% | 22.2% | 15 |
| Kansas | \$0.79 | 20th | 1/1/03 | 208.8 | \$47.9 | \$3.75 | \$6.98 | 438,544 | 26.1% | 22.2% | 16 |
| Kentucky | \$0.03 | 50th | 7/1/70 | 572.5 | \$16.0 | \$2.89 | \$4.88 | 941,508 | 40.0% | 30.9% | 51 |
| Louisiana | \$0.36 | 38th | 7/1/02 | 433.3 | \$98.1 | \$3.21 | \$7.57 | 805,796 | 33.3% | 24.8% | 37 |
| Maine | \$1.00 | 12th | 10/1/01 | 102.4 | \$94.1 | \$4.12 | \$8.46 | 233,684 | 24.8% | 24.0% | 32 |
| Maryland | \$1.00 | 12th | 6/1/02 | 301 | \$202.7 | \$3.95 | \$10.03 | 839,287 | 23.7% | 21.3% | 10 |
| Massachusetts | \$1.51 | 1st | 7/24/02 | 354 | \$269.0 | \$4.82 | \$12.52 | 955,260 | 26.0% | 19.7% | 4 |
| Michigan | \$1.25 | 9th | 8/1/02 | 780.1 | \$577.3 | \$4.34 | \$7.70 | 1,887,068 | 27.6% | 25.7% | 41 |
| Minnesota | \$0.48 | 34th | 7/1/92 | 352.8 | \$166.1 | \$3.49 | \$7.22 | 806,434 | 28.9% | 22.2% | 17 |
| Mississippi | \$0.18 | 45th | 6/1/85 | 261.5 | \$44.0 | \$3.15 | \$6.96 | 525,646 | 23.6% | 25.4% | 39 |
| Missouri | \$0.17 | 46th | 10/1/93 | 658.3 | \$92.0 | \$2.94 | \$6.37 | 1,079,387 | 30.3% | 25.9% | 42 |
| Montana | \$0.70 | 22nd | 5/1/03 | 67.3 | \$11.7 | \$3.49 | \$6.86 | 147,197 | 28.5% | 21.9% | 13 |

* Pack prices reflect the temporary 85-cent reduction in Marlboro and three other brands initiated in January 2003 by Philip Morris, but they do not fully reflect retail-based discounting and promotions by the major cigarette companies.

State Cigarette Tax Rates & Rank, Date of Last Increase And Related Data

| State | Cigarette Tax Per Pack | National Rank (1 = high) | Date of Last State Tax Increase | FY 2002 Cigarette Pack Sales (millions) | FY 2002 Cigarette Tax Revenue (in millions) | Retail Price Per Pack With All Taxes | CDC State Smoking Costs Per Pack Sold | Adult Smokers | Youth Smoking Rate | Adult Smoking Rate | Adult Smoking Rank (1=low) |
|----------------|------------------------|--------------------------|---------------------------------|---|---|--------------------------------------|---------------------------------------|---------------|--------------------|--------------------|----------------------------|
| Nebraska | \$0.64 | 24th | 10/1/02 | 132.4 | \$43.5 | \$3.82 | \$7.19 | 257,248 | 29.0% | 20.4% | 5 |
| Nevada | \$0.35 | 40th | 7/1/89 | 173.1 | \$58.8 | \$3.26 | \$6.64 | 401,344 | 25.2% | 27.0% | 46 |
| New Hampshire | \$0.52 | 33rd | 7/1/99 | 166.7 | \$84.1 | \$3.33 | \$4.63 | 223,220 | 25.3% | 24.1% | 34 |
| New Jersey | \$1.50 | 3rd | 7/1/02 | 495.2 | \$391.5 | \$4.64 | \$9.69 | 1,347,607 | 24.5% | 21.3% | 11 |
| New Mexico | \$0.91 | 18th | 7/1/03 | 95.4 | \$19.5 | \$3.98 | \$7.75 | 313,203 | 36.2% | 23.9% | 31 |
| New York | \$1.50 | 3rd | 4/3/02 | 884.4 | \$1,052.8 | \$5.65 | \$12.83 | 3,343,006 | 26.8% | 23.4% | 26 |
| North Carolina | \$0.05 | 49th | 8/1/91 | 806.6 | \$38.8 | \$3.02 | \$5.90 | 1,576,084 | 27.8% | 25.9% | 43 |
| North Dakota | \$0.44 | 35th | 7/1/93 | 43.4 | \$19.1 | \$3.52 | \$7.82 | 106,379 | 35.3% | 22.1% | 14 |
| Ohio | \$0.55 | 29th | 7/1/02 | 1,101.00 | \$257.3 | \$3.51 | \$6.66 | 2,344,750 | 33.4% | 27.7% | 48 |
| Oklahoma | \$0.23 | 42nd | 6/1/87 | 352.8 | \$57.1 | \$3.09 | \$6.01 | 736,789 | 24.0% | 28.8% | 50 |
| Oregon | \$1.28 | 8th | 11/1/02 | 231.3 | \$155.0 | \$3.80 | \$7.58 | 527,849 | 22.0% | 20.5% | 6 |
| Pennsylvania | \$1.00 | 12th | 7/15/02 | 1,067.40 | \$320.1 | \$3.95 | \$7.50 | 2,221,373 | 27.6% | 24.6% | 36 |
| Rhode Island | \$1.50 | 3rd | 7/1/03 | 79.1 | \$78.1 | \$4.65 | \$8.15 | 192,119 | 24.8% | 24.0% | 33 |
| South Carolina | \$0.07 | 48th | 7/1/77 | 396.2 | \$25.4 | \$3.00 | \$6.52 | 786,621 | 36.0% | 26.2% | 45 |
| South Dakota | \$0.53 | 32nd | 4/1/03 | 57.1 | \$17.5 | \$3.49 | \$6.84 | 123,692 | 33.0% | 22.4% | 20 |
| Tennessee | \$0.20 | 43rd | 7/15/02 | 593.6 | \$75.3 | \$3.26 | \$7.01 | 1,046,946 | 32.4% | 24.4% | 35 |
| Texas | \$0.41 | 36th | 7/1/90 | 1,244.30 | \$497.5 | \$3.49 | \$7.79 | 3,367,139 | 24.7% | 22.5% | 23 |
| Utah | \$0.69.5 | 23rd | 5/6/02 | 91 | \$47.1 | \$3.73 | \$5.99 | 201,425 | 8.3% | 13.3% | 1 |
| Vermont | \$1.19 | 10th | 7/1/03 | 57 | \$24.5 | \$4.11 | \$6.18 | 103,332 | 23.7% | 22.4% | 21 |
| Virginia | \$0.02.5 | 51st | 9/1/66 | 662.1 | \$15.0 | \$2.95 | \$5.57 | 1,201,557 | NA | 22.5% | 24 |
| Washington | \$1.42.5 | 6th | 1/1/02 | 269.5 | \$306.6 | \$4.82 | \$10.25 | 989,943 | 28.0% | 22.6% | 25 |
| West Virginia | \$0.55 | 29th | 5/1/03 | 199.5 | \$32.6 | \$3.37 | \$7.02 | 396,478 | 39.2% | 28.2% | 49 |
| Wisconsin | \$0.77 | 21st | 10/1/01 | 408.3 | \$288.8 | \$3.89 | \$7.14 | 942,801 | 27.1% | 23.6% | 28 |
| Wyoming | \$0.60 | 25th | 7/1/03 | 46.1 | \$5.1 | \$3.50 | \$5.27 | 81,010 | 28.4% | 22.2% | 18 |
| USA/U.S. Gov't | 39 | /// | 1/1/02 | 21.25 billion | \$7.0 billion | \$3.72 | \$7.18 | 49 million | 28.5% | 22.8% | NA |

Sources: CDC, *State Highlights 2002: Impact and Opportunity*, April 2002, www.cdc.gov/tobacco/StateHighlights.htm. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. Smoking costs per pack sold = CDC estimates of state smoking-caused health costs and lost productivity per taxed packs sold in each state in 2001. Youth smoking rates most recent available; in bold type from the Youth Tobacco Surveillance (YTS); in italics from state-specific surveys; and in regular type from Youth Risk Behavioral Surveillance (YRBS). Because of different surveys and years, youth-smoking rankings cannot be done. From the start of 1998 to the end of 2001, the major cigarette companies increased their prices by more than \$1.25 per pack. Major tobacco states are KY, VA, NC, SC, GA, TN. State averages do not include Puerto Rico (which is larger than more than 20 states & DC, based on population). Taxed Pack Sales include all cigarette sales on which cigarette taxes were collected. Total USA pack sales include sales of cigarettes on which federal but not state taxes are collected (e.g., sales to Indian Tribes and military bases) and includes sales in Puerto Rico and other U.S. territories not listed above. Cigarette prices include federal and state cigarette taxes and state sales taxes but not local cigarette or sales taxes (unless they are uniform throughout the state), except for New York City, which contains roughly half the population of NY State and increased its local tax from 8 cents to \$1.50 per pack 7/1/02. AK, DE, MT, NH & OR have no state sales tax; CO has a sales tax but it does not apply to cigarettes; and AL, GA & MO do not apply their sales tax to the portion of retail cigarette prices that is the state's cigarette excise tax.

For more information on state cigarette taxes and the benefits from increasing them, see the Campaign's website at <http://tobaccofreekids.org/reports/prices>. For more state-specific data, see the Campaign website at: <http://tobaccofreekids.org/reports/settlements> and <http://tobaccofreekids.org/research/factsheets>.

WORKERS'

COMP

WORKERS' COMPENSATION REFORM BILL

A MEASURED RESPONSE TO INCREASED CLAIM COSTS AND INSURANCE PREMIUMS IMPACTING ALASKAN BUSINESSES AND WORKERS

Premiums, benefits paid, and claim costs rising.

- In 2002 Alaska workers' compensation benefits and claims costs exceeded \$ 210 million, including \$11 million in legal fees and costs.
- From 1997-2002 the insurance companies in the Alaska workers' compensation market paid out an average of \$1.24 in benefits and claim costs for each dollar in premiums collected.
- This year average workers compensation premiums increased 21% but premiums for 17 types of workers went up over 50%. (The increases exceeding 50% affect workers in positions such as hospital non-professional, household appliance installation & repair, day nurseries, child care & day camps, barber shops and hair salons, building & property management, and geophysical seismic exploration.)

Bill does not change benefits paid to injured workers residing in Alaska, while capping payments to outside residents at the Alaska rate.

- No change to compensation rates or benefits, including rehabilitation and medical benefits.
- Compensation rates for total disability paid to non-residents capped at the rate they would receive if residing in Alaska.

Bill addresses claim costs and speeds final determination of workers' entitlement to benefits by making initial adjudication of disputed claims and subsequent appeals process more efficient.

- Disputed claims heard and resolved by single administrative law judge (ALJ) rather than current 3-member Board panel. ALJs' availability increases flexibility for scheduling hearings.
- ALJs will be required to have special expertise and will be employed by the independent Office of Administrative Hearings created by SB 203.
- Initial appeals will be heard by a five member Appeals Commission, rather than individual Superior Court judges. To minimize administrative costs, and maintain citizen participation, the Commission is composed of four citizen members (2 from labor, 2 from industry) and one full-time, experienced attorney serving as Chair. A panel consisting of the Chair plus one industry and one labor member will hear appeals. The Chair will administer the Commission and advise the members on the law.
- The Commission has 90 days to decide an appeal; half the time allowed the Superior Court. Record preparation costs and delays (sometimes a year or more over the six months appeal time limitation in Superior Court) will be decreased. Commission can also schedule hearings more rapidly than the Superior Court.
- Specific provisions insure Commission impartiality, including prohibiting political activity by the Chair and prohibiting conflicts of interest of the members.

Claim costs and benefit entitlement uncertainty reduced by increasing consistency and predictability of appeal decisions and making them legal precedent.

- Single Commission with expertise plus citizen participation will decide all appeals. Appeals decided by a single entity, rather than dozens of different Board hearing panels and Superior Court judges, will increase predictability and consistency in the interpretation and application of the law.
- Commission decisions are binding legal precedent (unlike current Superior Court decisions) and may be appealed directly to the Alaska Supreme Court.

Insurance code amendments strengthen insurance Guaranty Fund and Assigned Risk Pool for protection of employers, insurers, and workers.

- Workers' compensation insurers required to deposit special cash or securities to provide protection beyond the Insurance Guaranty Association.
- Assigned Risk Pool made self-funding by lifting the surcharge cap.
- Assigned Risk Pool loss reserves collateralized.

Active, accountable and experienced Division Director given new enforcement tools to protect employers and workers by enforcing insurance requirements & investigating fraud.

- Takes enforcement power and responsibilities of the Board and gives them to experienced Workers' Compensation Division Director with:
 - Investigation powers, including subpoena and record inspection;
 - Power to intervene in hearings directly;
 - Power to make decisions affecting enforcement; and
 - New powers to investigate fraud.
- Director may seek new penalty (up to \$100/day/uninsured employee) against uninsured employers and obtain default judgment in faster, streamlined process to stop defaulting employers from leaving the state and their liabilities behind.

New workers' compensation fraud provisions.

- Persons who report fraud are given immunity for good faith reports and reports from workers' compensation industry are required if fraud is known.
- Fraud claims cover health care providers, insurers and other industry participants, not just employee claimants.

COMPLAINTS REGARDING PRIOR LEGISLATION (SB 311) ADDRESSED

Appeals Commission too expensive.

- Only one full-time Commissioner.
- Administrative costs are reduced.

Appeals Commission *de novo* review power reduces influence of lay members.

- Lay members added to Appeals Commission exercise *de novo* review of hearing officers.
- Lay members at appellate level give greater influence on outcomes than current system.

Commission Members should be vetted by Alaska Judicial Council.

- Unconstitutional intrusion on executive branch appointment powers in violation of separation of powers doctrine and Article 3, Section 26 of the Alaska Constitution.

BILL

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for a special deposit for workers' compensation insurers; relating to
2 assigned risk pools and workers' compensation insurers; relating to the board of
3 governors of the Alaska Insurance Guaranty Association; stating the intent of the
4 legislature, and setting out limitations, concerning the interpretation, construction, and
5 implementation of workers' compensation laws; relating to restructuring the Alaska
6 workers' compensation system; eliminating the Alaska Workers' Compensation Board;
7 establishing a division of workers' compensation within the Department of Labor and
8 Workforce Development and assigning certain Alaska Workers' Compensation Board
9 functions to the division and the Department of Labor and Workforce Development;
10 establishing a Workers' Compensation Appeals Commission; assigning certain functions
11 of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals
12 Commission and the office of administrative hearings; relating to agreements that

1 discharge workers' compensation liability; providing for administrative law judges in
 2 workers' compensation proceedings; relating to workers' compensation awards; relating
 3 to an employer's failure to insure and keep insured or provide security; providing for
 4 appeals from compensation orders; relating to workers' compensation proceedings;
 5 providing for supreme court jurisdiction of appeals from the Workers' Compensation
 6 Appeals Commission; providing for a maximum amount for the cost-of-living
 7 adjustment for workers' compensation benefits; providing for administrative penalties
 8 for employers uninsured or without adequate security for workers' compensation;
 9 relating to fraudulent acts or false or misleading statements in worker's compensation;
 10 and providing for an effective date."

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

12 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
 13 to read:

14 **LEGISLATIVE INTENT.** It is the intent of the legislature by secs. 3 - 7 of this Act

15 (1) to reform the workers' compensation system in Alaska to ensure the
 16 continued payment of benefits in the event of an insurer insolvency;

17 (2) to give parties affected by the insolvency of a workers' compensation
 18 insurer a voice on the board of governors of the Alaska Insurance Guaranty Association; and

19 (3) to reduce the overall costs of workers' compensation premiums to
 20 employers.

21 * Sec. 2. AS 08.18.101 is amended to read:

22 **Sec. 08.18.101. Insurance required.** Each applicant, at the time of applying
 23 for registration or upon renewal of registration, shall file with the commissioner
 24 satisfactory evidence that the applicant has in effect

25 (1) to the extent required under AS 23.30, workers' compensation
 26 insurance that is purchased from a private insurer who is admitted to do business in the
 27 state and that shows coverage in this state, appropriate employee classifications, and

2 rates applicable in this state, or a valid workers' compensation self-insurance
 3 certificate issued by the director of the division of workers' compensation
 4 [ALASKA WORKERS' COMPENSATION BOARD]; and

5 (2) public liability and property damage insurance covering the
 6 applicant's contracting operations in this state in the sum of not less than \$20,000 for
 7 damage to property, \$50,000 for injury, including death, to any one person, and
 8 \$100,000 for injury, including death, to more than one person.

9 * Sec. 3. AS 21.09.090 is amended by adding a new subsection to read:

10 (e) In addition to any other deposit required under this section, an insurer who
 11 transacts workers' compensation insurance in this state shall maintain in the state a
 12 special deposit of cash or securities eligible for deposit under AS 21.24.030 in an
 13 amount not less than the basic capital or surplus required of an insurer under
 14 AS 21.09.070 for the protection of persons in this state covered under workers'
 15 compensation insurance. The insurer shall maintain the deposit under this subsection
 16 in this state as long as there is any outstanding liability of the insurer for workers'
 17 compensation in this state. If the insurer is unable to pay workers' compensation
 18 claims due under AS 23.30 because the insurer is an insolvent insurer, upon the
 19 director's request, the deposit is immediately available to the Alaska Insurance
 20 Guaranty Association (AS 21.80) for continuation of claims benefits to eligible
 21 workers. In this subsection, "insolvent insurer" has the meaning given in
 22 AS 21.80.180.

23 * Sec. 4. AS 21.09 is amended by adding a new section to read:

24 **Sec. 21.09.095. Deposit requirement for workers' compensation insurers.**

25 (a) An insurer of workers' compensation shall maintain with an in-state bank
 26 approved by the director a separate deposit equal to the insurer's assumed Alaska
 27 workers' compensation assigned risk pool loss reserves, as determined by the
 28 designated plan administrator, for all years and ceded under the joint and several quota
 29 share reinsurance agreements through which workers' compensation insurers reinsure
 30 risks in the Alaska workers' compensation assigned risk pool. The deposit shall be
 31 maintained as secured collateral for the benefit of other insurers in their capacity as
 joint and several reinsurers of the Alaska workers' compensation assigned risk pool.

1 (b) Upon becoming an insolvent insurer or upon otherwise failing to timely
 2 satisfy its Alaska workers' compensation assigned risk pool obligations, the insurer's
 3 deposit under this section shall be retained as secured collateral under the control of
 4 the director. The director shall make funds from the deposit available to the
 5 designated plan administrator as needed to fund the insurer's obligations to the Alaska
 6 workers' compensation assigned risk pool.

7 (c) The deposit required under this section must consist of cash and
 8 investment assets approved by the director under the regulatory authority in
 9 AS 21.21.420.

10 (d) In this section,

11 (1) "Alaska workers' compensation assigned risk pool" means the
 12 assigned risk pool established for workers' compensation under AS 21.39.155;

13 (2) "designated plan administrator" means the person appointed by the
 14 director to operate the workers' compensation assigned risk pool;

15 (3) "insolvent insurer" has the meaning given in AS 21.80.180.

16 * Sec. 5. AS 21.24.130(d) is amended to read:

17 (d) Except as provided in AS 21.09.090(e), if [IF] the insurer is subject to
 18 delinquency proceedings as defined in AS 21.78, upon the order of a court of
 19 competent jurisdiction, the director shall yield the assets and securities held on deposit
 20 to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other
 21 properly designated official or officials who succeed to the management and control of
 22 the insurer's assets.

23 * Sec. 6. AS 21.39.155 is amended by adding a new subsection to read:

24 (d) Rates for the workers' compensation assigned risk pool shall be established
 25 and maintained at a level that will ensure, to the greatest extent practicable, that the
 26 workers' compensation assigned risk pool will operate on a self-funding financial
 27 basis. For purposes of this subsection, "operate on a self-funding financial basis"
 28 means that the workers' compensation assigned risk pool shall charge rates based upon
 29 a combination of voluntary loss costs, administrative expenses, servicing carrier
 30 allowances, catastrophe and other reinsurance expenses, contingencies, and all other
 31 factors in AS 21.39.030 that are approved by the director, so as to be self-funding

during any consecutive three-year period, on a moving average basis.

* Sec. 7. AS 21.80.050 is repealed and reenacted to read:

Sec. 21.80.050. Board of governors. (a) The board of governors of the association consists of nine members appointed by the director. Terms are established in the plan of operation of the association. Membership of the board of governors consists of

- (1) four members who represent member insurers;
- (2) two members who represent employers;
- (3) two members who represent labor;
- (4) one member who represents licensees.

(b) Members appointed shall serve staggered three-year terms and may be removed for cause by the director.

(c) Within 90 days after a vacancy occurs on the board, the director shall fill the vacancy for the remaining period of the term of the vacating member.

(d) In appointing a member insurer to the board, the director shall consider, among other things, whether all member insurers are fairly represented.

(e) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of governors.

* Sec. 8. AS 23.05.067(a) is amended to read:

(a) Each insurer providing workers' compensation insurance and each employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall pay an annual service fee to the department for the administrative expenses of the state for workers' safety programs under AS 18.60 and the workers' compensation program under AS 23.30 as follows:

(1) for each employer,

(A) except as provided in (b) of this section, the service fee shall be paid each year to the department at the time that the annual report is required to be filed under AS 23.30.155(m) or (n); and

(B) the service fee is 2.9 percent of all payments reported to the director of the division of workers' compensation [ALASKA WORKERS' COMPENSATION BOARD] under AS 23.30.155(m) or (n), except second

1 injury fund payments; and

2 (2) for each insurer, the director of the division of insurance shall,
3 under (e) of this section, deposit from funds received from the insurer under
4 AS 21.09.210 a service fee of 1.82 percent of the direct premium income for workers'
5 compensation insurance received by the insurer during the year ending on the
6 preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

7 * Sec. 9. AS 23.05.067(e) is amended to read:

8 (e) Annual service fees and civil penalties collected under this section and
9 fees collected by the Worker's Compensation Appeals Commission shall be
10 deposited in the workers' safety and compensation administration account in the state
11 treasury. Under AS 37.05.146(c), the Workers' Compensation Appeals
12 Commission fees, service fees, and civil penalties shall be accounted for separately,
13 and appropriations from the account are not made from the unrestricted general fund.
14 The legislature may appropriate money from the account for expenditures by the
15 department for necessary costs incurred by the department in the administration of the
16 workers' safety programs contained in AS 18.60 and of the Alaska Workers'
17 Compensation Act contained in AS 23.30. The legislature may appropriate money
18 from the account for expenditures by the department for necessary costs
19 incurred by the Workers' Compensation Appeals Commission, and by the
20 department or the office of administrative hearings in the Department of
21 Administration (AS 44.64.010) for the administration of adjudication of claims
22 and petitions arising under AS 23.30. Nothing in this subsection creates a dedicated
23 fund or dedicates the money in the account for a specific purpose. Money deposited in
24 the account does not lapse at the end of a fiscal year unless otherwise provided by an
25 appropriation.

26 * Sec. 10. AS 23.30 is amended by adding a new section to read:

27 Sec. 23.30.001. Intent of the legislature and construction of chapter. It is
28 the intent of the legislature that

29 (1) this chapter be interpreted so as to ensure the quick, efficient, fair,
30 and predictable delivery of indemnity and medical benefits to injured workers at a
31 reasonable cost to the employers who are subject to the provisions of this chapter;

2 (2) workers' compensation cases shall be decided on their merits
except where otherwise provided by law;

3 (3) this chapter may not be construed by the courts in favor of a party;

4 (4) hearings in workers' compensation cases shall be impartial and fair
5 to all parties and that all parties shall be afforded due process and an opportunity to be
6 heard and for their arguments and evidence to be fairly considered;

7 (5) evidence shall be carefully and rationally examined and, except in
8 the application of the presumption in AS 23.30.120(a), doubt as to the substance of
9 evidence may not be interpreted in favor of one party or the other.

10 * Sec. 11. AS 23.30.005 is repealed and reenacted to read:

11 Sec. 23.30.005. Alaska workers' compensation division; duties of
12 department; regulations; notice of revocation of self-insurance. (a) There is
13 established in the Department of Labor and Workforce Development a division of
14 workers' compensation. The commissioner shall appoint the director of the division.
15 The director shall have at least three years' experience in the field of workers'
16 compensation.

17 (b) The director is responsible to the commissioner for the execution of the
18 duties and responsibilities imposed by this chapter and the regulations adopted under
19 this chapter. The director shall

20 (1) direct and supervise the administrative, technical, investigative, and
21 enforcement activities of the division of workers' compensation;

22 (2) develop, in cooperation with others, programs for the improvement
23 of the workers' compensation system;

24 (3) prepare regulations, consistent with the responsibilities of the
25 division under this chapter, that are required to implement and administer this chapter
26 for adoption by the department;

27 (4) notify employees, employers, physicians, and rehabilitation
28 specialists of their rights and obligations under this chapter;

29 (5) perform other lawful acts necessary to carry out the purposes of
30 this chapter.

31 (c) The department shall adopt rules for the periodic selection, retention, and

1 removal of rehabilitation specialists and physicians under AS 23.30.041 and
2 23.30.095.

3 (d) The department may adopt regulations concerning the medical care
4 provided for in this chapter and, except as committed to the authority of the Workers'
5 Compensation Appeals Commission, may adopt regulations to carry out the provisions
6 of this chapter.

7 (e) The director shall notify the contracting agency of the state or of a political
8 subdivision of the state when it revokes the self-insurance certificate of an employer
9 holding a contract with the state or a political subdivision of the state.

10 * Sec. 12. AS 23.30 is amended by adding new sections to read:

11 **Sec. 23.30.007. Workers' Compensation Appeals Commission.** (a) There
12 is established in the Department of Labor and Workforce Development the Workers'
13 Compensation Appeals Commission. The commission has jurisdiction to hear appeals
14 from final decisions and orders of administrative law judges and the director under this
15 chapter. Jurisdiction of the commission is limited to administrative appeals arising
16 under this chapter.

17 (l) The commission consists of five members appointed by the governor and
18 confirmed by a majority of the members of the legislature in joint session. The
19 members shall be appointed as follows:

20 (1) a member appointed as chair who meets the requirements of (c)(2)
21 of this section;

22 (2) two members who, because of their employment or affiliations,
23 may be classified as a representative of employees covered by this chapter;

24 (3) two members who, because of their employment or affiliations,
25 may be classified as a representative of employers covered by this chapter.

26 (c) To be eligible for appointment under this section

27 (1) the member must

28 (A) be a citizen of the United States;

29 (B) be a resident of the state for the five years preceding the
30 appointment; and

31 (C) have not been convicted of either a

(i) felony; or

(ii) misdemeanor related to workers' compensation;

(2) the chair must

(A) meet the criteria specified in (1) of this subsection;

(B) be licensed to practice law in this state and be a member in good standing with the Alaska Bar Association; and

(C) have engaged in the active practice of law for at least five years with experience in workers' compensation in this state.

(d) A member may act and receive compensation under this section from the date of appointment until confirmation or rejection by the legislature.

(e) The term of service on the commission is five years. A member may be reappointed so long as the reappointment complies with the provisions of this section.

(f) The chair of the commission is in the exempt service under AS 39.25.110 and shall receive a monthly salary that is not less than Step A nor more than Step F of Range 27 of the salary schedule in AS 39.27.011(a) for Anchorage, Alaska.

(g) A vacancy arising in the commission shall be filled by appointment by the governor and confirmed by a majority of the members of the legislature in joint session. Except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall hold office for the unexpired term of the member whose vacancy is filled. A vacancy in the commission does not impair the authority of a quorum of members to exercise all the powers and perform all the duties of the commission.

(h) An appeal to the commission shall be heard and decided by a three-member panel of the commission. An appeal panel shall consist of the chair of the commission and two members of the commission assigned by the chair, one member classified as representing employees, and one member classified as representing employers. At other meetings to conduct commission business, the number of commission members classified as representing employees must equal the number of commission members classified as representing employers. The chair of the commission and two representative members of the commission, one classified as representing employees and one classified as representing employers, constitutes a quorum.

1 (i) A member of the commission may be removed from office by the governor
2 for good cause. To be removed for cause, a member of the commission shall be given
3 a copy of the charges and afforded an opportunity to be heard in person or by counsel
4 in the member's own defense upon not less than 10 days' notice. If the member is
5 removed for cause, the governor shall file with the lieutenant governor a complete
6 statement of all charges made against the member, the governor's findings on the
7 charges, and the record of any proceedings. In this subsection, "good cause" includes

- 8 (1) misconduct in office or violation of AS 39.52;
- 9 (2) conviction of a felony;
- 10 (3) conviction of a misdemeanor related to workers' compensation;
- 11 (4) inability to serve, neglect of duty, incompetence, unjustified failure
12 to handle the caseload assigned, or similar nonfeasance of office; and
- 13 (5) failure to continue to meet the requirements of this section relating
14 to qualification for office.

15 (j) Representative members are entitled to compensation in the amount of
16 \$200 a day for each day spent in actual hearing of appeals or on authorized official
17 business incidental to their duties, and to transportation and per diem as provided by
18 law. Compensation shall be paid pro rata for each portion of a day spent in actual
19 hearing of appeals or on authorized official business.

20 (k) A member of the commission may not hear an appeal under this chapter if

- 21 (1) a party is an employee or was, in the past seven years, an employee
22 of the commission member or of a business that employs the commission member,
23 this paragraph does not apply to the chair of the commission when the State of Alaska
24 is or was the employer of a party;
- 25 (2) a party is a member or was, in the past seven years, a member of
26 the same union or employee association as the commission member;
- 27 (3) a party has a contractual relationship with the commission member,
28 a business that employs the commission member, or a union or employee association
29 of which the commission member is a member;
- 30 (4) the commission member is unable to be fair, impartial, and
31 unbiased toward the appeal participants; or

(5) participation in the appeal is a violation of AS 39.52.

2 (l) If the chair of the commission is unable to hear an appeal for reasons of
3 absence or illness in excess of 10 days, or for reasons set out in (k) of this section, the
4 commissioner of the department shall appoint a person who meets the qualifications of
5 this section to serve as chair to hear the appeal as chair pro tem. The person shall
6 receive the compensation provided in (j) of this section. Appointment of a chair pro
7 tem does not require legislative confirmation.

8 (m) Each member of the commission, before entering upon the duties of
9 office, shall take and subscribe to the oath prescribed for principal officers of the state.

10 (n) The offices of the commission shall be physically separate from the offices
11 of the division.

12 **Sec. 23.30.008. Powers and duties of the commission.** (a) The commission
13 shall be the exclusive and final authority for the hearing and determination of all
14 questions of law and fact arising under this chapter in those matters that have been
15 appealed to the commission, except for an appeal to the Alaska Supreme Court. The
16 commission may not have jurisdiction in any case that does not arise under this
17 chapter or in any criminal case. On any matter taken to the commission, the decision
18 of the commission is final and conclusive, unless appealed to the Alaska Supreme
19 Court, and shall stand in lieu of the order of the director or the administrative law
20 judge from which the appeal was taken. Unless reversed by the Alaska Supreme
21 Court, decisions of the commission shall have the force of legal precedent.

22 (b) The commission, in its administrative capacity, shall maintain, index, and
23 make available for public inspection the final administrative decisions and orders of
24 the commission and of the director and administrative law judges. To promote
25 consistency among legal determinations, the chair of the commission may review and
26 circulate among the other members of the relevant commission appeal panel the drafts
27 of the panel's formal decisions and decisions upon reconsideration. The drafts are
28 confidential documents and are not subject to disclosure.

29 (c) The chair of the commission shall draft and propose, and the commission
30 in its administrative capacity may adopt, regulations implementing the commission's
31 authority and duties under this chapter, including rules of procedure and evidence for

1 proceedings before the commission and, after consulting with the chief administrative
2 law judge, in workers' compensation proceedings under AS 23.30.080, 23.30.090, and
3 23.30.110, and for the adjudication of all claims and petitions and appeals under this
4 chapter. The provisions of AS 44.62 (Administrative Procedure Act) apply to the
5 adoption of regulations by the commission.

6 (d) In an appeal, the commission shall award a successful party reasonable
7 costs and, if the party is represented by an attorney, attorney fees that the commission
8 determines to be fully compensatory and reasonable. However, the commission may
9 not make an award of attorney fees against an injured worker unless the commission
10 finds that the worker's position on appeal was frivolous or unreasonable or the appeal
11 was taken in bad faith.

12 (e) The commission, in its administrative capacity, may adopt and alter an
13 official seal and do all things necessary, convenient, or desirable to carry out the
14 powers expressly granted or necessarily implied in this chapter.

15 **Sec. 23.30.009. Powers and duties of the chair of the commission.** (a) The
16 chair of the commission shall exercise general supervision over the office of the
17 commission and over appeals, and shall direct the administrative functions of the
18 commission. The chair of the commission shall serve as the executive officer of the
19 commission and shall have authority in all administrative matters relating to the
20 members. The chair may

21 (1) employ and supervise commission staff and appoint a commission
22 clerk;

23 (2) establish and implement a time management system for the
24 commission members and staff and manage the calendar of appeals;

25 (3) assign the work of the commission members and staff so that
26 appeals are resolved as expeditiously and competently as possible;

27 (4) receive petitions and claims and other materials for hearings
28 conducted by the office of administrative hearings (AS 44.64.010);

29 (5) advise and cooperate with the chief administrative law judge of the
30 office of administrative hearings (AS 44.64.010) to develop appropriate procedures for
31 maintenance and transfer of hearing files and the preservation and transfer of records

on appeal; and

2 (6) prepare an annual budget of the commission.

3 (b) The chair of the commission shall preside over hearings and arguments on
4 appeals. The chair of the commission shall ensure that all functions of the commission
5 are performed with due regard for the rights of all parties and consistent with the
6 orderly and prompt resolution of appeals. The chair of the commission shall rule on
7 questions of procedure and advise the representative members of the commission on
8 matters of law.

9 (c) The chair of the commission shall, not later than March 15 of each year,
10 make available to the public and file with the lieutenant governor, a report regarding
11 the commission, including data regarding time periods between initial receipt and final
12 decisions on appeals.

13 (d) The chair of the commission shall devote full time to the duties of the chair
14 of the commission and may not engage in any other employment or business. The
15 chair of the commission may not hold any other office or position under the United
16 States, this state, any municipality or political subdivision of this state, or any tribal
17 government or corporation. The chair of the commission may not hold office or
18 position in a partisan political organization or party.

19 * Sec. 13. AS 23.30.011(c) is amended to read:

20 (c) If an employee is entitled to the benefits of this chapter by reason of an
21 injury sustained in this state in employment by an employer who is domiciled in
22 another state and who has not secured the payment of compensation as required by
23 this chapter, the employer or the employer's carrier may file with the division
24 [BOARD] a certificate, issued by the commission or agency of the other state having
25 jurisdiction over workers' compensation claims, certifying that the employer has
26 secured the payment of compensation under the workers' compensation law of the
27 other state and that, with respect to that injury, the employee is entitled to the benefits
28 provided under that law. In that event,

29 (1) the filing of the certificate shall constitute an appointment by the
30 employer or the employer's carrier of the director [BOARD] as the employer's agent
31 for acceptance of the service of process in a proceeding brought by the employee or

1 the employee's dependents to enforce the employee's or their rights under this chapter
2 on account of the injury;

3 (2) the director [BOARD] shall send to the employer or carrier, by
4 registered or certified mail to the address shown on the certificate, a true copy of any
5 notice of claim or other process served on the director by the employee or the
6 employee's dependents in any proceeding brought to enforce the employee's or their
7 rights under this chapter;

8 (3) if the employer is a qualified self-insurer under the workers'
9 compensation law of the other state, the employer, upon submission of evidence
10 satisfactory to the director [BOARD] of the employer's ability to meet the employer's
11 liability to the employee under this chapter, shall be considered to be a qualified self-
12 insurer under this chapter;

13 (4) if the employer's liability under the workers' compensation law of
14 another state is insured, the employer's carrier, as to the employee or the employee's
15 dependents only, shall be considered to be an insurer authorized to write insurance
16 under and be subject to this chapter; however, unless its contract with the employer
17 requires it to pay an amount equivalent to the compensation benefits provided by this
18 chapter, its liability for income benefits or medical and related benefits may not
19 exceed the amounts of the benefits for which the insurer would have been liable under
20 the workers' compensation law of the other state;

21 (5) if the amount for which the employer's insurance is liable under (3)
22 and (4) of this subsection is less than the total of the compensation benefits to which
23 the employee is entitled under this chapter, the director [BOARD] may, if the
24 director [IT] considers it necessary, require the employer to file security satisfactory
25 to the director [BOARD] to secure the payment of benefits due the employee or the
26 employee's dependents under this chapter; and

27 (6) upon compliance with the preceding requirements of this
28 subsection, the employer, as to the employee only, shall be considered to have secured
29 the payment of compensation under this chapter.

30 * Sec. 14. AS 23.30.012 is amended to read:

31 Sec. 23.30.012. Agreements in regard to claims. (a) At any time after

2 death, or after 30 days subsequent to the date of the injury, the employer and the
 3 employee or the beneficiary or beneficiaries, as the case may be, have the right to
 4 reach an agreement in regard to a claim for injury or death under this chapter [IN
 5 ACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS CHAPTER], but
 6 a memorandum of the agreement in a form prescribed by the director [BOARD] shall
 7 be filed with the division [BOARD]. Otherwise, the agreement is void for any
 8 purpose. Except as provided in (b) of this section, an agreement filed with the
 9 division discharges the liability of the employer for the compensation,
 10 notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is
 11 enforceable as a compensation order.

12 (b) If the claimant or beneficiary is not represented by an attorney
 13 licensed to practice in this state, or the beneficiary is a minor, the division shall
 14 request review of the agreement by an administrative law judge. If approved by
 15 an administrative law judge [THE BOARD], the agreement is enforceable the same
 16 as an order or award of an administrative law judge [THE BOARD] and discharges
 17 the liability of the employer for the compensation notwithstanding the provisions of
 18 AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by an
 19 administrative law judge [THE BOARD] only when the terms conform to the
 20 provisions of this chapter and, if it involves or is likely to involve permanent
 21 disability, an administrative law judge [THE BOARD] may require an impartial
 22 medical examination and a hearing in order to determine whether or not to approve the
 23 agreement. A [THE BOARD MAY APPROVE] lump-sum settlement may be
 24 approved [SETTLEMENTS] when it appears to be to the best interest of the
 25 employee or beneficiary or beneficiaries.

26 * Sec. 15. AS 23.30.015(b) is amended to read:

27 (b) Acceptance of compensation under [AN AWARD IN] a compensation
 28 order filed with the office of the commission [BY THE BOARD] operates as an
 29 agreement to the employer of all rights of the person entitled to compensation and the
 30 personal representative of a deceased employee to recover damages from the third
 31 person unless the person or representative entitled to compensation commences an
 action against the third person within one year after an order [AWARD].

1 * Sec. 16. AS 23.30.015(e) is amended to read:

2 (e) An amount recovered by the employer under an assignment, whether by
3 action or compromise, shall be distributed as follows:

4 (1) the employer shall retain an amount equal to

5 (A) the expenses incurred by the employer with respect to the
6 action or compromise, including [A] reasonable attorney fees [FEE]
7 determined by an administrative law judge [THE BOARD];

8 (B) the cost of all benefits actually furnished by the employer
9 under this chapter;

10 (C) all amounts paid as compensation and second injury
11 [SECOND-INJURY] fund payments, and, if the employer is self-insured or
12 uninsured, all service fees paid under AS 23.05.067;

13 (D) the present value of all amounts payable later as
14 compensation, computed from a schedule prepared by the director [BOARD];
15 and the present value of the estimated cost of all benefits to be furnished later
16 under AS 23.30.095 [AS ESTIMATED BY THE BOARD]; the amounts so
17 computed and estimated shall [TO] be retained by the employer as a trust fund
18 to pay compensation and the cost of benefits as they become due and to pay
19 any finally remaining excess sum to the person entitled to compensation or to
20 the representative; and

21 (2) the employer shall pay any excess to the person entitled to
22 compensation or to the representative of that person.

23 * Sec. 17. AS 23.30.015(j) is amended to read:

24 (j) Notice of the commencement of an action against a third party shall be
25 given to the division [BOARD] and to all interested parties within 30 days. If a
26 request for a hearing under AS 23.30.110 has been filed, notice of the
27 commencement of the action shall also be filed with the commission.

28 * Sec. 18. AS 23.30.025(a) is amended to read:

29 (a) An insurer may not enter into or issue a policy of insurance under this
30 chapter until its policy form has been submitted to and approved by the director of the
31 division of insurance. The director of the division of insurance may not approve the

2 policy form of an insurance company until the company files with it the certificate of
 3 the director of the division of insurance showing that the company is authorized to
 4 transact the business of workers' compensation insurance in the state. The filing of a
 5 policy form by an insurance company with the division of workers' compensation
 6 [BOARD] for approval constitutes, on the part of the company, a conclusive and
 7 unqualified acceptance of the provisions of this chapter [,] and an agreement by it to
 8 be bound by them.

9 * Sec. 19. AS 23.30.030(5) is amended to read:

10 (5) A termination of the policy by cancellation is not effective as to the
 11 employees of the insured employer covered by it until 20 days after written notice of
 12 the termination has been received by the division [BOARD]. If the employer has a
 13 contract with the state or a home rule or other political subdivision of the state, and the
 14 employer's policy is cancelled due to nonpayment of a premium, the termination of the
 15 policy is not effective as to the employees of the insured employer covered by it until
 16 20 days after written notice of the termination has been received by the contracting
 17 agency, and the agency has the option of continuing the payments on behalf of the
 18 employer in order to keep the policy in force. If, however, the employer has secured
 19 insurance with another insurance carrier, cancellation is effective as of the date of the
 20 new coverage.

21 * Sec. 20. AS 23.30.030(6) is amended to read:

22 (6) All claims for compensation, death benefits, physician's fees,
 23 nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices,
 24 transportation charges to the nearest point where adequate medical facilities are
 25 available, and burial expenses [,] may be made directly against either the employer or
 26 the insurer, or both, and the order or award of an administrative law judge [THE
 27 BOARD] may be made against either the employer or the insurer or both.

28 * Sec. 21. AS 23.30.040(a) is amended to read:

29 (a) There is created a second injury fund, administered by the director
 30 [COMMISSIONER]. Money in the second injury fund may only be paid for the
 31 benefit of those persons entitled to payment of benefits from the second injury fund
 under this chapter. Payments from the second injury fund must be made by the

1 director [COMMISSIONER] in accordance with the orders [AND AWARDS] of an
 2 administrative law judge [THE BOARD].

3 * Sec. 22. AS 23.30.040(d) is amended to read:

4 (d) The director [BOARD] may refund a payment made into the second
 5 injury fund if the employer or insurance carrier shows that it made the payment by
 6 mistake or inadvertence, or if it shows there existed at the time of the death of the
 7 employee a beneficiary entitled to benefits under AS 23.30.215.

8 * Sec. 23. AS 23.30.041(a) is amended to read:

9 (a) The director [BOARD] shall select and employ a reemployment benefits
 10 administrator. The director [BOARD] may authorize the administrator to select and
 11 employ additional staff. The administrator is in the partially exempt service under
 12 AS 39.25.120.

13 * Sec. 24. AS 23.30.041(b) is amended to read:

14 (b) The administrator shall

15 (1) enforce regulations adopted by the department [BOARD] to
 16 implement this section;

17 (2) recommend regulations for adoption by the department [BOARD]
 18 that establish performance and reporting criteria for rehabilitation specialists;

19 (3) enforce the quality and effectiveness of reemployment benefits
 20 provided for under this section;

21 (4) review on an annual basis the performance of rehabilitation
 22 specialists to determine continued eligibility for delivery of rehabilitation services;

23 (5) submit to the department, on or before May 1 of each year, a report
 24 of reemployment benefits provided under this section for the previous calendar year;
 25 the report must include a general section, sections related to each rehabilitation
 26 specialist employed under this section, and a statistical summary of all rehabilitation
 27 cases, including

28 (A) the estimated and actual cost of each active rehabilitation
 29 plan;

30 (B) the estimated and actual time of each rehabilitation plan;

31 (C) a status report on all individuals completing or terminating

a reemployment benefits program including a return to work date;

(D) the cost of reemployment benefits;

(6) maintain a list of rehabilitation specialists who meet the qualifications established under this section;

(7) promote awareness among physicians, adjusters, injured workers, employers, employees, attorneys, training providers, and rehabilitation specialists of the reemployment program established in this subsection.

* Sec. 25. AS 23.30.041(d) is amended to read:

(d) Within 30 days after the referral by the administrator, the rehabilitation specialist shall perform the eligibility evaluation and issue a report of findings. The administrator may grant up to an additional 30 days for performance of the eligibility evaluation upon notification of unusual and extenuating circumstances and the rehabilitation specialist's request. Within 14 days after receipt of the report from the rehabilitation specialist, the administrator shall notify the parties of the employee's eligibility for reemployment preparation benefits. Within 10 days after the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The hearing shall be held within 30 days after it is requested. The administrative law judge [BOARD] shall uphold the decision of the administrator except for abuse of discretion on the administrator's part.

* Sec. 26. AS 23.30.041(h) is amended to read:

(h) Within 90 days after the rehabilitation specialist's selection under (g) of this section, the reemployment plan must be formulated and approved. The reemployment plan must require continuous participation by the employee and must maximize the usage of the employee's transferable skills. The reemployment plan must include at least the following:

(1) a determination of the occupational goal in the labor market;

(2) an inventory of the employee's technical skills, transferable skills, physical and intellectual capacities, academic achievement, emotional condition, and family support;

(3) a plan to acquire the occupational skills to be employable;

(4) the cost estimate of the reemployment plan, including provider

1 fees; and the cost of tuition, books, tools [,] and supplies, transportation, temporary
2 lodging, or job modification devices;

3 (5) the estimated length of time that the plan will take;

4 (6) the date that the plan will commence;

5 (7) the estimated time of medical stability as predicted by a treating
6 physician or by a physician who has examined the employee at the request of the
7 employer or the director [BOARD], or by referral of the treating physician;

8 (8) a detailed description and plan schedule;

9 (9) a finding by the rehabilitation specialist that the inventory under (2)
10 of this subsection indicates that the employee can be reasonably expected to
11 satisfactorily complete the plan and perform in a new occupation within the time and
12 cost limitations of the plan; and

13 (10) a provision requiring that, after a person has been assigned to
14 perform medical management services for an injured employee, the person shall send
15 written notice to the employee, the employer, and the employee's physician explaining
16 in what capacity the person is employed, whom the person represents, and the scope of
17 the services to be provided.

18 * Sec. 27. AS 23.30.041(j) is amended to read:

19 (j) The employee, rehabilitation specialist, and the employer shall sign the
20 reemployment benefits plan. If the employer and employee fail to agree on a
21 reemployment plan, either party may submit a reemployment plan for approval to the
22 administrator; the administrator shall approve or deny a plan within 14 days after the
23 plan is submitted; within 10 days after [OF] the decision, either party may seek
24 review of the decision by requesting a hearing under AS 23.30.110; an
25 administrative law judge [THE BOARD] shall uphold the decision of the
26 administrator unless evidence is submitted supporting an allegation of abuse of
27 discretion on the part of the administrator; an administrative law judge [THE
28 BOARD] shall render a decision within 30 days after completion of the hearing.

29 * Sec. 28. AS 23.30.041(o) is amended to read:

30 (o) Upon the request of either party, the administrator shall decide whether the
31 employee has not cooperated as provided under (n) of this section. A hearing before

2 the administrator shall be held within 30 days after it is requested. The administrator
3 shall issue a decision within 14 days after the hearing. Within 10 days after the
4 administrator files the decision, either party may seek review of the decision by
5 requesting a hearing under AS 23.30.110; an administrative law judge [THE
6 BOARD] shall uphold the decision of the administrator unless evidence is submitted
7 supporting an allegation of abuse of discretion on the part of the administrator; an
8 administrative law judge [THE BOARD] shall render a decision within 30 days after
9 completion of the hearing.

9 * Sec. 29. AS 23.30.041(p) is amended to read:

10 (p) When the United States Department of Labor publishes a new edition,
11 revision, or replacement for the "Selected Characteristics of Occupations Defined in
12 the Revised Dictionary of Occupational Titles" referred to in (e) of this section, the
13 director [BOARD] shall, not later than 90 days after the last day of the month in
14 which the new edition, revision, or replacement standard is published, hold an open
15 meeting under AS 44.62.310 to select the proposed date on which the new edition,
16 revision, or replacement standard will be implemented to make all eligibility
17 determinations required under (e) of this section. The date selected by the
18 department [BOARD] for implementing the new edition, revision, or replacement
19 standard may not be later than 90 days after the last day of the month in which the new
20 edition, revision, or replacement standard is published. After the meeting, the
21 director [BOARD] shall issue a public notice announcing the date selected by the
22 department. The requirements of AS 44.62.010 - 44.62.300 do not apply to the
23 selection or announcement of the date under this subsection.

24 * Sec. 30. AS 23.30.041(q) is amended to read:

25 (q) Notwithstanding AS 23.30.012, after medical stability has been determined
26 and a physician has predicted that the employee may have a permanent impairment
27 that may cause the employee to have permanent physical capacities that are less than
28 the physical demands of the employee's job at the time of injury, an employee may
29 waive any benefits or rights under this section, including an eligibility evaluation and
30 benefits related to a reemployment plan. To waive any benefits or rights under this
31 section, an employee must file a statement under oath with the division [BOARD] to

1 notify the parties of the waiver and to specify the scope of benefits or rights that the
2 employee seeks to waive. The statement must be on a form prescribed or approved by
3 the director [BOARD]. The division [BOARD] shall serve the notice of waiver on
4 all parties to the claim within 10 days after filing. The waiver is effective upon service
5 to the party. A waiver effective under this subsection discharges the liability of the
6 employer for the benefits or rights contained in this section. The waiver may not be
7 modified under AS 23.30.130.

8 * Sec. 31. AS 23.30.045(d) is amended to read:

9 (d) A contract may not be awarded by the state or a home rule or other
10 political subdivision of the state unless the person to whom the contract is to be
11 awarded has submitted to the contracting agency proof, furnished by the insurance
12 carrier, of current coverage by workers' compensation insurance from an insurance
13 company or association authorized to transact the business of workers' compensation
14 insurance in this state or proof, furnished by the division [BOARD], of a current
15 certificate of self-insurance from the director [BOARD]. The person to whom the
16 contract is awarded shall keep the workers' compensation insurance policy in effect
17 during the life of the contract with the state or political subdivision. If the state or the
18 political subdivision of the state fails to obtain proof of coverage or self-insurance or
19 to protect itself under (e) of this section, and an employee of the contractor is injured
20 during the term of the contract, the state or the political subdivision is liable for
21 workers' compensation to the employee if the employee is unable to recover from the
22 employer because of the employer's lack of financial assets. The state or the political
23 subdivision is not liable, however, to the employee for workers' compensation if the
24 employee can recover from the employer under (a) and (b) of this section.

25 * Sec. 32. AS 23.30.045(e) is amended to read:

26 (e) When a contracting agency of the state or a political subdivision receives
27 notice that the workers' compensation insurance policy of an employer to whom the
28 agency has awarded a contract has been cancelled due to nonpayment of a premium,
29 without being replaced by a comparable policy, the agency may either terminate the
30 contract with the employer or continue the premium payments on behalf of the
31 employer in order to keep the policy in force during the life of the agency's contract.

2 If the agency chooses to keep the policy in force, it may deduct its payments from the
 3 contract price or bring an action against the employer to recover the amount of the
 4 payments. When the contracting agency receives notice that the director [BOARD]
 5 has revoked a certificate of self-insurance held by a person to whom a contract has
 6 been awarded, the agency may terminate the contract. This subsection does not limit
 7 the causes of action or remedies that the state or political subdivision may have against
 the employer.

8 * Sec. 33. AS 23.30.065 is amended to read:

9 Sec. 23.30.065. Employer's record of injuries. An employer shall keep a
 10 record in respect of an injury to an employee. The record must contain the
 11 information of disease, other disability, or death with [IN] respect to an injury that the
 12 division [BOARD] requires, and must be available to inspection by the division
 13 [BOARD] or by a state authority at the times and under the conditions that the
 14 department [BOARD] prescribes by regulation.

15 * Sec. 34. AS 23.30.070(a) is amended to read:

16 (a) Within 10 days from the date the employer has knowledge of an injury or
 17 death or from the date the employer has knowledge of a disease or infection, alleged
 18 by the employee or on behalf of the employee to have arisen out of and in the course
 19 of the employment, the employer shall send to the division [BOARD] a report setting
 20 out

21 (1) the name, address, and business of the employer;

22 (2) the name, address, and occupation of the employee;

23 (3) the cause and nature of the alleged injury or death;

24 (4) the year, month, day, and hour when and the particular locality
 25 where the alleged injury or death occurred; and

26 (5) the other information that the division [BOARD] may require.

27 * Sec. 35. AS 23.30.070(b) is amended to read:

28 (b) Additional reports with [IN] respect to the injury and to the condition of
 29 the employee shall be sent by the employer to the division [BOARD] at the times and
 30 in the manner that the director [BOARD] prescribes.

31 * Sec. 36. AS 23.30.070(d) is amended to read:

1 (d) Mailing of the report and copy to the division [BOARD] in a stamped
2 envelope, within the time prescribed in (a) or (b) of this section, is compliance with
3 this section.

4 * Sec. 37. AS 23.30.070(f) is amended to read:

5 (f) An employer who fails or refuses to send a report required of the employer
6 by this section or who fails or refuses to send the report required by (a) of this section
7 within the time required shall, if so required by an administrative law judge after a
8 hearing [THE BOARD], pay the employee or the legal representative of the employee
9 or other person entitled to compensation by reason of the employee's injury or death
10 an additional award equal to 20 percent of the amounts that were unpaid when due.
11 The award shall be against either the employer or the insurance carrier, or both.

12 * Sec. 38. AS 23.30.075 is amended to read:

13 Sec. 23.30.075. Employer's liability to pay. (a) An employer under this
14 chapter, unless exempted, shall either insure and keep insured for the employer's
15 liability under this chapter in an insurance company or association duly authorized to
16 transact the business of workers' compensation insurance in this state, or shall furnish
17 the division [BOARD] satisfactory proof of the employer's financial ability to pay
18 directly the compensation provided for. If an employer elects to pay directly, the
19 director [BOARD] may, in the director's [ITS] discretion, require the deposit of an
20 acceptable security, indemnity, or bond to secure the payment of compensation
21 liabilities as they are incurred.

22 (b) If an employer fails to insure and keep insured employees subject to this
23 chapter or fails to obtain a certificate of self-insurance from the division [BOARD],
24 upon conviction, the court shall impose a fine of \$10,000 and may impose a sentence
25 of imprisonment for not more than one year. If an employer is a corporation, all
26 persons who, at the time of the injury or death, had authority to insure the corporation
27 or apply for a certificate of self-insurance, and the person actively in charge of the
28 business of the corporation shall be subject to the penalties prescribed in this
29 subsection and shall be personally, jointly, and severally liable together with the
30 corporation for the payment of all compensation or other benefits for which the
31 corporation is liable under this chapter if the corporation at that time is not insured or

qualified as a self-insurer.

2 * Sec. 39. AS 23.30.080(d) is amended to read:

3 (d) If an employer fails to insure or provide security as required by
 4 AS 23.30.075, the director [BOARD] may petition to issue a stop order prohibiting
 5 the use of employee labor by the employer until the employer insures or provides
 6 security as required by AS 23.30.075. The failure of an employer to file evidence of
 7 compliance as required by AS 23.30.085 creates a rebuttable presumption that the
 8 employer has failed to insure or provide security as required by AS 23.30.075. The
 9 petition shall be filed in the office of the commission. An administrative law
 10 judge shall hear the petition within 20 days after service of the petition on the
 11 employer. If the director presents evidence with the petition that hazards in the
 12 employment constitute a danger that could reasonably be expected to
 13 immediately cause an employee death or serious physical harm, the petition may
 14 be heard on shortened notice. The administrative law judge shall issue a decision
 15 on the petition within seven days after the hearing. If an employer fails to comply
 16 with a stop order issued under this section, an administrative law judge [THE
 17 BOARD] shall assess a civil penalty of \$1,000 a [PER] day. The employer may not
 18 obtain a public contract with the state or a political subdivision of the state for three
 19 years following the violation of the stop order.

20 * Sec. 40. AS 23.30.080 is amended by adding new subsections to read:

21 (e) If an employer fails, refuses, or neglects to insure or provide security as
 22 required by AS 23.30.075(a), the director may petition to order payment of a civil
 23 penalty to the state of an amount up to \$100 for each employee for each day an
 24 employee is employed while the employer is uninsured or does not provide the
 25 security required by AS 23.30.075(a). The failure of an employer to file evidence of
 26 compliance as required by AS 23.30.085 creates a rebuttable presumption that the
 27 employer has failed to obtain and keep insurance or provide security as required by
 28 AS 23.30.075(a). The petition shall be filed in the office of the commission. An
 29 administrative law judge shall hear the petition within 20 days after service of the
 30 petition on the employer. If the director presents evidence with the petition that
 31 hazards in the employment constitute a danger that could reasonably be expected to

1 immediately cause an employee death or serious physical harm, the petition may be
 2 heard on shortened notice. The administrative law judge shall issue a decision on the
 3 petition within seven days after the hearing.

4 (f) If an employer fails to pay a civil penalty ordered under (d) or (e) of this
 5 section within seven days after the date of service of the order upon the employer, the
 6 director may declare the employer in default. The director shall file a certified copy of
 7 the penalty order and declaration of default with the clerk of the superior court. The
 8 court shall, upon the filing of the copy of the order and declaration, enter judgment for
 9 the amount declared in default if it is in accordance with law. Anytime after a
 10 declaration of default, the attorney general, when requested to do so by the director,
 11 shall take appropriate action to assure collection of defaulted payment. Review of the
 12 judgment may be had as provided under the Alaska Rules of Civil Procedure. Final
 13 proceedings to execute the judgment may be had by writ of execution.

14 * Sec. 41. AS 23.30.085(a) is amended to read:

15 (a) An employer subject to this chapter, unless exempted, shall initially file
 16 evidence of compliance with the insurance provisions of this chapter with the division
 17 [BOARD], in the form prescribed by the director [IT]. The employer shall also give
 18 evidence of compliance within 10 days after the termination of the employer's
 19 insurance by expiration or cancellation. These requirements do not apply to an
 20 employer who has certification from the division [BOARD] of the employer's
 21 financial ability to pay compensation directly without insurance.

22 * Sec. 42. AS 23.30.090 is amended to read:

23 Sec. 23.30.090. Self-insurance certificates. If an employer has complied
 24 with the provisions of this chapter relating to self-insurance and has paid annual
 25 service fees assessed under AS 23.05.067, the director [BOARD] shall issue the
 26 employer a certificate that shall remain in force for a period fixed by the director
 27 [BOARD]. The director [BOARD] may, upon at least 10 days' notice and a hearing,
 28 revoke a self-insurance certificate upon satisfactory proof that an employer is no
 29 longer entitled to it. The hearing shall be conducted by an administrative law
 30 judge within 20 days after service of the director's notice. Within 14 days after
 31 the hearing, the administrative law judge shall make a proposed decision to the

2 director. who may adopt, amend, or reject it in the director's discretion. After
 3 revocation, the director [BOARD] may grant a new certificate to an employer, upon
 4 the employer's petition and satisfactory proof of the employer's financial ability as
 5 provided in this chapter. An employer authorized as a self-insurer shall provide
 6 claims facilities through its own staffed adjusting facilities located within the state, or
 7 independent, licensed, resident adjusters with power to effect settlement within the
 8 state.

9 * Sec. 43. AS 23.30.090 is amended by adding a new subsection to read:

10 (b) All testimony given before an administrative law judge under this section
 11 shall be recorded, but need not be transcribed unless further review is initiated.
 12 Hearings shall be open to the public.

13 * Sec. 44. AS 23.30.095(a) is amended to read:

14 (a) The employer shall furnish medical, surgical, and other attendance or
 15 treatment, nurse and hospital service, medicine, crutches, and apparatus for the period
 16 that [WHICH] the nature of the injury or the process of recovery requires, not
 17 exceeding two years from and after the date of injury to the employee. However, if
 18 the condition requiring the treatment, apparatus, or medicine is a latent one, the two-
 19 year period runs from the time the employee has knowledge of the nature of the
 20 employee's disability and its relationship to the employment and after disablement. If
 21 [IT SHALL BE ADDITIONALLY PROVIDED THAT, IF] continued treatment or
 22 care or both beyond the two-year period is indicated, the injured employee has the
 23 right of review by an administrative law judge [THE BOARD]. The administrative
 24 law judge [BOARD] may authorize continued treatment or care or both as the process
 25 of recovery may require. When medical care is required, the injured employee may
 26 designate a licensed physician to provide all medical and related benefits. The
 27 employee may not make more than one change in the employee's choice of attending
 28 physician without the written consent of the employer. Referral to a specialist by the
 29 employee's attending physician is not considered a change in physicians. Upon
 30 procuring the services of a physician, the injured employee shall give proper
 31 notification of the selection to the employer within a reasonable time after first being
 treated. Notice of a change in the attending physician shall be given before the

1 change.

2 * Sec. 45. AS 23.30.095(c) is amended to read:

3 (c) A claim for medical or surgical treatment [,] or treatment requiring
4 continuing and multiple treatments of a similar nature is not valid and enforceable
5 against the employer unless, within 14 days following treatment, the physician or
6 health care provider giving the treatment or the employee receiving it furnishes to the
7 employer and the division [BOARD] notice of the injury and treatment, preferably on
8 a form prescribed by the director [BOARD]. An administrative law judge [THE
9 BOARD] shall, however, excuse the failure to furnish notice within 14 days when the
10 administrative law judge [IT] finds it to be in the interest of justice to do so, and the
11 administrative law judge [IT] may, upon application by a party in interest, make an
12 award for the reasonable value of the medical or surgical treatment so obtained by the
13 employee. When a claim is made for a course of treatment requiring continuing and
14 multiple treatments of a similar nature, in addition to the notice, the physician or
15 health care provider shall furnish a written treatment plan if the course of treatment
16 will require more frequent outpatient visits than the standard treatment frequency for
17 the nature and degree of the injury and the type of treatments. The treatment plan
18 shall be furnished to the employee and the employer within 14 days after treatment
19 begins. The treatment plan must include objectives, modalities, frequency of
20 treatments, and reasons for the frequency of treatments. If the treatment plan is not
21 furnished as required under this subsection, neither the employer nor the employee
22 may be required to pay for treatments that exceed the frequency standard. The
23 director shall propose and the department [BOARD] shall adopt regulations
24 establishing standards for frequency of treatment.

25 * Sec. 46. AS 23.30.095(d) is amended to read:

26 (d) If at any time during the period the employee unreasonably refuses to
27 submit to medical or surgical treatment, an administrative law judge [THE BOARD]
28 may by order suspend the payment of further compensation while the refusal
29 continues, and no compensation may be paid at any time during the period of
30 suspension, unless the circumstances justified the refusal.

31 * Sec. 47. AS 23.30.095(e) is amended to read:

2 (e) The employee shall, after an injury, at reasonable times during the
3 continuance of the disability, if requested by the employer or when ordered by an
4 administrative law judge [THE BOARD], submit to an examination by a physician
5 or surgeon of the employer's choice authorized to practice medicine under the laws of
6 the jurisdiction in which the examination occurs, furnished and paid for by the
7 employer. The employer may not make more than one change in the employer's
8 choice of a physician or surgeon without the written consent of the employee.
9 Referral to a specialist by the employer's physician is not considered a change in
10 physicians. An examination requested by the employer not less than 14 days after
11 injury, and every 60 days thereafter, shall be presumed to be reasonable, and the
12 employee shall submit to the examination without further request or order by an
13 administrative law judge [THE BOARD]. Unless medically appropriate, the
14 physician shall use existing diagnostic data to complete the examination. Facts
15 relative to the injury or claim communicated to or otherwise learned by a physician or
16 surgeon who may have attended or examined the employee [,] or who may have been
17 present at an examination are not privileged, either in the hearings provided for in this
18 chapter or an action to recover damages against an employer who is subject to the
19 compensation provisions of this chapter. If an employee refuses to submit to an
20 examination provided for in this section, the employee's rights to compensation shall
21 be suspended until the obstruction or refusal ceases, and the employee's compensation
22 during the period of suspension may, in the discretion of an administrative law judge
23 [THE BOARD] or the court determining an action brought for the recovery of
24 damages under this chapter, be forfeited. In [THE BOARD IN] any case of death, the
25 director may order [REQUIRE] an autopsy at the expense of the party requesting the
26 autopsy. An autopsy may not be held without notice first being given to the widow or
27 widower or next of kin if they, reside in the state or their whereabouts can be
28 reasonably ascertained, of the time and place of the autopsy and reasonable time and
29 opportunity given the widow or widower or next of kin to have a representative
30 present to witness the autopsy. If adequate notice is not given, the findings from the
31 autopsy may be suppressed on petition [MOTION] made to an administrative law
judge [THE BOARD] or to the superior court, as the case may be.

1 * Sec. 48. AS 23.30.095(f) is amended to read:

2 (f) All fees and other charges for medical treatment or service shall be subject
3 to regulation by the department [BOARD] but may not exceed usual, customary, and
4 reasonable fees for the treatment or service in the community in which it is rendered,
5 as determined by the director [BOARD]. An employee may not be required to pay a
6 fee or charge for medical treatment or service. The director shall propose and the
7 department [BOARD] shall adopt updated usual, customary, and reasonable medical
8 fee schedules at least once each year.

9 * Sec. 49. AS 23.30.095(h) is amended to read:

10 (h) Upon the filing with the division [BOARD] by a party in interest of an
11 application or other pleading, all parties to the proceeding must immediately, or in any
12 event within five days after service of the pleading, send to the division [BOARD] the
13 original signed reports of all physicians relating to the proceedings that [WHICH]
14 they may have in their possession or under their control, and copies of the reports shall
15 be served by the party immediately on any [THE] adverse party. There is a
16 continuing duty on all [THE] parties to [SO] file and serve all the reports during the
17 pendency of the proceeding.

18 * Sec. 50. AS 23.30.095(j) is amended to read:

19 (j) The director [BOARD] may appoint a medical services review committee,
20 or contract with an existing organization in the state or another state, to assist and
21 advise the director [BOARD] in matters involving the appropriateness, necessity, and
22 cost of medical and related services provided under this chapter.

23 * Sec. 51. AS 23.30.095(k) is amended to read:

24 (k) In the event of a medical dispute regarding determinations of causation,
25 medical stability, ability to enter a reemployment plan, degree of impairment,
26 functional capacity, the amount and efficacy of the continuance of or necessity of
27 treatment, or compensability between the employee's attending physician and the
28 employer's independent medical evaluation, the director [BOARD] may require that a
29 second independent medical evaluation be conducted by a physician or physicians
30 selected [BY THE BOARD] from a list established and maintained by the director
31 [BOARD]. The cost of an examination and medical report shall be paid by the

2 employer. The report of an independent medical examiner shall be furnished to the
 3 division [BOARD] and to the parties within 14 days after the examination is
 4 concluded. A person may not seek damages from an independent medical examiner
 5 caused by the rendering of an opinion or providing testimony under this subsection,
 except in the event of fraud or gross incompetence.

6 * Sec. 52. AS 23.30.100(a) is amended to read:

7 (a) Notice of an injury or death with [IN] respect to which compensation is
 8 payable under this chapter shall be given within 30 days after the date of such injury
 9 or death to the division [BOARD] and to the employer.

10 * Sec. 53. AS 23.30.100(c) is amended to read:

11 (c) Notice shall be given to the division [BOARD] by delivering it or sending
 12 it by mail addressed to the division's [BOARD'S] office, and to the employer by
 13 delivering it to the employer or by sending it by mail addressed to the employer at the
 14 employer's last known place of business. If the employer is a partnership, the notice
 15 may be given to a partner, or, if a corporation, the notice may be given to an agent or
 16 officer upon whom legal process may be served or who is in charge of the business in
 17 the place where the injury occurred.

18 * Sec. 54. AS 23.30.100(d) is amended to read:

19 (d) Failure to give notice does not bar a claim under this chapter

20 (1) if the employer, an agent of the employer in charge of the business
 21 in the place where the injury occurred, or the carrier had knowledge of the injury or
 22 death and an administrative law judge [THE BOARD] determines that the employer
 23 or carrier has not been prejudiced by failure to give notice;

24 (2) if an administrative law judge [THE BOARD] excuses the failure
 25 on the ground that, for some satisfactory reason, notice could not be given;

26 (3) unless objection to the failure is raised before an administrative
 27 law judge [THE BOARD] at the first hearing of a claim for compensation with [IN]
 28 respect to the injury or death.

29 * Sec. 55. AS 23.30.105(a) is amended to read:

30 (a) The right to compensation for disability under this chapter is barred unless
 31 a claim for it is filed within two years after the employee has knowledge of the nature

1 of the employee's disability and its relation to the employment and after disablement.
 2 However, the maximum time for filing the claim in any event other than arising out of
 3 an occupational disease shall be four years from the date of injury, and the right to
 4 compensation for death is barred unless a claim [THEREFOR] is filed within one year
 5 after the death, except that, if payment of compensation has been made without an
 6 award on account of the injury or death, a claim may be filed within two years after
 7 the date of the last payment of benefits under AS 23.30.041, 23.30.180, 23.30.185,
 8 23.30.190, 23.30.200, or 23.30.215. In [IT IS ADDITIONALLY PROVIDED THAT,
 9 IN] the case of latent defects pertinent to and causing compensable disability, the
 10 injured employee has the full right to claim compensation as shall be determined by
 11 an administrative law judge [THE BOARD], time limitations notwithstanding.

12 * Sec. 56. AS 23.30.107 is amended to read:

13 Sec. 23.30.107. Release of information. (a) Upon written request, an
 14 employee shall provide written authority to the employer, carrier, rehabilitation
 15 specialist, or reemployment benefits administrator to obtain medical and rehabilitation
 16 information relative to the employee's injury. The request must include notice of the
 17 employee's right to file a petition for a protective order with the division [BOARD]
 18 and must be served by certified mail to the employee's address on the notice of injury
 19 or by hand delivery to the employee. This subsection may not be construed to
 20 authorize an employer, carrier, rehabilitation specialist, or reemployment benefits
 21 administrator to request medical or other information that is not applicable to the
 22 employee's injury.

23 (b) Medical or rehabilitation records in an employee's file maintained by the
 24 division or held by the commission or the office of administrative hearings
 25 (AS 44.64.010) [BOARD] are not public records subject to public inspection and
 26 copying under AS 40.25. This subsection does not prohibit

27 (1) the reemployment benefits administrator, the division, the office of
 28 the commission, the office of administrative hearings (AS 44.64.010) [BOARD], or
 29 the department from releasing medical or rehabilitation records in an employee's file,
 30 without the employee's consent, to a physician providing medical services under
 31 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a

governmental agency; or

(2) the quoting or discussing of medical or rehabilitation records contained in an employee's file during a hearing on a claim for compensation [,] or in a decision and order of the administrative law judge, the director, or the commission [BOARD].

* Sec. 57. AS 23.30.108 is amended to read:

Sec. 23.30.108. Prehearing conferences [PREHEARINGS] on discovery matters; objections to requests for release of information; sanctions for noncompliance. (a) If an employee objects to a request for written authority under AS 23.30.107, the employee must file a petition with the division [BOARD] seeking a protective order within 14 days after service of the request. If the employee fails to file a petition and fails to deliver the written authority as required by AS 23.30.107 within 14 days after service of the request, the employee's rights to benefits under this chapter are suspended until the written authority is delivered.

(b) If a petition seeking a protective order is filed, the division shall promptly notify the commission, and the commission clerk shall, within seven days, request assignment of an administrative law judge and [BOARD] shall set a prehearing conference with the administrative law judge to occur within 21 days after the filing date of the petition. At a prehearing conference conducted by an administrative law judge [THE BOARD'S DESIGNEE], the administrative law judge [BOARD'S DESIGNEE] has the authority to resolve disputes concerning the written authority. If the administrative law judge [BOARD OR THE BOARD'S DESIGNEE] orders delivery of the written authority and if the employee refuses to deliver it within 10 days after being ordered to do so, the employee's rights to benefits under this chapter are suspended until the written authority is delivered. During any period of suspension under this subsection, the employee's benefits under this chapter are forfeited unless an administrative law judge [THE BOARD], or the court determining an action brought for the recovery of damages under this chapter, determines that good cause existed for the refusal to provide the written authority.

(c) At a prehearing conference on discovery matters conducted by an administrative law judge [THE BOARD'S DESIGNEE], the administrative law

1 judge [BOARD'S DESIGNEE] shall direct parties to sign releases or produce
 2 documents, or both, if the parties present releases or requests for documents that are
 3 likely to lead to admissible evidence relative to an employee's injury. If a party
 4 refuses to comply with an order by an administrative law judge [THE BOARD'S
 5 DESIGNEE OR THE BOARD] concerning discovery matters, an administrative law
 6 judge [THE BOARD] may impose appropriate sanctions in addition to any forfeiture
 7 of benefits, including dismissing the party's claim, petition, or defense. A party may
 8 petition the commission for expedited review of an order of an administrative law
 9 judge on discovery matters within seven days after the date of service of the
 10 challenged order, and a party opposing the petition shall respond within seven
 11 days after service of the petition. The commission shall determine whether to
 12 grant or deny a petition for review within 10 days after a response is due. If [A
 13 DISCOVERY DISPUTE COMES BEFORE] the commission grants a petition
 14 [BOARD] for expedited review of a discovery determination by an administrative
 15 law judge [THE BOARD'S DESIGNEE], the commission [BOARD] may not
 16 consider any evidence or argument that was not presented to the administrative law
 17 judge [BOARD'S DESIGNEE], but shall determine the issue solely on the basis of the
 18 written record. The decision by the commission [BOARD] on a discovery dispute
 19 shall be made within 30 days. The commission [BOARD] shall uphold an
 20 administrative law judge's [THE DESIGNEE'S] decision except when the
 21 administrative law judge's [BOARD'S DESIGNEE'S] determination is an abuse of
 22 discretion.

23 * Sec. 58. AS 23.30.110 is amended to read:

24 Sec. 23.30.110. Procedure on claims and petitions. (a) Subject to the
 25 provisions of AS 23.30.105, a claim for or petition relating to compensation or
 26 benefits or both may be filed with the division [BOARD] in accordance with its
 27 regulations at any time after the first seven days of disability following an injury, or at
 28 any time after death, and an administrative law judge [THE BOARD] may hear and
 29 determine all questions with [IN] respect to the claim or petition. AS 44.64.060 does
 30 not apply to hearings under this section.

31 (b) Within 10 days after a claim or petition is filed, the division [BOARD], in

2 accordance with its regulations, shall notify the opposing party, employer, and any
 3 other person, other than the claimant or petitioner, whom the director [BOARD]
 4 considers an interested party that a claim or petition has been filed. The notice may
 5 be served personally [UPON THE EMPLOYER OR OTHER PERSON,] or sent by
 6 certified [REGISTERED] mail.

7 (c) Before a hearing is scheduled, the party seeking a hearing shall file with
 8 the office of the commission a request for a hearing together with an affidavit stating
 9 that the party has completed necessary discovery, has obtained necessary evidence,
 10 and is prepared for the hearing. Within seven days after filing of a request for
 11 hearing, the commission clerk shall request the chief administrative law judge
 12 appointed under AS 44.64.010 to assign an administrative law judge for the
 13 hearing. An opposing party shall have 10 days after the hearing request is filed to file
 14 a response. If a party opposes the hearing request, an administrative law judge
 15 [THE BOARD OR A BOARD DESIGNEE] shall, within 30 days after [OF] the filing
 16 of the opposition, conduct a pre-hearing conference, plan the timing and sequence of
 17 discovery and other preliminary matters, and set a reasonable hearing date. If
 18 opposition is not filed, the administrative law judge shall schedule a hearing not
 19 [A HEARING SHALL BE SCHEDULED NO] later than 60 days after the receipt of
 20 the hearing request. The administrative law judge [BOARD] shall give each party at
 21 least 10 days' notice of the hearing, either personally or by certified mail. After a
 22 hearing has been scheduled, the parties may not stipulate to change the hearing date or
 23 to cancel, postpone, or continue the hearing, except for good cause as determined by
 24 the administrative law judge. The hearing shall be before an administrative law
 25 judge unless otherwise provided by this chapter [BOARD]. After completion of
 26 the hearing, the administrative law judge [BOARD] shall close the hearing record.
 27 If a settlement agreement is reached by the parties less than 14 days before the
 28 hearing the parties shall appear at the time of the scheduled hearing to state the terms
 29 of the settlement agreement. Within 30 days after the hearing record closes, the
 30 administrative law judge [BOARD] shall file a written [ITS] decision. If the
 31 employer controverts a claim on a director-prescribed [BOARD-PRESCRIBED]
 controversion notice and the employee does not request a hearing within two years

1 following the filing of the controversion notice, the claim is denied.

2 (d) At the hearing, the parties [CLAIMANT AND THE EMPLOYER] may
3 each present evidence with [IN] respect to the claim or petition and may be
4 represented by any person authorized in writing for that purpose.

5 (e) The order of the administrative law judge rejecting the claim or petition,
6 or making the award, referred to in this chapter as a compensation order, shall be filed
7 in the office of the commission [BOARD], and a copy of it shall be sent by certified
8 [REGISTERED] mail to the parties [CLAIMANT AND TO THE EMPLOYER] at
9 the last known address of each.

10 (f) An award of compensation for disability or an order dismissing a claim
11 may be made after the death of an injured employee.

12 (g) An injured employee claiming or entitled to compensation shall submit to
13 the physical examination by a duly qualified physician that an administrative law
14 judge [WHICH THE BOARD] may require. The place or places shall be reasonably
15 convenient for the employee. The physician or physicians as the employee, employer,
16 or carrier may select and pay for may participate in an examination if the employee,
17 employer, or carrier so requests. Proceedings shall be suspended and no compensation
18 may be payable for a period during which the employee refuses to submit to
19 examination.

20 (h) The filing of a hearing request under (c) of this section suspends the
21 running of the two-year time period specified in (c) of this section. However, if the
22 employee subsequently requests a continuance of the hearing and the request is
23 granted [APPROVED BY THE BOARD], the granting of the continuance renders the
24 request for hearing inoperative, and the two-year time period specified in (c) of this
25 section continues to run again from the date of an administrative law judge's [THE
26 BOARD'S] notice to the employee of [THE BOARD'S GRANTING OF] the
27 continuance and of its effect. If the employee fails to again request a hearing before
28 the conclusion of the two-year time period in (c) of this section, the claim is denied.

29 * Sec. 59. AS 23.30.110 is amended by adding new subsections to read:

30 (i) An order dismissing a claim in whole or in part may be made before a
31 hearing on the merits of the claim when (1) the claim requests relief ' it cannot be

2 granted under this chapter; (2) there is a lack of jurisdiction over the subject matter of
 3 the claim or the person under this chapter; (3) division process or service of process
 4 was insufficient; (4) the claim has not been prosecuted or a hearing was not requested
 5 within the time allowed in (c) of this section; or (5) the claim is barred by a statute of
 6 limitation. If, within 60 days after service of an order dismissing a claim under (1) -
 7 (3) of this subsection, the defects stated in the order are cured, the dismissal may be
 8 vacated. Otherwise, the order of dismissal is a final compensation order.

9 (j) At any time, a party may petition for a summary decision on all or part of a
 10 claim. The administrative law judge shall grant the petition if (1) the administrative
 11 law judge finds all reasonable discovery has been made on the issues presented; and
 12 (2) the record shows that there is no genuine issue of any material fact and that the
 13 petitioner is entitled to a decision as a matter of law. The administrative law judge
 14 may file a compensation order in favor of the petitioner if the administrative law
 15 judge's summary decision adjudicates all issues in the claim with respect to the
 16 petitioner.

* Sec. 60. AS 23.30 is amended by adding new sections to read:

17 Sec. 23.30.112. Administrative law judges. (a) Unless otherwise provided
 18 in this chapter, hearings on claims and petitions shall be conducted by an
 19 administrative law judge. In addition to the qualifications provided in AS 44.64.040,
 20 an administrative law judge conducting hearings or other proceedings under this
 21 chapter must have at least three years of experience in this state in the field of workers'
 22 compensation law or in a similar field of practice.

23 (b) An administrative law judge for the purposes of this chapter may

24 (1) subpoena witnesses, administer or cause to be administered oaths,
 25 and order production of parts of the books and records of the parties to a proceeding or
 26 other records, documents, or papers that relate to questions in dispute; the superior
 27 court, on application of the administrative law judge under AS 44.62.590, shall
 28 enforce the attendance and testimony of witnesses and the production and examination
 29 of books, papers, and records;

30 (2) direct a physician or hospital rendering medical treatment or
 31 service under this chapter to furnish to the division periodic reports of treatment or

1 services on forms prescribed by the division;

2 (3) arrange to have hearings held by the commission, officer, or
3 tribunal having authority to hear cases arising under the workers' compensation law of
4 any other state, of the District of Columbia, or of any territory of the United States,
5 when a proceeding in this state so requires; the testimony and proceedings at the
6 hearing shall be reported to the commission and are a part of the record in the case;
7 evidence taken at the hearing is subject to rebuttal upon final hearing under this
8 chapter.

9 **Sec. 23.30.113. Hearings before an administrative law judge. (a)**

10 Notwithstanding any contrary provision of law, hearings under this chapter before an
11 administrative law judge are to be conducted as provided in AS 23.30.110 and this
12 section, or as otherwise provided under this chapter. Other proceedings under this
13 chapter before an administrative law judge are to be conducted as provided in this
14 chapter or in regulations adopted under this chapter.

15 (b) In conducting a hearing under this chapter, an administrative law judge is
16 not bound by common law or statutory rules of evidence or by technical or formal
17 rules of procedure, except as provided by this chapter and the regulations of the
18 commission. The hearing may be conducted in the manner designed to best ascertain
19 the rights of the parties. In proceedings before administrative law judges, the
20 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)
21 do not apply, except that AS 44.62.410(b), 44.62.460(a) - (d), 44.62.470, 44.62.480,
22 44.62.510, and 44.62.590 shall apply to proceedings under this chapter. Declarations
23 of a deceased employee concerning the injury with respect to which the investigation
24 or inquiry is being made or the hearing conducted shall be received in evidence and
25 are, if corroborated by other evidence, sufficient to establish the injury.

26 (b) The administrative law judge shall preside over hearings of claims and
27 petitions under this chapter and perform all other functions in an impartial manner
28 with due regard for the rights of all parties and the facts and the law, and consistent
29 with the orderly and prompt dispatch of proceedings under this chapter. The
30 administrative law judge shall rule on questions of procedure, the admission and
31 exclusion of evidence, and make rulings on matters of law.

2 (c) An administrative law judge shall voluntarily seek disqualification and
 3 withdraw from a case in which the administrative law judge cannot accord a fair and
 4 impartial hearing or consideration, or other reason established under AS 44.64.070. A
 5 party may request disqualification of an administrative law judge under AS 44.64.070.
 6 Except as otherwise permitted by law, an administrative law judge may not engage in
 7 interviews with or hear evidence or argument from, a party directly or indirectly,
 8 except upon opportunity for all parties to be present. Copies of all communications to
 9 an administrative law judge shall be served on all other parties.

10 (d) All testimony given during a hearing before an administrative law judge
 11 shall be recorded but need not be transcribed unless further review is initiated.
 12 Hearings before an administrative law judge shall be open to the public.

13 * Sec. 61. AS 23.30.115 is amended to read:

14 Sec. 23.30.115. Attendance and fees of witnesses. (a) A person is not
 15 required to attend as a witness in a hearing [PROCEEDING] before the commission
 16 or an administrative law judge [BOARD] at a place more than 100 miles from the
 17 person's place of residence, unless the person's lawful mileage and fee for one day's
 18 attendance is first paid or tendered to the person; but the testimony of a witness may
 19 be taken by deposition or interrogatories according to the Rules of Civil Procedure.

20 (b) A witness summoned to testify in a hearing [PROCEEDING] before the
 21 commission or an administrative law judge [BOARD] or whose deposition is taken
 22 shall receive the same fees and mileage as a witness in the superior court. The
 23 commission clerk may issue subpoenas and subpoenas duces tecum to summon a
 24 witness to testify in a hearing or deposition and to produce records. The superior
 25 court shall enforce the subpoenas on application by the commission in the
 26 manner provided in AS 44.62.590.

27 * Sec. 62. AS 23.30.120(b) is amended to read:

28 (b) If delay in giving notice is excused by the administrative law judge
 29 [BOARD] under AS 23.30.100(d)(2), the burden of proof of the validity of the claim
 30 shifts to the employee, notwithstanding the provisions of (a) of this section.

31 * Sec. 63. AS 23.30.122 is repealed and reenacted to read:

Sec. 23.30.122. Credibility of witnesses. The administrative law judge has

1 the sole power to determine the credibility of testimony presented by a witness. When
 2 credibility is disputed in a proceeding before the administrative law judge, the
 3 administrative law judge's determination of credibility must be supported by specific
 4 findings.

5 * Sec. 64. AS 23.30 is amended by adding a new section to read:

6 **Sec. 23.30.124. Reconsideration of compensation order.** (a) An
 7 administrative law judge may order a reconsideration of all or part of a compensation
 8 order on the administrative law judge's own motion or on petition of a party. A
 9 petition for reconsideration must be filed with the office of the commission within 15
 10 days after mailing of the compensation order. The power to order reconsideration
 11 expires 30 days after the mailing of a compensation order. If an order of
 12 reconsideration is not filed with the office of the commission within the time allowed
 13 for ordering reconsideration, the petition is considered denied.

14 (b) If reconsideration is ordered under (a) of this section, the compensation
 15 order under reconsideration is stayed until the decision on reconsideration is file
 16 The case may be reconsidered by the administrative law judge on of all the pertinent
 17 parts of the record and the additional arguments that are permitted by the
 18 administrative law judge. A written decision on reconsideration shall be filed with the
 19 commission within 30 days after the date the order of reconsideration was filed.

20 * Sec. 65. AS 23.30.125 is repealed and reenacted to read:

21 **Sec. 23.30.125. Administrative review of compensation order.** (a) A
 22 compensa~~tion~~ order becomes effective when filed with the office of the commission as
 23 provided ~~in~~ AS 23.30.110, and, unless proceedings to reconsider, suspend, or set aside
 24 the ord~~er~~ are instituted as provided in this chapter, the order becomes final on the 31st
 25 day after it is filed.

26 (b) Notwithstanding other provisions of law, a decision or order of an
 27 administrative law judge is subject to review by the commission as provided in this
 28 chapter.

29 (c) If a compensation order is not in accordance with law or fact, the order
 30 may be suspended or set aside, in whole or in part, through proceedings in the
 31 commission brought by a party in interest against all other parties to the proceedings

2 before the administrative law judge. The payment of the amounts required by an
 3 award may not be stayed pending a final decision in the proceeding unless, upon
 4 application for a stay, the commission, on hearing, after not less than three days' notice
 5 to the parties in interest and the director, allows the stay of payment, in whole or in
 6 part, where the party filing the application would otherwise suffer irreparable damage.
 7 Continuing future periodic compensation payments may not be stayed without a
 8 showing by the appellant of irreparable damage and the existence of the probability of
 9 the merits of the appeal being decided adversely to the recipient of compensation. The
 10 order of the commission allowing a stay must contain a specific finding, based upon
 11 evidence submitted to the commission and identified by reference to the evidence, that
 12 irreparable damage would result to the party applying for a stay and specifying the
 13 nature of the damage.

14 (d) Proceedings for reconsidering, suspending, setting aside, or enforcing a
 15 compensation order, whether rejecting a claim or making an award, may not be
 16 instituted, except as provided in this chapter.

* Sec. 66. AS 23.30 is amended by adding new sections to read:

17 Sec. 23.30.126. Review of director's decision. (a) A decision by the director
 18 that affects a right, privilege, benefit, or duty that is imposed or conferred under this
 19 chapter is subject to review by the commission. A decision by the director becomes
 20 effective when filed with the division, and, unless proceedings to suspend or set aside
 21 the decision are instituted as provided in this section, the decision becomes final on the
 22 31st day after it is filed.

23 (b) If a decision of the director is not in accordance with law or fact, the
 24 decision may be suspended or set aside, in whole or in part, through proceedings in the
 25 commission brought by a party in interest against the director and all other parties to
 26 the proceedings. The decision may not be stayed pending final decision in the
 27 proceeding unless, upon application for a stay, the commission, on hearing, after not
 28 less than three days' notice to the parties in interest and the director, allows the stay, in
 29 whole or in part, where irreparable damage would otherwise result. The order of the
 30 commission allowing the stay shall contain a specific finding, based upon evidence
 31 submitted to the commission and identified by reference to it, that irreparable damage

1 would result to the party applying for a stay, and specifying the nature of the damage.

2 (c) Proceedings for suspending, setting aside, or enforcing a director's decision
3 or determination may not be instituted except as provided in this chapter.

4 **Sec. 23.30.127. Appeals to commission.** (a) A party in interest may appeal a
5 compensation order issued by an administrative law judge to the commission within
6 30 days after the compensation order is filed with the office of the commission under
7 AS 23.30.110. The director may intervene in an appeal. If a party in interest is not
8 represented by counsel and the compensation order concerns an unsettled question of
9 law, the director may file an appeal to obtain a ruling on the question by the
10 commission.

11 (b) A party in interest may appeal a decision of the director to the commission
12 within 30 days after the decision is filed with the division.

13 (c) An appeal shall be initiated by filing with the office of the commission

14 (1) a signed notice of appeal specifying the compensation order or
15 director's decision appealed from;

16 (2) a statement of the grounds upon which the appeal is taken; and

17 (3) other materials the commission may by regulation require.

18 (d) A cross-appeal may be initiated by filing with the office of the commission
19 a signed notice of cross-appeal within 30 days after the decision is filed or within 15
20 days after service of notice of an appeal, whichever is later. The notice of cross-
21 appeal shall specify the compensation order appealed from and the grounds upon
22 which the cross-appeal is taken.

23 (e) The office of the commission may charge a fee, not to exceed \$100, for
24 filing appeals and cross-appeals, except that the office of the commission may not
25 charge a fee if the appellant is the state or a political subdivision of the state. The
26 commission may require an appellant to pay the costs of the transcript of hearing and
27 the preparation of the record on appeal. The commission may require cross-appellants
28 or intervenors to share in the costs.

29 (f) If a request for reconsideration of an administrative law judge's decision is
30 timely filed with the office of the commission, the notice of appeal must be filed
31 within 30 days after the reconsideration decision is mailed to the parties, or the date

2 the request for reconsideration is considered denied, in the absence of any action on
3 the request, whichever is earlier.

4 (g) The commission may require written briefs and make other rules and
5 orders to facilitate the business of the commission and advance the prompt, fair, and
6 just disposition of appeals.

7 **Sec. 23.30.128. Commission proceedings.** (a) An appeal from a decision of
8 the director or an administrative law judge under this chapter, and other proceedings
9 under this section, shall be heard and decided by a three-member panel of the
10 commission. An appeal panel of the commission must include the chair of the
11 commission. The chair of the commission shall assign two members to each appeal,
12 including one commission member classified as representing employees and one
13 commission member classified as representing employers. Acts, decisions, and orders
14 of the commission panel in the appeal or related proceeding shall be considered the
15 acts, decisions, and orders of the full commission. The matter on appeal shall be
16 decided by the commission panel on the record made before the director or
17 administrative law judge, a transcript or recording of the proceedings before the
18 director or administrative law judge, and oral argument and written briefs allowed by
19 the commission. Except as provided in (c) of this section, new or additional evidence
20 may not be received with respect to the appeal.

21 (b) The commission may review de novo all discretionary actions, findings of
22 fact, and conclusions of law by the administrative law judge, or the director in hearing,
23 determining, or otherwise acting on any compensation claim or petition. An
24 administrative law judge's findings regarding the credibility of testimony of a witness
25 are binding on the commission. The findings of the administrative law judge, if not
26 set aside by the commission, are conclusive.

27 (c) The commission may hold hearings and receive evidence on applications
28 for (1) stays under AS 23.30.125; (2) attorney fees and costs of appeal; (3) waiver of
29 fees by indigent appellants; or (4) dismissal of appeals for failure to prosecute or upon
30 settlement. The commission may rely on new or additional evidence presented during
31 the hearing in making its decision on the application.

(d) The commission may affirm, reverse, or modify a decision or order upon

1 review and issue other orders as appropriate. The commission may remand matters it
2 determines were improperly, incompletely, or otherwise insufficiently developed. The
3 commission may remand for further proceedings and appropriate action with or
4 without relinquishing the commission's jurisdiction of the appeal. The administrative
5 adjudication procedures of AS 44.62 (Administrative Procedure Act) do not apply to
6 the proceedings of the commission.

7 (e) Within 90 days after written briefing on the appeal is completed or oral
8 argument is held, whichever is later, the commission shall issue a decision in writing.
9 The decision must contain a concise statement of reasons for the decision, including
10 findings of fact, if required, and conclusions of law. The commission shall serve each
11 party and the director with a copy of the decision. Appeals may be expedited for good
12 cause by the commission. Unless reconsideration is ordered under (f) of this section, a
13 decision under this subsection is the final commission decision.

14 (f) A party or the director may request reconsideration of a decision issued
15 under (e) of this section within 30 days after the date of service shown in the
16 certificate of service of the decision. The request must state specific grounds for
17 reconsideration. Reconsideration may be granted if, in reaching the decision, the
18 commission (1) overlooked, misapplied, or failed to consider a statute, regulation,
19 court or administrative decision, or legal principle directly controlling; (2) overlooked
20 or misconceived a material fact; (3) misconceived a material question in the case; or
21 (4) applied law in the ruling that has subsequently changed. The panel of the
22 commission hearing the request for reconsideration shall consist of the same members
23 of the panel that issued the decision. The commission may issue an order for
24 reconsideration of all or part of the decision upon request of a party or the director.
25 Reconsideration is based on the record, unless the commission allows additional
26 argument. The power to order reconsideration expires 60 days after the date of
27 service, as shown on the certificate of service, of a decision issued under (e) of this
28 section. If the commission does not issue an order for reconsideration within the time
29 allowed for ordering reconsideration, a request for reconsideration is considered
30 denied. If reconsideration is ordered, the commission shall issue a decision within 30
31 days after the close of the record on reconsideration. The commission shall serve each

2 party in the case with a copy of the decision upon reconsideration. The decision upon
3 reconsideration is the final commission decision.

4 (g) A decision of the commission becomes final on the

5 (1) 31st day after the date of service of a decision if reconsideration is
6 not requested;

7 (2) 61st day after the date of service of a decision if reconsideration is
8 requested but an order for reconsideration is not issued; or

9 (3) date of service of the commission decision upon reconsideration
10 under (f) of this section if reconsideration is requested and an order for reconsideration
11 is issued.

12 **Sec. 23.30.129. Judicial review of commission orders.** (a) Notwithstanding
13 the provisions of AS 44.62.560, orders of the commission may not be appealed to the
14 superior court. Consistent with AS 22.05.010(b), final decisions of the commission
15 may be appealed to the supreme court, and other orders may be reviewed by the
16 supreme court as provided by the Alaska Rules of Appellate Procedure.

17 (b) A finding by the commission concerning the weight to be accorded a
18 witness's testimony, including medical testimony and reports, is conclusive even if the
19 evidence is conflicting or susceptible to contrary conclusions. The commission's
20 findings of fact may be reversed on appeal if not supported by substantial evidence in
21 light of the whole record.

22 * Sec. 67. AS 23.30.130 is amended to read:

23 **Sec. 23.30.130. Modification of awards.** (a) A party in interest or the
24 director may petition to modify a compensation order [UPON ITS OWN
25 INITIATIVE, OR UPON THE APPLICATION OF ANY PARTY IN INTEREST] on
26 the ground of a change in conditions, including, for the purposes of AS 23.30.175, a
27 change in residence, or because of a mistake in a [ITS] determination of a material
28 fact. An administrative law judge [, THE BOARD] may, before one year after the
29 date of the last payment of compensation benefits under AS 23.30.180, 23.30.185,
30 23.30.190, 23.30.200, or 23.30.215, whether or not a compensation order has been
31 issued, or before one year after the rejection of a claim, act on the petition and
review a compensation case under the procedure prescribed with [IN] respect to [OF]

1 claims in AS 23.30.110. Under AS 23.30.110, an administrative law judge [THE
2 BOARD] may issue a new compensation order that [WHICH] terminates, continues,
3 reinstates, increases, or decreases the compensation, or award compensation.

4 (b) A new order does not affect compensation previously paid, except that an
5 award increasing the compensation rate may be made effective from the date of the
6 injury, and, if part of the compensation due or to become due is unpaid, an award
7 decreasing the compensation rate may be made effective from the date of the injury,
8 and payment made earlier in excess of the decreased rate shall be deducted from the
9 unpaid compensation, in the manner the administrative law judge [BOARD]
10 determines.

11 * Sec. 68. AS 23.30.135 is amended to read:

12 **Sec. 23.30.135. Procedure before the division [BOARD].** (a) **The director**
13 **in** [IN] **making a decision on** an investigation or inquiry or conducting a hearing,
14 [THE BOARD] is not bound by common law or statutory rules of evidence or by
15 technical or formal rules of procedure, except as provided by this chapter. The
16 **director** [BOARD] may make **an** [ITS] investigation or inquiry or conduct a [ITS]
17 hearing in the manner **that** [BY WHICH IT] may best ascertain the rights of the
18 parties. **For purposes of investigation under AS 23.30.011, 23.30.040, 23.30.075,**
19 **23.30.080, 23.30.085, 23.30.090, 23.30.140, 23.30.155(i), 23.30.155(k),**
20 **23.30.155(m), 23.30.170, 23.30.240, and 23.30.249(d), the director may subpoena**
21 **witnesses, administer or cause to be administered oaths, and may examine or**
22 **cause to be examined books, papers and records relating to the questions under**
23 **investigation. The superior court shall enforce the subpoenas on application by**
24 **the director in the manner provided in AS 44.62.590.** Declarations of a deceased
25 employee concerning the injury **with** [IN] respect to which the investigation or inquiry
26 is being made or the hearing conducted shall be received in evidence and are, if
27 corroborated by other evidence, sufficient to establish the injury.

28 (b) All testimony given during a hearing before the **director** [BOARD] shall
29 be recorded, but need not be transcribed unless further review is initiated. Hearings
30 before the **director** [BOARD] shall be open to the public.

31 * Sec. 69. AS 23.30.140 is amended to read:

2 Sec. 23.30.140. Appointment of guardian by court. The director
 3 [BOARD] may require the appointment of a guardian or other representative by a
 4 competent court for any person who is mentally incompetent or a minor to receive
 5 compensation payable to the person under this chapter and to exercise the powers
 6 granted to or to perform the duties required of the person under this chapter. If the
 7 director [BOARD] does not require the appointment of a guardian to receive the
 8 compensation of a minor, appointment for this purpose is not necessary.

9 * Sec. 70. AS 23.30.145(a) is amended to read:

10 (a) Fees for legal services rendered with [IN] respect to a claim are not valid
 11 unless approved by the administrative law judge [BOARD, AND THE FEES MAY
 12 NOT BE LESS THAN 25 PER CENT ON THE FIRST \$1,000 OF
 13 COMPENSATION OR PART OF THE FIRST \$1,000 OF COMPENSATION, AND
 14 10 PER CENT OF ALL SUMS IN EXCESS OF \$1,000 OF COMPENSATION].
 15 When [THE BOARD ADVISES THAT] a claim has been controverted, in whole or in
 16 part, [THE BOARD MAY DIRECT THAT THE] fees for legal services may be paid
 17 by the employer or carrier in addition to compensation awarded; the fees may be
 18 allowed only on the amount of compensation controverted and awarded. When [THE
 19 BOARD ADVISES THAT] a claim has not been controverted, but [FURTHER
 20 ADVISES THAT] bona fide legal services have been rendered with [IN] respect to
 21 the claim, then the administrative law judge [BOARD] shall direct the payment of
 22 the fees out of the compensation awarded. In determining the amount of fees the
 23 administrative law judge [BOARD] shall take into consideration the nature, length,
 24 and complexity of the services performed, transportation charges, and the benefits
 25 resulting from the services to the compensation beneficiaries.

26 * Sec. 71. AS 23.30.145(b) is amended to read:

27 (b) If an employer fails to file timely notice of controversy or fails to pay
 28 compensation or medical and related benefits within 15 days after it becomes due or
 29 otherwise resists the payment of compensation or medical and related benefits and if
 30 the claimant has employed an attorney in the successful prosecution of the claim, an
 31 administrative law judge [THE BOARD] shall make an award to reimburse the
 claimant for the costs in the proceedings, including [A] reasonable attorney fees

1 [FEE]. The award is in addition to the compensation or medical and related benefits
2 ordered.

3 * Sec. 72. AS 23.30.155(a) is amended to read:

4 (a) Compensation under this chapter shall be paid periodically, promptly, and
5 directly to the person entitled to it, without an award, except where liability to pay
6 compensation is controverted by the employer. To controvert a claim, the employer
7 must file a notice, on a form prescribed by the director [BOARD], stating

- 8 (1) that the right of the employee to compensation is controverted;
- 9 (2) the name of the employee;
- 10 (3) the name of the employer;
- 11 (4) the date of the alleged injury or death; and
- 12 (5) the type of compensation and all grounds upon which the right to
13 compensation is controverted.

14 * Sec. 73. AS 23.30.155(b) is amended to read:

15 (b) The first installment of compensation becomes due on the 14th day after
16 the employer has knowledge of the injury or death. On this date all compensation then
17 due shall be paid. Subsequent compensation shall be paid in installments, every 14
18 days, except where an administrative law judge [THE BOARD] determines that
19 payment in installments should be made monthly or at some other period.

20 * Sec. 74. AS 23.30.155(c) is amended to read:

21 (c) The insurer or adjuster shall notify the division [BOARD] and the
22 employee on a form prescribed by the director [BOARD] that the payment of
23 compensation has begun or has been increased, decreased, suspended, terminated,
24 resumed, or changed in type. An initial report shall be filed with the division
25 [BOARD] and sent to the employee within 28 days after the date of issuing the first
26 payment of compensation. If at any time 21 days or more pass and no compensation
27 payment is issued, a report notifying the division [BOARD] and the employee of the
28 termination or suspension of compensation shall be filed with the division [BOARD]
29 and sent to the employee within 28 days after the date the last compensation payment
30 was issued. A report shall also be filed with the division [BOARD] and sent to the
31 employee within 28 days after the date of issuing a payment increasing, decreasing,

2 resuming, or changing the type of compensation paid. If the division [BOARD] and
3 the employee are not notified within the 28 days prescribed by this subsection for
4 reporting, the insurer or adjuster shall pay a civil penalty of \$100 for the first day plus
5 \$10 for each day after the first day [THEREAFTER] that the notice was not given.
6 Total penalties under this subsection may not exceed \$1,000 for a failure to file a
7 required report. Penalties assessed under this subsection are eligible for reduction
8 under (m) of this section. A penalty assessed under this subsection after penalties
9 have been reduced under (m) of this section shall be increased by 25 percent and shall
10 bear interest at the rate established under AS 45.45.010.

11 * Sec. 75. AS 23.30.155(d) is amended to read:

12 (d) If the employer controverts the right to compensation, the employer shall
13 file with the division [BOARD] and send to the employee a notice of controversion on
14 or before the 21st day after the employer has knowledge of the alleged injury or death.
15 If the employer controverts the right to compensation after payments have begun, the
16 employer shall file with the division [BOARD] and send to the employee a notice of
17 controversion within seven days after an installment of compensation payable without
18 an award is due. When payment of temporary disability benefits is controverted solely
19 on the grounds that another employer or another insurer of the same employer may be
20 responsible for all or a portion of the benefits, the most recent employer or insurer
21 who is party to the claim and who may be liable shall make the payments during the
22 pendency of the dispute. When a final determination of liability is made, any
23 reimbursement required, including interest at the statutory rate, and all costs and
24 attorney [ATTORNEYS'] fees incurred by the prevailing employer, shall be made
25 within 14 days after [OF] the determination.

26 * Sec. 76. AS 23.30.155(e) is amended to read:

27 (e) If any installment of compensation payable without an award is not paid
28 within seven days after it becomes due, as provided in (b) of this section, there shall be
29 added to the unpaid installment an amount equal to 25 percent of it. This additional
30 amount shall be paid at the same time as, and in addition to, the installment, unless
31 notice is filed under (d) of this section or unless the nonpayment is excused by an
administrative law judge [THE BOARD] after a showing by the employer that,

1 owing to conditions over which the employer had no control, the installment could not
2 be paid within the period prescribed for the payment.

3 * Sec. 77. AS 23.30.155(f) is amended to read:

4 (f) If compensation payable under the terms of an award is not paid within 14
5 days after it becomes due, there shall be added to that unpaid compensation an amount
6 equal to 25 percent of it, which shall be paid at the same time as, but in addition to, the
7 compensation, unless review of the compensation order making the award is had as
8 provided in AS 23.30.125 and payment is stayed by an order of the commission
9 [INTERLOCUTORY INJUNCTION STAYING PAYMENTS IS ALLOWED BY
10 THE COURT].

11 * Sec. 78. AS 23.30.155(h) is amended to read:

12 (h) The director may initiate an investigation, have a medical examination
13 performed at the division's expense, or file a petition on a disputed matter for
14 hearing [BOARD MAY UPON ITS OWN INITIATIVE] at any time in a case in
15 which payments are being made with or without an award, where right to
16 compensation is controverted, or where payments of compensation have been
17 increased, reduced, terminated, changed, or suspended, upon receipt of notice from a
18 person entitled to compensation, or from the employer, that the right to compensation
19 is controverted, or that payments of compensation have been increased, reduced,
20 terminated, changed, or suspended. The director may then [, MAKE THE
21 INVESTIGATIONS, CAUSE THE MEDICAL EXAMINATIONS TO BE MADE,
22 OR HOLD THE HEARINGS, AND] take the further action considered necessary to
23 [WHICH IT CONSIDERS WILL] properly protect the rights of all parties.

24 * Sec. 79. AS 23.30.155(i) is amended to read:

25 (i) When the director [BOARD] considers it advisable, the director [IT] may
26 require an employer to make a deposit with the Department of Revenue to secure the
27 prompt and convenient payment of the compensation, and payments from the deposit
28 upon an award shall be made upon order of the director [BOARD].

29 * Sec. 80. AS 23.30.155(j) is amended to read:

30 (j) If an employer has made advance payments or overpayments of
31 compensation, the employer is entitled to be reimbursed by withholding up to 20

percent out of each unpaid installment or installments of compensation due. More than 20 percent of unpaid installments of compensation due may be withheld from an employee only on approval of an administrative law judge [THE BOARD].

* Sec. 81. AS 23.30.155(k) is amended to read:

(k) An injured employee [,] or, in the case of death, the employee's dependents or personal representative [,] shall give receipts for payment of compensation to the employer paying the compensation, [IT] and the employer shall produce the receipts [THEM] for inspection by the director [BOARD], whenever required.

* Sec. 82. AS 23.30.155(m) is amended to read:

(m) On or before March 1 of each year, the insurer or adjuster shall file a verified annual report on a form prescribed by the director [BOARD] stating the total amount of all compensation by type, the number of claims received and the percentage controverted, medical, and related benefits, vocational rehabilitation expenses, legal fees, including a separate total of fees paid to attorneys and fees paid for the other costs of litigation, and penalties paid on all claims during the preceding calendar year. If the annual report is timely and complete when received by the division [BOARD] and provides accurate information about each category of payments, the director [COMMISSIONER] shall review the timeliness of the insurer's or adjuster's reports filed during the preceding year under (c) of this section. If, during the preceding year, the insurer or adjuster filed at least 99 percent of the reports on time, the penalties assessed under (c) of this section shall be waived. If, during the preceding year, the insurer or adjuster filed at least 97 percent of the reports on time, 75 percent of the penalties assessed under (c) of this section shall be waived. If, during the preceding year, the insurer or adjuster filed 95 percent of the reports on time, 50 percent of the penalties assessed under (c) of this section shall be waived. If, during the preceding year, the insurer's or adjuster's reports have not been filed on time at least 95 percent of the time, none of the penalties assessed under (c) of this section shall be waived. The penalties that are not waived are due and payable when the insurer or adjuster receives notification from the director [COMMISSIONER] regarding the timeliness of the reports. If the annual report is not filed by March 1 of each year, the insurer or

1 adjuster shall pay a civil penalty of \$100 for the first day the annual report is late [,]
2 and \$10 for each additional day the report is late. If the annual report is incomplete
3 when filed, the insurer or adjuster shall pay a civil penalty of \$1,000.

4 * Sec. 83. AS 23.30.155(o) is amended to read:

5 (o) The director [BOARD] shall promptly notify the division of insurance if
6 an administrative law judge [THE BOARD] determines that the employer's insurer
7 has frivolously or unfairly controverted compensation due under this chapter. After
8 receiving notice from the director [BOARD], the division of insurance shall
9 determine if the insurer has committed an unfair claim settlement practice under
10 AS 21.36.125.

11 * Sec. 84. AS 23.30.170(a) is amended to read:

12 (a) In case of default by the employer in the payment of compensation due
13 under an award of compensation for a period of 30 days after the compensation is due,
14 the person to whom the compensation is payable may, within one year after the
15 default, file a petition with the division [APPLY TO THE BOARD MAKING THE
16 COMPENSATION ORDER] for a supplementary order declaring the amount of the
17 default. After the completion of any investigation the director considers necessary.
18 and upon [,] notice [,] and hearing, as provided in AS 23.30.110, an administrative
19 law judge may [THE BOARD SHALL] make a supplementary order declaring the
20 amount of the default. The order shall be filed in the same manner as the
21 compensation order.

22 * Sec. 85. AS 23.30.170(b) is amended to read:

23 (b) If the payment in default is an installment of the award, an administrative
24 law judge has [THE BOARD MAY, IN ITS] discretion to [,] declare the whole of the
25 award as the amount in default. The petitioner [APPLICANT] may file a certified
26 copy of the supplementary order with the clerk of the superior court. The
27 supplementary order is final. The court shall, upon the filing of the copy, enter
28 judgment for the amount declared in default by the supplementary order if it is in
29 accordance with law. Any time after a supplementary order is filed [BY THE
30 BOARD], the attorney general, when requested to do so by the director
31 [COMMISSIONER], shall take appropriate action to ensure [ASSURE] collection of

the defaulted payments.

2 * Sec. 86. AS 23.30.175(a) is amended to read:

3 (a) The weekly rate of compensation for disability or death may not exceed
 4 the maximum compensation rate, may not be less than 22 percent of the maximum
 5 compensation rate, and initially may not be less than \$110. However, if an
 6 administrative law judge [THE BOARD] determines that the employee's spendable
 7 weekly wages are less than \$110 a week as computed under AS 23.30.220, or less than
 8 22 percent of the maximum compensation rate a week in the case of an employee who
 9 has furnished documentary proof of the employee's wages, the administrative law
 10 judge [IT] shall issue an order adjusting the weekly rate of compensation to a rate
 11 equal to the employee's spendable weekly wages. If the employer can verify that the
 12 employee's spendable weekly wages are less than 22 percent of the maximum
 13 compensation rate, the employer may adjust the weekly rate of compensation to a rate
 14 equal to the employee's spendable weekly wages without an order of an
 15 administrative law judge [THE BOARD]. If the employee's spendable weekly
 16 wages are greater than 22 percent of the maximum compensation rate, but 80 percent
 17 of the employee's spendable weekly wages is less than 22 percent of the maximum
 18 compensation rate, the employee's weekly rate of compensation shall be 22 percent of
 19 the maximum compensation rate. Prior payments made in excess of the adjusted rate
 20 shall be deducted from the unpaid compensation in the manner an administrative law
 21 judge [THE BOARD] determines. In any case, the employer shall pay timely
 22 compensation. In this subsection, "maximum compensation rate" means 120 percent
 23 of the average weekly wage, calculated under (d) of this section, applicable on the date
 24 of injury of the employee.

25 * Sec. 87. AS 23.30.175(b) is amended to read:

26 (b) The following rules apply to benefits payable to recipients not residing in
 27 the state at the time compensation benefits are payable:

28 (1) the weekly rate of compensation shall be calculated by multiplying
 29 the recipient's weekly compensation rate calculated under AS 23.30.180, 23.30.185,
 30 23.30.190, 23.30.200, or 23.30.215 [,] by the ratio of the cost of living of the area in
 31 which the recipient resides to the cost of living in this state;

1 (2) the calculation required by (1) of this subsection does not apply if
 2 the recipient is absent from the state for medical or rehabilitation services not
 3 reasonably available in the state;

4 (3) if the gross weekly earnings of the recipient and the resulting
 5 compensation rate are determined under AS 23.30.220(a)(6), (7), or (10) the
 6 calculation required by this subsection applies only to the portion of the recipi- "s
 7 weekly compensation rate attributable to wages earned in the state;

8 (4) application of this subsection may not reduce the weekly
 9 compensation rate to less than \$154 a week, except as provided in (a) of this section;

10 (5) application of (1) - (4) of this subsection may not result in
 11 raising a recipient's weekly compensation rate to an amount that exceeds the
 12 weekly compensation rate that the recipient would have received if the recipient
 13 had been residing in the state.

14 * Sec. 88. AS 23.30.175(c) is amended to read:

15 (c) The department [BOARD] shall provide by regulation for the
 16 determination and comparison of living costs for this state and the other areas in which
 17 recipients reside and for the annual redetermination and comparison of these costs.

18 * Sec. 89. AS 23.30.180(a) is amended to read:

19 (a) In the case of total disability adjudged to be permanent, 80 percent of the
 20 injured employee's spendable weekly wages shall be paid to the employee during the
 21 continuance of the total disability. If a permanent partial disability award has been
 22 made before a permanent total disability determination, permanent total disability
 23 benefits must be reduced by the amount of the permanent partial disability award,
 24 adjusted for inflation, in a manner determined by an administrative law judge [THE
 25 BOARD]. Loss of both hands, [OR] both arms, [OR] both feet, [OR] both legs, or
 26 both eyes, or of any two of them, in the absence of conclusive proof to the contrary,
 27 constitutes permanent total disability. In all other cases, permanent total disability is
 28 determined in accordance with the facts. In making this determination the market for
 29 the employee's services shall be the

30 (1) area of residence;

31 (2) area of last employment;

(3) [THE] state of residence; and

(4) [THE] State of Alaska.

* Sec. 90. AS 23.30.190(b) is amended to read:

(b) All determinations of the existence and degree of permanent impairment shall be made strictly and solely under the whole person determination as set out in the American Medical Association Guides to the Evaluation of Permanent Impairment, except that an impairment rating may not be rounded to the next five percent. The department [BOARD] shall adopt a supplementary recognized schedule for injuries that cannot be rated by use of the American Medical Association Guides.

* Sec. 91. AS 23.30.190(d) is amended to read:

(d) When a new edition of the American Medical Association Guides described in (b) of this section is published, the director [BOARD] shall, not later than 90 days after the last day of the month in which the new edition is published, hold an open meeting under AS 44.62.310 to select the date on which the new edition will be used to make all determinations required under (b) of this section. The date selected by the director [BOARD] for using the new edition may not be later than 90 days after the last day of the month in which the new edition is published. After the meeting, the director [BOARD] shall issue a public notice announcing the date selected. The requirements of AS 44.62.010 - 44.62.300 do not apply to the selection or announcement of the date under this subsection.

* Sec. 92. AS 23.30.200(b) is amended to read:

(b) The wage-earning capacity of an injured employee is determined by the actual spendable weekly wage of the employee if the actual spendable weekly wage fairly and reasonably represents the wage-earning capacity of the employee. An administrative law judge [THE BOARD] may, in the interest of justice, fix the wage-earning capacity that is reasonable, having due regard for [TO] the nature of the injury, the degree of physical impairment, the usual employment, and other factors or circumstances in the case that may affect the capacity of the employee to earn wages in a disabled condition, including the effect of disability as it may naturally extend into the future.

* Sec. 93. AS 23.30.205(e) is amended to read:

1 (e) The second injury fund may not be bound as to any question of law or fact
2 by reason of an award or an adjudication to which it was not a party or in relation to
3 which the director [COMMISSIONER] was not notified at least three weeks before
4 the award or adjudication, that the fund might be subject to liability for the injury or
5 death.

6 * Sec. 94. AS 23.30.205(f) is amended to read:

7 (f) An employer or the employer's carrier shall notify the director
8 [COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT] of any
9 possible claim against the second injury fund as soon as practicable, but in no event
10 later than 100 weeks after the employer or the employer's carrier have knowledge of
11 the injury or death.

12 * Sec. 95. AS 23.30.215(d) is amended to read:

13 (d) Compensation under this chapter to aliens not residents, or about to
14 become nonresidents, of the United States or Canada is the same in amount as
15 provided for residents, except that dependents in a foreign country are limited to
16 widow or widower and child or children, or, if there is no widow or widower and child
17 or children, to surviving father or mother whom the employee has supported, either
18 wholly or in part, for a period of one year before the date of injury. An
19 administrative law judge, upon petition of the director, the employer, or [THE
20 BOARD, AT ITS OPTION, OR UPON THE APPLICATION OF] the insurance
21 carrier, may commute all future installments of compensation to be paid to an alien
22 dependent who is not a resident of the United States or Canada by paying or causing to
23 be paid to the alien dependent one-half of the commuted amount of the future
24 installments of compensation as determined by the administrative law judge
25 [BOARD].

26 * Sec. 96. AS 23.30.220(a) is amended to read:

27 (a) Computation of compensation under this chapter shall be on the basis of an
28 employee's spendable weekly wage at the time of injury. An employee's spendable
29 weekly wage is the employee's gross weekly earnings minus payroll tax deductions.
30 An employee's gross weekly earnings shall be calculated as follows:

31 (1) if, at the time of injury, the employee's earnings are calculated by

the week, the weekly amount is the employee's gross weekly earnings;

2 (2) if, at the time of injury, the employee's earnings are calculated by
3 the month, the employee's gross weekly earnings are the monthly earnings multiplied
4 by 12 and divided by 52;

5 (3) if, at the time of injury, the employee's earnings are calculated by
6 the year, the employee's gross weekly earnings are the yearly earnings divided by 52;

7 (4) if, at the time of injury, the

8 (A) employee's earnings are calculated by the day, by the hour,
9 or by the output of the employee, the employee's gross weekly earnings are the
10 employee's earnings most favorable to the employee computed by dividing by
11 13 the employee's earnings, including overtime or premium pay, earned during
12 any period of 13 consecutive calendar weeks within the 52 weeks immediately
13 preceding the injury;

14 (B) employee has been employed for less than 13 calendar
15 weeks immediately preceding the injury, then, notwithstanding (1) - (3) of this
16 subsection and (A) of this paragraph, the employee's gross weekly earnings are
17 computed by determining the amount that the employee would have earned,
18 including overtime or premium pay, had the employee been employed by the
19 employer for 13 calendar weeks immediately preceding the injury and dividing
20 this sum by 13;

21 (5) if, at the time of injury, the employee's earnings have not been
22 fixed or cannot be ascertained, the employee's earnings for the purpose of calculating
23 compensation are the usual wage for similar services when the services are rendered
24 by paid employees;

25 (6) if, at the time of injury, the employment is exclusively seasonal or
26 temporary, then, notwithstanding (1) - (5) of this subsection, the gross weekly earnings
27 are 1/50 of the total wages that the employee has earned from all occupations during
28 the 12 calendar months immediately preceding the injury;

29 (7) when the employee is working under concurrent contracts with two
30 or more employers, the employee's earnings from all employers are [IS] considered as
31 if earned from the employer liable for compensation;

1 (8) if an employee when injured is a minor, an apprentice, or a trainee
 2 in a formal training program, as determined by an administrative law judge [THE
 3 BOARD], whose wages, under normal conditions, would increase during the period of
 4 disability, the projected increase may be considered by the administrative law judge
 5 [BOARD] in computing the gross weekly earnings of the employee;

6 (9) if the employee is injured while performing duties as a volunteer
 7 ambulance attendant, volunteer police officer, or volunteer fire fighter, then,
 8 notwithstanding (1) - (6) of this subsection, the gross weekly earnings for calculating
 9 compensation shall be the minimum gross weekly earnings paid a full-time ambulance
 10 attendant, police officer, or fire fighter employed in the political subdivision where the
 11 injury occurred, or, if the political subdivision has no full-time ambulance attendants,
 12 police officers, or fire fighters, at a reasonable figure previously set by the political
 13 subdivision to make this determination, but, in no case, may the gross weekly earnings
 14 for calculating compensation be less than the minimum wage computed on the basis of
 15 40 hours work a [PER] week;

16 (10) if an employee is entitled to compensation under AS 23.30.180
 17 and an administrative law judge [THE BOARD] determines that calculation of the
 18 employee's gross weekly earnings under (1) - (7) of this subsection does not fairly
 19 reflect the employee's earnings during the period of disability, the administrative law
 20 judge [BOARD] shall determine gross weekly earnings by considering the nature of
 21 the employee's work, work history, and resulting disability, but compensation
 22 calculated under this paragraph may not exceed the employee's gross weekly earnings
 23 at the time of injury.

24 * Sec. 97. AS 23.30.240 is amended to read:

25 **Sec. 23.30.240. Officers of corporations, municipal corporations, and**
 26 **nonprofit corporations as employees.** An executive officer elected or appointed and
 27 empowered in accordance with the charter and bylaws of a corporation, other than an
 28 official of a municipal corporation or a charitable, religious, educational, or other
 29 nonprofit corporation, is an employee of the corporation under this chapter. However,
 30 an executive officer of a corporation may waive coverage under this chapter, subject
 31 to the approval of the director [COMMISSIONER OF LABOR AND WORKFORCE

DEVELOPMENT], notwithstanding AS 23.30.245(b). Notwithstanding any other provision of this chapter, an executive officer of a municipal corporation or of a charitable, religious, educational, or other nonprofit corporation may be brought within the coverage of its insurance contract by the corporation by specifically including the officer in the contract of insurance. The election to bring an executive officer within the coverage continues in force for the period the contract of insurance is in effect. During that period, an executive officer brought within the coverage of the insurance contract is an employee of the corporation under this chapter.

* Sec. 98. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.249. Fraudulent acts and false or misleading statements. (a) An employer or insurer may petition for an order to reimburse a payment and the cost of compensation, medical treatment, or other benefit provided under this chapter obtained by a fraudulent act or false or misleading statement or representation. If an administrative law judge, after a hearing as provided by AS 23.30.110, finds by a preponderance of the evidence that a person has obtained a payment, compensation, medical treatment, or another benefit provided under this chapter by a fraudulent act or by knowingly making a false or misleading statement or representation for the purpose of obtaining that benefit or payment, the administrative law judge shall order that person to make full reimbursement of the payment or cost of all benefits obtained. Upon entry of an order authorized under this subsection, the administrative law judge shall also order that person to pay all reasonable costs and attorney fees incurred by the employer and the employer's carrier in obtaining an order under this section and in defending any claim made for benefits under this chapter. If a person fails to comply with an order requiring reimbursement of payment or cost of benefits, and payment of costs and attorney fees, the employer may declare the person in default and proceed to collect any sum due as provided under AS 23.30.170(b) and (c).

(b) Except as provided in (c) of this section, a person is not liable for civil damages for filing a report with or furnishing other information, whether written or oral, concerning a suspected, anticipated, or completed fraudulent act or false or misleading statements or representation to

(1) law enforcement officials or their agents and employees;

1 (2) the division of workers' compensation, the division of insurance in
2 the Department of Commerce, Community, and Economic Development, or an agency
3 in another state that regulates insurance or workers' compensation;

4 (3) an insurer or adjuster or its agents, employees, or designees, or the
5 risk manager of a self-insured employer under this chapter.

6 (c) The provisions of (b) of this section do not preclude liability for civil
7 damages as described in (b) of this section if the liability arose as a result of reckless,
8 wilful, or intentional misconduct.

9 (d) An insurer, an adjuster, or a risk manager of a self-insured employer that
10 has reason to believe that a fraudulent workers' compensation demand or claim has
11 been made against it shall send the director a report disclosing information that the
12 director may require. An insurer or an adjuster or its employee or agent, or a risk
13 manager of a self-employed employer, or another person acting in good faith is not
14 civilly liable for damages resulting from the filing of the report or the furnishing of
15 information required by this section or by the director.

16 (e) The director may investigate facts reported under this section and may
17 refer facts indicating a possible violation of law to the appropriate prosecutor or
18 agency. If the director determines that there is credible evidence that a person
19 obtained a payment, compensation, medical treatment, or other benefit provided under
20 this chapter by a fraudulent act or false or misleading statement or representation as
21 provided in (a) of this section, the director shall notify the affected employer, insurer,
22 and adjuster upon conclusion of the investigation. If the fraudulent act or false or
23 misleading statement or representation was perpetrated against the division, the
24 director may file a petition as provided in AS 23.30.110 for an order of forfeiture
25 against the person, precluding, in whole or in part, the person from future payment,
26 compensation, medical treatment, or other benefit provided under this chapter.

27 (f) The papers, reports, documents, and evidence received under this section or
28 in an investigation arising from information received under this section are not subject
29 to public inspection for so long as the director considers confidentiality to be in the
30 public interest or reasonably necessary to complete an investigation or protect the
31 person investigated from unwarranted injury. Papers, reports, documents, and

2 evidence relative to an investigation under this section are confidential and not subject
3 to subpoena unless, after notice to the director and a hearing, a court determines that
4 the director would not be unduly hindered by public inspection.

5 (g) If the material that the director seeks to obtain is located outside the state,
6 the material may be made available to the director to examine at the place where the
7 material is located. The director may designate representatives, including officials of
8 the state in which the material is located, to inspect the material on behalf of the
9 director. The director may respond to a request from an official of another state for
10 similar material.

11 (h) In this section, "fraudulent act" includes

12 (1) to knowingly pretend injury or disability, with intent to defraud or
13 obtain a benefit under this chapter;

14 (2) to knowingly conceal, suppress, destroy, remove, or alter records,
15 with intent to defraud or obtain a benefit under this chapter;

16 (3) to knowingly assist or prepare another person to submit a false or
17 misleading statement in support of a claim for benefits under this chapter with reckless
18 disregard that the person is not entitled to benefits under this chapter;

19 (4) to use force against a person, damage the property of a person, or
20 threaten a person with intent to improperly influence the opinion of a witness, a
21 physician, or other health care provider;

22 (5) except as otherwise authorized under this chapter, to knowingly
23 confer, offer to confer, solicit, agree to accept, or accept property, services, or a
24 benefit

25 (A) to refer an employee to a physician or other health care
26 provider; or

27 (B) for providing medical treatment, services, medicines, or
28 supplies to an employee if the property, services, or benefit is in addition to
29 payment by the employer, insurer, or adjuster allowed under this chapter.

30 * Sec. 99. AS 23.30.250 is repealed and reenacted to read:

31 Sec. 23.30.250. Penalty for fraudulent acts or false or misleading
statements or representations. (a) A person is guilty of theft by deception as defined

1 in AS 11.46.180, and may be punished as provided by AS 11.46.120 - 11.46.150, and
2 is civilly liable to a person adversely affected by the conduct, if the person

3 (1) knowingly makes a false or misleading statement, representation,
4 or submission related to an injury, compensation, or benefit under this chapter;

5 (2) knowingly assists, abets, solicits, or conspires in making a false or
6 misleading submission affecting the payment, coverage, or other benefit under this
7 chapter;

8 (3) knowingly misclassifies employees or engages in deceptive leasing
9 practices for the purpose of evading full payment of workers' compensation insurance
10 premiums; or

11 (4) employs or contracts with a natural person or business organization
12 to coerce or encourage an individual to file a fraudulent compensation claim.

13 (b) In this section,

14 (1) "benefit" means a payment, compensation, medical treatment,
15 service, product, entitlement, or right available under this chapter;

16 (2) "knowingly" has the meaning given in AS 11.81.900.

17 * Sec. 100. AS 23.30.260 is amended to read:

18 **Sec. 23.30.260. Penalty for receiving unapproved fees and soliciting.** A
19 person is guilty of a misdemeanor [,] and, upon conviction, is punishable for each
20 offense by a fine of not more than \$1,000 [,] or by imprisonment for not more than one
21 year, or by both, if the person

22 (1) receives a fee, other consideration, or a gratuity on account of any
23 services rendered for representation or advice with [IN] respect to a claim, unless
24 the consideration or gratuity is approved by the administrative law judge, the
25 commission, [BOARD] or the court; or

26 (2) makes it a business to solicit employment for a lawyer or for the
27 person with [ONESELF IN] respect to a claim or award for compensation.

28 * Sec. 101. AS 23.30.260 is amended by adding a new subsection to read:

29 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is
30 not required if the fee does not exceed \$300 and is a one-time-only charge to an
31 employee by an attorney licensed in this state who performed legal services with

respect to the employee's claim but did not enter an appearance.

2 * Sec. 102. AS 23.30.395(28) is amended to read:

3 (28) "self-insurer" means an employer who, instead of insuring
4 liability under this chapter as it provides, elects to pay directly the compensation
5 provided for, and who has furnished to the division [BOARD] satisfactory proof of
6 the employer's financial ability to make the direct payments;

7 * Sec. 103. AS 23.30.395 is amended by adding new paragraphs to read:

8 (35) "administrative law judge " means an administrative law judge
9 employed or retained by the office of administrative hearings (AS 44.64.010) who
10 meets the qualifications under AS 23.30.112 to conduct hearings of workers'
11 compensation claims and petitions and conduct other hearings and proceedings under
12 this chapter;

13 (36) "commission" means the Workers' Compensation Appeals
14 Commission;

15 (37) "director" means the director of the division of workers'
16 compensation;

17 (38) "division" means the division of workers' compensation.

18 * Sec. 104. AS 39.25.110 is amended by adding a new paragraph to read:

19 (40) the chair of the Workers' Compensation Appeals Commission
20 (AS 23.30.007).

21 * Sec. 105. AS 39.25.120(c)(14) is amended to read:

22 (14) the rehabilitation administrator of the division of workers'
23 compensation [WORKERS' COMPENSATION BOARD];

24 * Sec. 106. AS 39.50.200(b)(31) is amended to read:

25 (31) Workers' Compensation Appeals Commission (AS 23.30.007)
26 [BOARD (AS 23.30.005)];

27 * Sec. 107. AS 44.62.330(a)(15) is amended to read:

28 (15) division of workers' compensation and its director [ALASKA
29 WORKERS' COMPENSATION BOARD], where procedures are not otherwise
30 expressly provided by AS 23.30 ([THE] Alaska Workers' Compensation Act);

31 * Sec. 108. AS 44.64.020(a), as enacted by sec. 2, HCS CSSE 203(FIN), is amended to

1 read:

2 (a) The chief administrative law judge shall

3 (1) supervise the office;

4 (2) employ administrative staff, who shall be in the classified service;

5 (3) employ administrative law judges, who shall be in the partially
6 exempt service;

7 (4) preside over administrative hearings handled by the office or, based
8 upon the qualifications and expertise of the administrative law judges, assign
9 administrative law judges to preside over hearings, and protect, support, and enhance
10 the decisional independence of the administrative law judges;

11 (5) establish and implement performance standards, including
12 provision for timeliness, and peer review programs for administrative law judges
13 employed or retained by the office;

14 (6) make available and facilitate training and continuing education
15 programs and services in administrative procedure, administrative adjudication,
16 substantive law, alternate dispute resolution, and technical matters for administrative
17 law judges and other administrative adjudicators;

18 (7) survey administrative hearing participants and use other methods to
19 monitor the quality of administrative hearings held by the office and other state
20 agencies, and submit to the governor and the legislature on January 31 of each year the
21 results of the survey along with a report that includes a description of the activities of
22 the office and recommendations for statutory changes that may be needed in relation
23 to the administrative hearings held by the office or other state agencies;

24 (8) review and comment on regulations proposed by state agencies to
25 govern procedures in administrative hearings;

26 (9) enter into contracts as necessary to carry out the functions of the
27 office;

28 (10) annually prepare and submit to the commissioner of
29 administration a budget for the office for the next fiscal year that shall include and
30 separately identify funding for training and continuing education; a copy of the budget
31 submitted to the commissioner under this paragraph shall also be submitted to the

Finance Committee of each house of the legislature; and

2 (11) after consulting with affected agencies, adopt regulations under
3 AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and
4 implement this chapter, except for regulations governing the conduct of workers'
5 compensation hearings and proceedings under AS 23.30, which are under the
6 exclusive jurisdiction of the Workers' Compensation Appeals Commission
7 (AS 23.30.007).

8 * Sec. 109. AS 44.64.030(a), as amended by sec. 3, HCS CSSB 203(FIN), is amended by
9 adding a new paragraph to read:

10 (36) AS 23.30.007 (Workers' compensation).

11 * Sec. 110. AS 44.64.040(a), as enacted by sec. 3, HCS CSSB 203(FIN), is amended to
12 read:

13 (a) An administrative law judge must be admitted to practice law in this state
14 and must have been admitted to practice in this state for at least two years before being
15 employed or retained with the office. The chief administrative law judge shall
16 establish additional qualifications for administrative law judges employed or retained
17 by the office and for those administrative law judges that may be assigned to particular
18 types of cases. An administrative law judge is in the partially exempt service.
19 Notwithstanding AS 39.25.120(b), full-time administrative law judges employed by
20 the office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and
21 (16). An administrative law judge assigned to workers' compensation hearings or
22 other proceedings under AS 23.30 shall be compensated at Range 24 of the salary
23 schedule set out in AS 39.27.011(a) for Anchorage, Alaska.

24 * Sec. 111. AS 21.39.155(c) is repealed.

25 * Sec. 112. AS 23.30.395(3) is repealed.

26 * Sec. 113. The uncodified law of the State of Alaska is amended by adding a new section
27 to read:

28 APPLICABILITY. The amendment to AS 23.30.175(b) made by sec. 87 of this Act
29 applies to an injury occurring on or after the effective date of sec. 87 of this Act.

30 * Sec. 114. The uncodified law of the State of Alaska is amended by adding a new section
31 to read:

1 TRANSITION: TERMS OF BOARD OF GOVERNORS MEMBERS. (a)
2 Notwithstanding sec. 7 of this Act, the director of insurance in the Department of Commerce,
3 Community, and Economic Development shall designate members of the board of governors
4 for the Alaska Insurance Guaranty Association to serve staggered initial terms in the manner
5 provided in AS 39.05.055.

6 (b) Terms of members of the board of governors for the Alaska Insurance Guaranty
7 Association serving on September 1, 2004, expire on September 2, 2004, but a member of the
8 board of governors on September 1, 2004, may continue to serve until a successor is
9 appointed if the member meets the standards set out in sec. 7 of this Act for the position in
10 which the member was serving on September 1, 2004. Members of the board of governors
11 for the Alaska Insurance Guaranty Association serving on September 1, 2004, may apply for
12 reappointment to the board by submitting a request to the director of insurance.

13 * Sec. 115. The uncodified law of the State of Alaska is amended by adding a new section
14 to read:

15 TRANSITION: CONTINUANCE OF ALASKA WORKERS' COMPENSATION
16 BOARD; PENDING CASES. (a) Notwithstanding the repeal and reenactment of
17 AS 23.30.005 by sec. 11 of this Act, the Alaska Workers' Compensation Board, established
18 under AS 23.30.005 as it existed on the day before the effective date of sec. 11 of this Act,
19 continues in existence for 45 days after the effective date of sec. 11 of this Act for the limited
20 purpose described in (b) of this section. Members serving on the Alaska Workers'
21 Compensation Board on the day before the effective date of sec. 11 of this Act continue to
22 serve as members of that board for the 45 days after the effective date of sec. 11 of this Act.
23 Appointments may not be made to that board on or after the effective date of sec. 11 of this
24 Act.

25 (b) A case heard by the board before the effective date of sec. 11 of this Act and
26 awaiting a decision by the board on the day before the effective date of sec. 11 of this Act
27 shall be decided by the board, and a decision or order shall be issued, not later than the 45th
28 day after the effective date of sec. 11 of this Act, under the applicable statutes and regulations
29 in effect on the day before the effective date of sec. 11 of this Act.

30 (c) In this section, "board" means the Alaska Workers' Compensation Board
31 established under AS 23.30.005 as that section existed on the day before the effective date of

sec. 11 of this Act.

2 * Sec. 116. The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 TRANSITION: INITIAL TERMS OF MEMBERS OF WORKERS'
5 COMPENSATION APPEALS COMMISSION. (a) Notwithstanding AS 23.30.007(e),
6 enacted by sec. 12 of this Act, the terms of the initially appointed representative members of
7 the Workers' Compensation Appeals Commission, established by AS 23.30.007 enacted by
8 sec. 12 of this Act, shall be set by the governor to achieve staggered terms in the manner
9 provided in AS 39.05.055.

10 * Sec. 117. The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 TRANSITION: STAFF. (a) In order to ensure the smooth transfer of functions in the
13 shortest possible time, for a period of six months after the effective date of this section, the
14 director may, with the approval of the commissioner of labor and workforce development and
15 the chair of the commission, temporarily assign division employees to the commission and the
16 commission may reimburse the division for the temporarily assigned employees. Division
17 employees temporarily assigned to the commission shall continue in the same position and
18 rate of pay for the duration of the temporary assignment as the employees held at the division.

19 (c) In this section,

20 (1) "commission" means the Workers' Compensation Appeals Commission
21 established by AS 23.30.007, enacted by sec. 12 of this Act;

22 (2) "director" means the director of the division of workers' compensation in
23 the Department of Labor and Workforce Development;

24 (3) "division" means the division of workers' compensation in the Department
25 of Labor and Workforce Development.

26 * Sec. 118. The uncodified law of the State of Alaska is amended by adding a new section
27 to read:

28 TRANSITIONAL PROVISIONS. (a) Litigation, investigations, and other
29 proceedings pending under a law amended or repealed by this Act, or in connection with
30 functions transferred by this Act, continue in effect and may be continued and completed,
31 notwithstanding a transfer or amendment or repeal provided for in this Act.

1 (b) Certificates, decisions, and orders issued under authority of a law amended or
 2 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or
 3 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and
 4 obligations created by or under a law amended or repealed by this Act, and in effect on the
 5 day before the effective date of this section, remain in effect notwithstanding this Act's taking
 6 effect. Records, equipment, appropriations, and other property of agencies of the state whose
 7 functions are transferred under this Act shall be transferred to implement the provisions of
 8 this Act.

9 (c) Regulations adopted under AS 23.30 and in effect on the day before the effective
 10 date of this section continue in effect, and may be applied by the Alaska Workers'
 11 Compensation Board, during the 45 days after the effective date of sec. 11 of this Act.

12 * **Sec. 119.** The uncodified law of the State of Alaska is amended by adding a new section
 13 to read:

14 **TRANSITION: REGULATIONS.** (a) The Department of Labor and Workforce
 15 Development and the director of insurance in the Department of Commerce, Community, and
 16 Economic Development each may proceed to adopt regulations necessary to implement their
 17 respective provisions of this Act. The regulations take effect under AS 44.62 (Administrative
 18 Procedure Act), but not before the effective date of the statutory changes.

19 (b) In order to provide for the procedures and other administrative matters necessary
 20 to ensure the on-going implementation of the state's workers' compensation laws to meet the
 21 urgent needs of injured workers, and thus ensure the preservation of the public peace, health,
 22 safety, or general welfare, the Workers' Compensation Appeals Commission established by
 23 AS 23.30.007, enacted by sec. 12 of this Act, may adopt under AS 23.30.008, enacted by
 24 sec. 12 of this Act, as emergency regulations, the regulations necessary to implement the
 25 changes made by this Act.

26 * **Sec. 120.** The uncodified law of the State of Alaska is amended by adding a new section
 27 to read:

28 **CONDITIONAL EFFECT.** Sections 2, 8 - 86, 88 - 110, 112, 115 - 118, and 119(b) of
 29 this Act take effect only if HCS CSSB 203(FIN), passed by the Twenty-Third Alaska State
 30 Legislature, is enacted into law.

31 * **Sec. 121.** Section 119(a) of this Act takes effect immediately under AS 01.10.070(c).

2 * Sec. 122. Sections 1, 3 - 7, 87, 111, 113, and 114 of this Act take effect September 1,
2004.

3 * Sec. 123. If they take effect under sec. 120 of this Act, secs. 2, 8 - 86, 88 - 110, 112, 115 -
4 118, and 119(b) of this Act take effect July 1, 2005.

FISCAL

NOTE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: 04-0172-ACS-AC-6-18-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Workers' Compensation BRU Alaska Court System
Component Appellate Courts
Sponsor Governor
Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 186.1 | 186.1 | 186.1 | 186.1 | 186.1 | 186.1 |
| Travel | | | | | | |
| Contractual | 2.4 | 2.4 | 2.4 | 2.4 | 2.4 | 2.4 |
| Supplies | | | | | | |
| Equipment | 10.3 | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 198.8 | 188.5 | 188.5 | 188.5 | 188.5 | 188.5 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 198.8 | 188.5 | 188.5 | 188.5 | 188.5 | 188.5 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type—Do not abbreviate) | | | | | | |
| TOTAL | 198.8 | 188.5 | 188.5 | 188.5 | 188.5 | 188.5 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Work draft 04-0172 makes several changes to the way the Department of Labor and Workforce Development (the agency) and the Alaska Court System resolve workers' compensation disputes and appeals. Most important for purposes of the court's fiscal note is that appeals from the newly-created Workers' Compensation Appeals Commission (commission) will bypass the superior court and go directly to the supreme court. The court system does not believe that the creation of the new commission will result in a decrease in the number of workers' compensation cases that are appealed to the court system each year. However, bypassing the superior court will lead to a significant increase in the number of these appeals that go to the supreme court. This is because the superior court resolves about 75% of the workers' compensation cases appealed to the court system.

Prepared by: Doug Wooliver Administrative Attorney Phone 907-264-8265
Division: Alaska Court System Date/Time 6/18/04 9:40 AM
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 06/18/04
Agency: Alaska Court System

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. 04-0172

ANALYSIS CONTINUATION

Of the yearly average of 36 appeals filed with the superior court, only 9 (25%) are further appealed to the supreme court. Because the bill bypasses the superior court the supreme court anticipates that it will see all 36 cases.

Although the removal of these cases from the superior court will ease the workload of that court, the reduction is only slightly more than an average of one case a year per judge. Although this will allow judges some additional time to focus on other cases, it is not a significant enough reduction to produce a cost savings. However, an additional 27 cases a year for the supreme court would represent a greater than 10% increase in its civil caseload.

In order to mitigate the impact of these additional cases the court will hire a central staff attorney with expertise in workers' compensation law to research the record and the legal issues associated with each of the workers' compensation cases. This assistance should reduce the time required to resolve these cases and lessen the impact they will have on other matters before the court.

Additionally, this note reflects the costs of an administrative assistant to assist the attorney and an additional clerical position to handle the increased paper work and to interact with the agency in the preparation of the records on appeal.

This note conservatively assumes that the number of cases appealed to the court system will not grow above the current average of 36 cases a year. Should that average increase the court system may be back before the legislature with a request for additional funding.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SS-DCED-INS-06-16-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Workers Compensation/Insurance RDU Insurance (116)
Component Insurance Operations
Sponsor Rules
Requester By Request of the Governor Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact on the operations of the department.

Prepared by: Linda S. Hall, Director Phone 907.269.7900
Division Insurance Date/Time 6/15/04 2:19 PM
Approved by: Edgar Blatchford, Commissioner Date 6/15/2004
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act reforming Workers' Compensation adjudication RDU Risk Management
 Component Risk Management
 Sponsor Rules
 Requester By request of the Governor Component No. 71

Expenditures/Revenues (Thousands of Dollars)

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

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

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: *(Attach a separate page if necessary)*
 Significant reform to the adjudication process for workers' compensation claims is proposed in this comprehensive legislation. In time, these streamlining measures are projected to reduce expenses presently incurred in resolving disputes in determining claim and benefit obligations. As an authorized self-insured employer, the state will experience these savings in its self-insurance program administered by Risk Management in future years.

Risk Management's workers' compensation premium assessments to state agencies will reflect the reductions actually realized as premium charges are developed from actual claims expense incurred.

Prepared by: J. Brad Thompson, Director Phone 465-5723
 Division: Director Date/Time 6/21/04 3:23 PM
 Approved by: Ray Matiasowski, Commissioner Date 6/21/2004
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act ... establishing a Workers' Compensation Appeals Commission BRU Centralized Administrative Services
 Component Office of Administrative Hearings
 Sponsor Rules Committee
 Requester Governor Component No. 2771

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 0.0 | 681.1 | 681.1 | 681.1 | 681.1 | 681.1 |
| Travel | 0.0 | 8.4 | 8.4 | 8.4 | 8.4 | 8.4 |
| Contractual | 0.0 | 98.6 | 78.6 | 78.6 | 78.6 | 78.6 |
| Supplies | 0.0 | 38.4 | 2.8 | 2.8 | 2.8 | 2.8 |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 826.5 | 770.9 | 770.9 | 770.9 | 770.9 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1007 I/A Receipts | 0.0 | 826.5 | 770.9 | 770.9 | 770.9 | 770.9 |
| TOTAL | 0.0 | 826.5 | 770.9 | 770.9 | 770.9 | 770.9 |

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|---|---|---|---|---|
| Full-time | | 8 | 8 | 8 | 8 | 8 |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This legislation transfers a number of functions from the Division of Workers' Compensation and the former Workers' Compensation Board to the new Commission (all within the Department of Labor and Workforce Development) and the Office of Administrative Hearings (in the Department of Administration). The fiscal note displays the net change in costs within the Department of Administration. Changes include:

Personal Services:

The costs of six (6) partially exempt administrative law judge positions. Costs are based upon ranges and advanced steps for administrative law judges in order to cover the basic administrative law judge qualifications as well as the level of workers' compensation experience mandated by the bill.

Prepared by: Eric Swanson, Director Phone 465-5655
 Division Administrative Services Date/Time 6/21/04 3:17 PM
 Approved by: Ray Maltashowski, Commissioner Date 6/21/2004
 Agency Administration

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. _____

ANALYSIS CONTINUATION

Additionally, two (2) Administrative Clerk III position are created to provide clerical support for the administrative law judges.

Travel:

Planned travel includes 6 trips to Juneau for administrative law judges.

Contractual:

Includes annual recurring leased space cost and the estimated first year build out costs for adequate space to conduct hearings and confidential work. Other costs include estimated annual phone and equipment charges and administrative overhead.

Supplies:

Includes the cost of computer purchases, office furniture, and other one time costs necessary to establish the office and annual consumable supply costs.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: _____
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: An Act...establishing a Workers' Compensation Appeals Commission RDU: Work Comp Appeals Comm (new)
Sponsor: Rules Committee Component: Workers' Compensation
Requester: Governor Component Number: new#
Appeals Commission (new)

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 0.0 | (553.3) | (553.3) | (553.3) | (553.3) | (553.3) |
| Travel | 0.0 | 28.0 | 28.0 | 28.0 | 28.0 | 28.0 |
| Contractual | 0.0 | 918.5 | 810.4 | 810.4 | 810.4 | 810.4 |
| Supplies | 0.0 | 10.4 | 10.4 | 10.4 | 10.4 | 10.4 |
| Equipment | 0.0 | 11.6 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 415.2 | 295.5 | 295.5 | 295.5 | 295.5 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------------------|------------|-------------|-------------|-------------|-------------|-------------|
| CHANGE IN REVENUES (1157) | 0.0 | 18.0 | 18.0 | 18.0 | 18.0 | 18.0 |
|------------------------------------|------------|-------------|-------------|-------------|-------------|-------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|-----------------------------|------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1157 Workers Safety Account | | 415.2 | 295.5 | 295.5 | 295.5 | 295.5 |
| TOTAL | 0.0 | 415.2 | 295.5 | 295.5 | 295.5 | 295.5 |

Estimate of any current year (FY2004) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|----|----|----|----|----|
| Full-time | | -5 | -5 | -5 | -5 | -5 |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Paul Lisankle, Director Phone 465-2790
Division: Workers' Compensation Division Date/Time 6/21/04 3:39 PM
Approved by: Greg O'Claray, Commissioner Date 6/21/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: _____

ANALYSIS: (continued)

This legislation establishes a Workers' Compensation Appeals Commission and replaces the Alaska Workers' Compensation Board effective July 1, 2005. It also transfers a number of functions from the Division of Workers' Compensation and the former Workers' Compensation Board to the new Commission (all within the Department of Labor and Workforce Development) and the Office of Administrative Hearings (in the Department of Administration). The fiscal note displays the net change in costs within the Department of Labor and Workforce Development associated with these changes. Changes include:

| | Existing WC Division | New WC Appeals | Net Change |
|-------------------|-------------------------|-------------------|---------------|
| Personal Services | (809.2) | 255.9 | (553.3) |
| Travel | (36.8) | 64.8 | 28.0 |
| Contractual | (70.7) | 989.2 | 918.5 |
| Supplies | (8.6) | 19.0 | 10.4 |
| Equipment | | 11.6 | 11.6 |
| Total | (925.3) | 1,340.5 | 415.2 |

New Workers' Compensation Appeals Commission budget component:

Operating Expenditures:

Personal Services: The Appeals Commission is comprised of 4 new positions and 4 volunteer members:

| | <u>Range</u> |
|---|--------------|
| Commission, Chair | 27 A |
| Commission, Member | - |
| Commission, Member | - |
| Commission, Member | - |
| Commission, Member | - |
| Admin. Services Mgr./ Commission Clerk | 19 A |
| Admin. Clerk III | 10 A/B |
| Admin. Clerk II | 8 A/B |

The personal services costs of \$255.9 are associated with the above positions. An administrative manager position is included to assist the chair in fulfilling the diverse "court clerk," budget/fiscal, and organizational administration functions assigned under the bill.

Travel: Appeals Commission travel costs of \$64.8 have been minimized by basing the Commission and holding all its appeals hearings in Anchorage. Commission administrative staff are also located in Anchorage. Planned travel includes 3 trips to Juneau for the Commission chair and Commission Clerk/Administrative Manager. Commission travel also includes both actual travel costs associated with the four citizen Commission members attending appeals proceedings and a \$200/day stipend payable for each day spent on Commission business.

Contractual: Under the bill the Commission will request Administrative Law Judges employed by the Office of Administrative Hearings to conduct the initial hearings previously done by Workers' Compensation Board hearing panels and Workers' Compensation Hearing Officers. The Commission is expected to incur \$826.5 in contractual costs for Administrative Law Judge services. Those costs are based upon ranges and advanced steps for Administrative Law Judges in order to cover the basic Administrative Law Judge qualifications as well as the level of workers' compensation experience mandated by the bill.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: _____

ANALYSIS: (continued)

A reduction in the total numbers of hearing officers (currently eight authorized Workers' Compensation Hearing Officers versus expected six Administrative Law Judges) is based upon a reasonably expected increase in productivity. That increase would result from 1) the increased experience and qualifications justifying Range 24 and advanced step pay and 2) a lessening of turnover associated with upgrading the positions. Also, a reduction is supported by one substantive change in the bill that removes the need for review of Compromise & Release agreements involving injured workers represented by an attorney licensed to practice in the State of Alaska.

The bill also requires that Appeals Commission offices be "physically separate" from those of the Workers' Compensation Division. The Commission's contractual budget includes one-time costs of achieving the mandated physical separation of \$52.5 for its Anchorage offices. Those costs include demolition, construction, staff relocation, and voice and data line wiring.

Supplies and Equipment: A budget of \$10.4 for general office supplies and \$11.6 for equipment is necessary to operate the Appeals Commission.

New Fees/Fines:

The bill authorizes the Appeals Commission to charge a \$100.00 fee for the filing of an appeal. This is expected to amount to a yearly total of approximately \$6,000.00 payable to the Workers' Safety and Compensation Administration Account.

The bill also allows the Appeals Commission to order the parties to an appeal to pay for its costs of preparing the appeal file. At \$200.00 per appeal that could be expected to total \$12,000.00 per year payable to the Workers' Safety Account.

The bill also authorizes the Division of Workers' Compensation to seek the imposition of civil penalties against employers that violate the statutory requirement to insure or properly self-insure for their employees' workers' compensation benefits. Appeals Commission hearing examiners would be authorized to award penalties up to a maximum of \$100.00 per day per employee. Based upon FY 2003 statistics penalties totaling \$217,900.00 could have been assessed for each day the 189 identified, uninsured employers failed to insure the workers' compensation benefits of their 2,179 employees. It is unclear whether these penalties under AS 23.30.080 were intended to be considered as penalties under "this section" (AS 23.05.067). Due to the speculative nature of these penalties, and the uncertainty of their collectability and qualification for inclusion, no adjustment to the Workers' Safety and Compensation Administration Account is currently included.

Existing Workers' Compensation budget component:

Operating Expenditures:

Personal Services: The Workers' Compensation Division and the Workers' Compensation Board would delete the following positions:

| | Range |
|--|--------|
| Chief of Adjudication | 23 B |
| Workers' Compensation Hearing Officer | 21 M |
| Workers' Compensation Hearing Officer | 21 K |
| Workers' Compensation Hearing Officer | 21 F |
| Workers' Compensation Hearing Officer | 21 B/C |
| Workers' Compensation Hearing Officer | 21 B/C |
| Workers' Compensation Hearing Officer | 21 B/C |
| Workers' Compensation Hearing Officer | 21 A |
| Workers' Compensation Officer II | 18 K |
| 14 Workers' Compensation Board Members --- | |

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: _____

ANALYSIS: (continued)

Many responsibilities previously lodged in the AWCB have been reassigned to the Division Director. While some will be absorbed by the remaining Workers' Compensation Officers, others require more advanced legal and administrative hearing skills. Reflecting the increased responsibilities the bill places upon the Division Director, and the loss of the Chief of Adjudication, the Division will retain one Workers' Compensation Hearing Officer or equivalent (Range 21) position.

This position will allow the Director to delegate some of the duties for making investigations and determinations to the incumbent.

The bill shifts to the Office of Administrative Hearings Administrative Law Judges the requirement to hold any prehearing conferences needed to plan hearings and to resolve discovery disputes. In Anchorage, where there are currently three WCO II's and two technicians, this reduction and shifting other work will require one less Workers' Compensation Officer II.

Travel: Travel costs are reduced by (\$36.8) to reflect transfer of travel and Board member stipends (currently \$50.00 per day) to the Appeals Commission.

Contractual and Supplies: Reflects reductions in fixed costs, space lease in Anchorage and Fairbanks, and other contractual costs totaling (\$70.7). And also reflects transferring (\$8.6) for supplies to the Appeals Commission.

Funding

Funding for the net cost increase resulting from this legislation will be from the Workers' Safety and Compensation Administration Account and reserves. This assumes passage of legislation to reverse the sweep of the reserve balance. Failure to reverse the sweep may force a reliance on General Funds for some of these costs as most recurring WSCA Account revenue is accounted for in the Governor's FY 2005 budget.

SECTIONAL

Proposed Workers' Compensation Reform Bill
Section by Section Analysis

This legislation substantially reforms the workers' compensation system. This year, workers compensation premiums increased by an average of 21% for all types of employers. Premiums for 17 types of employers, including child care and hospital non-professionals went up over 50%. This legislation addresses claim costs by bringing consistency and speed to contested cases. This should benefit both employers and employees. The legislation does not change benefits paid to injured Alaskan workers.

This legislation also makes changes to the agency that protect workers compensation recipients from nonpayment by insolvent insurers, and protects employers who purchased insurance from liability in case of insurer nonpayment.

The present system of administering the workers' compensation act, AS 23.30, is replaced with a new system that divides adjudication of claims and petitions arising under the act from the executive functions of administration, investigation, and enforcement. The Alaska Workers' Compensation Board, (board) composed of seven panels of volunteer members and the Commissioner of Labor and Workforce Development, is removed. Its administration, investigation, and enforcement powers are transferred to a director of a division of worker's compensation. The board's claim hearing functions are transferred to independent administrative law judges (ALJs) in the office of administrative appeals in the Department of Administration. This conforms the workers' compensation system to that recently adopted by the Twenty-Third Alaska State Legislature in HCS CSSB 203(FIN).

This legislation also changes the process of adjudication to encourage more consistency in legal interpretation and increase the speed and accessibility of appellate review. Cases are heard first by ALJs, with expertise in workers' compensation. The Workers' Compensation Appeals Commission provides administrative review in place of the Superior Court. The Commission, composed of a chair with legal experience in workers' compensation, and four citizen members evenly divided between representatives of employers and employees, acts as an administrative appellate body with broad powers of review. The commission's decisions will be published and are binding. The commission's decisions may be appealed directly to the Supreme Court, without review by the Superior Court.

This legislation gives the director strong new enforcement tools and direct power to administer, investigate, and enforce obligations created by the workers' compensation laws. These include new civil penalties against uninsured employers, subpoena powers, the power to examine employer books, the power investigate fraud, the

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

power to intervene in disputed cases and the power to file an appeal. The director will be able to engage in informal dispute resolution outside the adjudication system, and, in aid of that function, has the power to order independent medical examinations to resolve differences between medical providers.

In addition to fundamental structural changes, this legislation contains other systemic improvements. Provisions are made for summary disposition of cases, such as where there is no jurisdiction or where there are no disputes of material fact. Compensation paid to non-residents is capped at the rate that would be paid if the recipient resided in Alaska. Provisions are included that would allow stop work orders to be issued and civil penalties to be assessed against uninsured employers on short notice where the employment contains hazards that could reasonably be expected to immediately cause an employee death or serious physical harm. Finally, adjusters and risk managers are required to report fraud and persons reporting fraud are granted immunity for good faith reports.

Because the workers' compensation act is lengthy, and the board is responsible for or involved in almost all aspects of the current workers' compensation system, this legislation contains a large number of what are essentially conforming amendments, replacing the board with the director, an ALJ, or the commission, as the function requires.

Provisions giving effect to the workers' compensation system reorganization may be found in Sections 11, 12, 59, 60, 63-66, 108-110 and 112. Provisions related to new enforcement tools may be found at Sections 39, 40, 42, 84, 85, 98 and 99. Other changes to current workers' compensation procedures (other than reassignment of function) may be found in Sections 14, 39-40, 42, and 59. Provisions important to insurance restructuring, the Assigned Risk Pool, and Alaska Insurance Guaranty Association are found in Sections 1-7 and 111. The cap on benefits paid to out of state residents is in Section 87.

Section 1 is a declaration of legislative intent to reform the workers' compensation insurance system to ensure payment of benefits when an insurer becomes insolvent, expand representation of workers compensation on the Alaska Insurance Guaranty Association, and reduce the costs of workers' compensation premiums to employers. This declaration of intent applies only to the first seven sections of this act.

Section 2 amends AS 08.18.101(1) to remove a reference to the board and transfers the authority to issue certificates of self-insurance from the board to the director of the division of workers' compensation.

Section 3 creates a new statutory provision, AS 21.09.090(e) which provides that insurers that transact workers' compensation insurance in this state must maintain in the state a special deposit of cash or securities for the protection of persons in Alaska covered under workers' compensation insurance. The insurer must maintain this special deposit as long as there is any outstanding liability for workers' compensation. If an insurer is unable to pay workers' compensation because it is an insolvent insurer, the deposit will be immediately available to the Alaska Insurance Guaranty Association for continuation of claims benefits to eligible workers. This revision provides additional financial protection for Alaskan workers in the event that workers' compensation insurer becomes insolvent and unable to pay claims.

Section 4 creates a new statutory provision, AS 21.09.095 which provides that insurers who transact workers' compensation insurance in this state must maintain in the state a special deposit equal to the insurer's assumed workers' compensation assigned risk pool loss reserves. This provision requires insurers to collateralize their quota share of loss reserves from the Assigned Risk Pool. The director of insurance shall make funds from the pool available to fund an insurer's obligations to the pool in the event that the insurer becomes insolvent or otherwise fails to satisfy its workers' compensation assigned risk pool obligations.

Section 5 amends AS 21.24.130(d) to make a technical change regarding the special deposit described in Section 3 above, indicating it is not subject to an order transferring it to a receiver.

Section 6 creates a new statutory provision, AS 21.39.155(d) requiring the Assigned Risk Pool to operate on a self-funding basis on a three-year moving average basis.

Section 7 repeals and reenacts AS 21.80.050 relating to the board of governors of the Alaska Insurance Guaranty Association. The composition of the board of governors of the Alaska Insurance Guaranty Association is modified by this provision to include representatives from management, labor and a licensed insurance provider, agent, broker or manager. This change will expand the expertise of the board of governors to address workers' compensation issues. Section 107 below provides for the transition of the terms of the members of the current board of governors.

Section 8 amends AS 23.30.05.067(a)(1)(B) to remove a reference to the board and to replace the board by the director of the division of workers compensation as the recipient of reports. This amendment conforms to the amendment to AS 23.30.155(m) at Section 82 below.

Section 9 amends AS 23.05.067(e) to include fees received by the commission in those fees deposited in the workers' safety and compensation account. It also adds new language to permit the legislature to appropriate funds to the commission

and for administration and adjudication of claims and petition arising under AS 23.30.

Section 10 codifies a statement of legislative intent relating to the workers' compensation system. This declaration draws upon previous uncodified statements of legislative intent and adds language regarding the fair, careful and rational examination of evidence.

Section 11 repeals and reenacts AS 23.30.005. It creates, within the Department of Labor and Workforce Development, a Division of Workers' Compensation and a director of the Division, appointed by the commissioner. The director must have three years experience in the field of workers' compensation. The section gives the director general powers and duties regarding administration, regulation, investigation and enforcement of the workers' compensation laws and system. The department has the power to adopt regulations proposed by the director, instead of the board, regarding medical care and rehabilitation providers. This provision transfers certain administrative duties previously assigned to the board to the director, including the obligation to notify the state, or a political subdivision of the state, if it revokes a contractor's self-insurance certificate.

Section 12 adds three new statutory provisions. The first, AS 23.30.007, establishes a new workers' compensation appeals commission within the Department of Labor and Workforce Development, with jurisdiction to hear all administrative appeals arising under the workers' compensation act. The commission consists of five members, appointed for staggered terms of five years, appointed by the governor and confirmed by a majority of the legislature. The governor may make appointments to fill vacancies in the same manner for the completion of the vacant term. A majority of the members is a quorum. Four members are citizen members, compensated for their service at \$200/day. The citizen members are equally drawn from those who represent the employees and those who represent the employers. All members must be residents of Alaska for five years preceding appointment, no convicted of a felony, and not convicted of a misdemeanor related to workers' compensation. In addition to these qualifications, the Chair must be licensed to practice law in Alaska and have five years experience of workers' compensation law. The chair is a full time exempt service employee paid at Range 27. All members shall take the oath of office. Reasons for removal by the Governor of a commission member are set out, as well as an opportunity to respond to the Governor's charges. Reasons for removal include: misconduct in office, ethical violations, conviction of a felony, conviction of a misdemeanor regarding workers' compensation, inability to serve or handle the caseload, incompetence, etc. A panel of two citizen members (one employee representative and one employer representative) and the chair will hear

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

appeals. To conduct other business, the chair and equal numbers of employee and employer representatives must be present. Reasons for disqualification for conflicts are set out in detail, as well as a general disqualification if the member is unable to fair, impartial, and unbiased toward an appeal participant. If the chair is disqualified, or unavailable for more than ten days, the commissioner of labor may appoint a chair *pro tem*. The commission must be housed separately from the division to mark the separation of the judicial process in the workers' compensation system from the administrative and enforcement process.

Section 12 also, in the new statutory provision AS 23.30.008, sets out the powers and duties of the new workers' compensation appeals commission and, in AS 23.30.009, the powers and duties of the chair of the commission. The commission replaces the superior court as the body hearing administrative appeals in the workers' compensation system, and its decisions will be binding and have the force of legal precedence. The commission's decisions are final and conclusive, except that the Supreme Court may review the commission's decisions. The commission indexes and publicizes its formal decisions. The commission has the power to adopt regulations drafted and proposed by the chair, as well as rules of procedure for hearings and appeals, to adopt an official seal, and generally to carry out the powers and duties expressly granted or necessarily implied by the Act. The commission shall award attorney fees to successful appellants, but, as currently is the rule, attorney fees may not be awarded against an employee unless the appeal was frivolous, unreasonable or taken in bad faith.

The chair of the commission exercises general supervision of the office of the commission. The chair has the power to employ and supervise staff, assign work, and members to hearing panels, establish a time management system, manage the calendar of hearings and prepare the annual budget of the commission. The chair must prepare and make public an annual report of the commission's performance. The chair is barred from other employment and may not hold any other public or tribal office, nor hold office or position in a political party.

Section 13 amends AS 23.30.011(c), which relates to extraterritorial coverage of workers injured outside Alaska while working for Alaska employers or while under contract formed in Alaska. It removes references to the board and reassigns powers and duties to the division. Certificates of insurance issued by other states must be filed in the division instead of the board. The director replaces the board as the appointed out of state employer's agent for service of process. The director, instead of the board, shall serve notice of claims. Evidence of self-insurance must satisfy the director, instead of the board; and, the director

may require the out of state employer to file satisfactory security to cover the amount of a claim.

Section 14 amends AS 23.30.012 relating to settlement of claims. It divides the current statute into two subsections. It removes references to the board and transfers from the board to the director the power to approve the form of settlements. It requires that settlements be filed in the division. A new provision requires that in cases where workers are not represented by an attorney licensed to practice in this state, or where a beneficiary is a minor, the settlement must be reviewed by an administrative law judge (ALJ) and may be approved when it is in the best interests of the worker or beneficiary. The ALJ may hold a hearing and require an impartial medical examination. This is a change from current law, which requires all workers, regardless of representation or circumstances, to obtain board permission and approval to settle their claims.

Section 15 amends AS 23.30.015(b), which relates to assignments of rights to recover damages against third parties. It removes references to the board, changes the place to file compensation orders from the board to the commission, and conforms the statute language to modern use.

Section 16 amends AS 23.30.015(e). It removes references to the board and transfers the power to determine the attorney fee offset in third party settlements from the board to an administrative law judge. It modernizes the statute language and assigns the director the duty to prepare a schedule of present values for determining third-party settlement offsets.

Section 17 amends AS 23.30.015(j) to remove references to the board, to change the recipient of notice of a third party action for damages from the board to the division, and to require additional notice to the commission if a hearing has been requested in the workers' compensation case.

Section 18 amends AS 23.30.025(a) to remove references to the board and to change the place where insurance company policy forms are filed from the board to the division.

Section 19 amends AS 23.30.030(5) relating to effective dates of policy termination by cancellation. It removes references to the board and reassigns the receipt of notice of termination from the board to the division.

Section 20 amends AS 23.30.030(6) relating to the power to make orders or awards against employers, insurers, or both. It removes references to the board and reassigns making the order or award from the board to an administrative law judge.

Section 21 amends AS 23.30.040(a) relating to administration of the second injury fund, which is reassigned from the commissioner to the director. Also, it removes

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

references to the board and reassigns the power to order payments from the fund from the board to the administrative law judge.

Section 22 amends AS 23.30.040(d) relating to refund of a payment made into the second injury fund. It removes references to the board and reassigns the power to direct a refund from the board to the director.

Section 23 amends AS 23.30.041(a) to remove references to the board and reassign employment of the reemployment benefits administrator and authorization for his staff from the board to the director.

Section 24 amends AS 23.30.041(b) to remove references to the board and reassign from the board to the department the adoption of regulations implementing the reemployment benefits section and setting standards for rehabilitation specialists.

Section 25 amends AS 23.30.041(d) to remove references to the board and reassign from the board to an administrative law judge the power to review the decisions of the reemployment benefits administrator.

Section 26 amends AS 23.30.041(h) to remove references to the board and to include a physician appointed by the director, instead of by the board, as a possible source of a prediction of medical stability for a reemployment plan.

Section 27 amends AS 23.30.041(j) to modernize statute language, remove references to the board, and replace board with an administrative law judge as the reviewer of reemployment benefits administrator decisions on rehabilitation plans.

Section 28 amends AS 23.30.041(o) to remove reference to the board and replace the board with an administrative law judge as the reviewer of decisions made by the reemployment benefits administrator on non-cooperation by an employee.

Section 29 amends AS 23.30.041(p) to remove references to the board. It replaces the board with the director as the holder of a public meeting to select a proposed date on which a new edition of the US Department of Labor's Dictionary of Occupational Titles shall be implemented. The department replaces the board as the agency selecting the date proposed and the director replaces the board as the person giving notice of the selected date.

Section 30 amends AS 23.30.041(q) to remove references to the board and replace the board with the division as the agency receiving filed waivers of rehabilitation benefits and serving notices of the waivers. The amendment also replaces the board with the director as the agency proscribing or approving the form of such waivers.

Section 31 amends AS 23.30.045(d) relating to the requirement that awardees of contracts from the state or political subdivisions of the state have workers' compensation insurance. The amendment removes references to the board

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

and changes the agency that furnishes proof of insurance from the board to the division, and the agency that grants certificates of self-insurance from the board to the director, conforming to Section 13 above.

Section 32 amends AS 23.30.045(e) relating to the obligations of contracting agencies of the state or political subdivision of the state if a contractor has lost coverage. The amendment removes references to the board and replaces the board with the director as the agency notifying the state or political subdivision of the revocation of self-insurance, conforming to Section 13 above.

Section 33 amends AS 23.30.065 to remove references to the board and to replace the board with the division as the agency with the power to require and inspect employer records of injury.

Section 34 amends AS 23.30.070(a) to remove references to the board and to replace the board with the division as the agency where employer reports of injury to or death of an employee are filed and which may require certain information in reports of injury or death.

Section 35 amends AS 23.30.070(b) to modernize language, to remove references to the board, to replace the board with the division as the agency where supplemental reports of the employee's condition are filed, and to replace the board with the director as the agency with power to require such reports.

Section 36 amends AS 23.30.070(d) to remove references to the board and to provide that compliance with the reporting requirements of the section are met by mailing to the division instead of the board.

Section 37 amends AS 23.30.070(f) to remove references to the board, to replace the board with an administrative law judge, who after a hearing, may require an employer to pay the penalties for failure or refusal to report as provided by this section.

Section 38 amends AS 23.30.075 to remove references to the board, to replace the board with the division as the agency which must be provided satisfactory proof of financial ability to pay compensation and as the source of the copy of the certificate of self-insurance. The director replaces the board as the agency that may exercise discretion to require acceptable security, indemnity or bond from an employer to secure payment of compensation liabilities.

Section 39 amends AS 23.30.080(d) regarding proceedings to obtain stop work orders against uninsured employers. The amendment provides that the director may petition for a stop work order, replacing the general grant of authority of the board to issue a stop work order. The hearing must be held within 20 days after service of the director's petition. The hearing to be held on short notice if the director presents evidence that a hazard in the employment constitutes a danger that could reasonably be expected to cause an employee of the

uninsured employer death or serious physical harm. The administrative law judge must issue a decision within seven days of the hearing. Finally, the amendment removes references to the board and transfers the power to assess a civil penalty from the board to an administrative law judge.

Section 40 creates two new statutory provisions relating to penalties against uninsured employers. AS 23.30.080(e) authorizes the director to petition an administrative law judge to order a civil penalty of \$100 for each uninsured employee for each day the employee is employed without coverage. The penalty is payable to the state. As in AS 23.30.080(d) relating to stop work orders, failure to file evidence of insurance with the division would create a rebuttable presumption of failure to insure. In addition, as in 23.30.080(d), time periods for proceedings are shortened. The hearing must be held within 20 days of service of the director's petition on the employer and a civil penalty hearing may be held on short notice if the director presents evidence that a hazard in the employment constitutes a danger that could reasonably be expected to cause an employee of the uninsured employer death or serious physical harm. A decision must be issued within seven days of the hearing. AS 23.30.080(f) authorizes the director to declare an employer in default if the employer fails to pay a civil penalty under subsection 080(d) (failing to comply with a stop work order, \$1000 per day) or subsection 080(f) (failure to insure employee \$100 per employee per day) within seven days of the date ordered. Upon filing a certified copy of the penalty order and a declaration of default with the clerk of the superior court, the court shall enter judgment for default. The attorney general, as requested by the director, shall take appropriate action to collect on the default judgment, and a writ of execution may be issued on the judgment. The person against whom the judgment is issued may seek court review of the judgment as allowed by the Civil Rules.

Section 41 amends AS 23.30.085(a) relating to filing evidence of compliance with workers' compensation insurance requirements. The amendment removes references to the board, replaces the board with the division as the agency with which evidence is filed and which may provide copies of the certificate of self-insurance. The amendment also replaces the board with the director as the person who prescribes the form of evidence of insurance.

Section 42 amends AS 23.30.090 to remove reference to the board and substitute the director for the board as the agency that issues certificates of self-insurance. This section adds a provision for a hearing conducted by an administrative law judge before revocation of self-insurance certificates, within 20 days of service of the petition for revocation on the employer. The administrative law judge must issue a proposed decision within 14 days. The director may amend, adopt or reject the administrative law judge's proposed decision. This shortens the existing period for decisions in these cases.

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

- Section 43** amends AS 23.30.090 to add a new statutory provision, AS 23.30.090(b), that testimony in a self-insurance revocation hearing shall be recorded but not transcribed unless further review is initiated.
- Section 44** amends AS 23.30.095(a) to conform language to modern usage. It also removes references to the board and replaces the board with an administrative law judge as reviewer of employee claims for medical benefits beyond two years from the date of injury, and authority for continued care or treatment.
- Section 45** amends AS 23.30.095(c) relating to reports and claims for medical treatment by removing references to the board and reassigning its functions. This section replaces the board with the division as the agency that receives filed physician reports; replaces the board with the director as the agency that approves the form for reports; and, replaces board with an administrative law judge as the agency that decides to excuse failure to give notice and makes awards of medical benefits. This section also transfers authority to make regulations from the board to the director, who proposes regulations, and the department, which adopts the proposed regulations.
- Section 46** amends AS 23.30.095(d) to remove references to the board and transfer authority from the board to an administrative law judge to order suspension of payment of compensation during a period of unreasonable refusal to obtain medical treatment.
- Section 47** amends AS 23.30.095(e) relating to independent medical examinations. It removes references to the board and transfers from the board to an administrative law judge the authority to make orders for medical examinations, suspend or forfeit compensation during a period of refusal to attend an examination. The director is given authority to order autopsies in cases of death, in view of the necessary speed associated with such orders. It also modernizes the language of the statute and conforms it to current usage.
- Section 48** amends AS 23.30.095(f) relating to regulation of fees charged for medical treatment. The amendment removes references to the board. It transfers authority to regulate charges for medical treatment to the department and adopt, by regulation, fee schedules. It transfers to the director authority to determine usual, customary and reasonable fees in the community and propose fee schedules to the department for adoption.
- Section 49** amends AS 23.30.095(h) to remove references to the board and replaces the board with the division as the place pleadings and physician reports are filed. The amendment also modernizes language in the statute to current usage.
- Section 50** amends AS 23.30.095(j) to remove references to the board and to reassign from board to the director authority to appoint a medical services review committee or contract with organizations to assist and advise the director,

instead of the board, in matters respecting medical care under the workers' compensation act.

Section 51 amends AS 23.30.095(k) to remove references to the board and transfers authority to the director to require a second independent medical examination from a list maintained by the director. The report of the examination is sent to the division instead of the board.

Section 52 amends AS 23.30.100(a) to remove a reference to the board and substitute the division as the recipient of notice of an injury or death. The amendment also modernizes the statute language.

Section 53 amends AS 23.30.100(c) to remove reference to the board and substitute the division's office as the recipient of filed notices of injury or death.

Section 54 amends AS 23.30.100(d) to remove references to the board and to transfer authority to an administrative law judge to determine that an employer has not been prejudiced by failure to give notice or to excuse the failure to give notice. The amendment also modernizes the language of the statute.

Section 55 amends AS 23.30.105(a) to remove references to the board and transfers to an administrative law judge the authority to determine if an employee who fails to file a claim within the time allowed by the statute has full right to claim compensation, time limitations notwithstanding.

Section 56 amends AS 23.30.107 to remove references to the board and to replace the board with the division as the agency where a petition for protective order must be filed and where workers' compensation files are maintained. The amendment also replaces the board with the division, the commission and the office of administrative hearings as agencies that may release records as provided by the statute and replaces the board with the commission, the director or an administrative law judge as authorized to discuss records in a decision and order.

Section 57 amends AS 23.30.108(a) to remove a reference to the board and replace the board with the division as the agency where a petition is filed. The amendment also conforms language to correct usage. This section also amends AS 23.30.108(b) to remove references to the board and substitute the administrative law judge, assigned at the request of the office of the commission, for board as the agency scheduling prehearing conferences, and replacing the board's designee with an administrative law judge as the person conducting the prehearing conference. In addition, the division is required to notify the commission of petitions for protective orders. Finally, this section amends AS 23.30.108(c) to authorize an administrative law judge, instead of the board's designee, to direct parties to release or produce documents and make rulings on discovery matters. It creates a new provision for an expedited

review of an administrative law judge's discovery rulings by the commission and sets deadlines for response to a petition for review by the commission.

Section 58 amends AS 23.30.110 to remove references to the board throughout the statute and to transfer certain powers and duties to administrative law judges in the office of administrative hearings and the office of the commission. The amendment also adds petitions to the statute to regularize procedure for claims and petitions into a single process, and adds the phrase "opposing party" to include persons other than the employer who require service of a claim or petition. This section substitutes service by certified mail for registered mail. It provides that the office of the commission is the place to file an affidavit of readiness for hearing. An administrative law judge, instead of the board or board designee, is authorized to conduct pre-hearing conferences, plan discovery and other preliminary matters, and set a reasonable hearing date if a party opposes a hearing request. An administrative law judge, instead of the board, shall schedule unopposed hearing requests within 60 days, and give notice to the parties. This section transfers authority to prescribe controversion forms from the board to the director. This section also transfers authority to make decisions and grant continuances from the board to the administrative law judge. The word "parties" replaces "claimant and employer" as persons who may present evidence at a hearing. In addition to the authority to award benefits, the amendment adds authority to dismiss a claim, after an employee's death. Finally, the language of the statute is conformed to current usage.

Section 59 creates two new statutory provisions, AS 23.30.110(i) and (j), which authorize the dismissal of certain claims before a hearing on the merits and the grant of summary decisions in certain instances. Dismissal of claims, described in AS 23.30.110(i), may occur when the claim is for relief that cannot be granted under the workers' compensation act, there is a lack of jurisdiction over the subject of the claim or the person requesting dismissal, there is improper service of the claim, the claim has not been prosecuted or a hearing not requested within two years as required by the statute, or, the claim is barred by a statute of limitation. If defects in jurisdiction, service or the requested relief are cured within 60 days, the order of dismissal may be vacated. Grant of summary decision on petition, authorized in AS 23.30.110(j), is permitted at any time if an administrative law judge determines that all reasonable discovery has been made on the issues presented in the petition, and the record shows there is no genuine issue of material fact and the petitioner is entitled to a decision as a matter of law. The administrative law judge may file a compensation order in favor of the petitioner if the summary decision disposes of all issues in the claim regarding the petitioner. This provision establishes a means of obtaining final rulings on matters of law where the facts are not

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

disputed, without forcing parties to proceed together to a full hearing on the merits.

Section 60 creates two new statutory provisions, AS 23.30.112, relating to the additional qualifications and authority of administrative law judges beyond those in AS 44.64, created by HCS CSSB 203(FIN), and AS 23.30.113, relating to hearings before administrative law judges. This amendment provides that administrative law judges employed by the office of administrative hearings will hear claims and petitions. The amendment provides that administrative law judges must be licensed to practice law in Alaska and have three years of experience in workers' compensation or a similar field of practice. This amendment sets standards for performance of their duties. Authority previously granted to the board is transferred to administrative law judges: to issue subpoenas and request enforcement of their subpoenas by the superior court, require reports of treatment, and arrange hearings to preserve testimony in other states. The new provision AS 23.30.113 transfers to hearings by administrative law judges certain provisions regarding standards for hearings previously conducted by the board. A new provision makes specific which portions of the Alaska Administrative Procedure Act apply to hearings. New provisions set standards for impartiality, performance of duties and disqualification from a hearing, incorporating by reference AS 44.64.070. Another new provision prohibits *ex parte* communications with the administrative law judge. Finally, this amendment transfers from the board to the administrative law judge the requirement that the hearing be recorded and be public.

Section 61 amends AS 23.30.115 relating to witness fees and subpoenas to appear as a witness. This section removes references to proceedings before the board and substitutes hearings before an administrative law judge or the commission. This section substitutes the word "hearing" for "proceeding" because witnesses (as distinct from parties) are not required by subpoena to appear at other forms of proceedings before the commission or an administrative law judge. A new provision is added to allow the commission clerk to issue subpoenas for hearings, depositions, and production of records, and to direct the superior court to enforce the subpoenas at the request of the commission as provided in AS 44.62.590.

Section 62 amends AS 23.30.120(b) to remove a reference to the board and transfer to an administrative law judge the authority to excuse failure to give notice. This amendment conforms to Section 54 above. There is no change to the substance of AS 23.30.120, which contains the presumption that "a claim comes within the provisions" of the workers' compensation act.

Section 63 repeals and reenacts AS 23.30.122, relating to determinations of the credibility of witnesses. The former statute provided that the board had the

sole power to determine credibility of witnesses and that the board's findings concerning the weight of a witnesses testimony, including medical testimony and (unsworn) reports were conclusive. The amendment transfers to the administrative law judge only the sole power to determine the credibility of a witness who appears before the administrative law judge in hearing. Section 66 includes provisions transferring to the commission the authority to make conclusive findings concerning the weight of evidence. A new provision is added to require specific findings when credibility is disputed.

Section 64 creates a new statutory provision, AS 23.30.124, which clarifies the process and time for reconsideration of a compensation order (administrative law judge's decision) and limits the delay of finality of a compensation order by limiting the time for reconsideration. Reconsideration may be ordered upon the administrative law judge's own motion or on petition of a party filed within 15 days of mailing of the compensation order. The administrative law judge's power to order reconsideration expires 30 days after the compensation order. If the administrative law judge does not file an order of reconsideration within 30 days of the date the compensation order was mailed, any pending petition for reconsideration is denied. However, if an administrative law judge issues an order of reconsideration, then the compensation order which is being reconsidered is stayed until the decision on reconsideration is filed by the administrative law judge. The administrative law judge must file his or her decision on reconsideration within 30 days of when the order for reconsideration was filed. This amendment also provides that reconsideration is made on the record and any additional argument allowed by the administrative law judge.

Section 65 repeals and reenacts AS 23.30.125 relating to review of compensation orders. It replaces superior court review of board decisions with commission review of compensation orders (administrative law judge decisions). The amendment sets a date on which compensation orders are final unless review is undertaken. It makes explicit that the commission has the power to review administrative law judge decisions and orders, and that orders may not be suspended, reconsidered or set aside except through the commission process. This amendment also creates a provision for stays of orders pending appeal. It requires a party seeking a stay to produce evidence of irreparable damage. If a party seeks a stay of continuing periodic compensation payments, the party seeking the stay must demonstrate that the appeal is likely to be decided adversely to the compensation recipient. The commission may allow a hearing on the stay on three days notice to the parties and director.

Section 66 creates four new statutory provisions relating to commission review of director decisions, commission procedure on appeal, commission authority to review and judicial review of commission proceedings. The first, AS

23.30.126, establishes commission review of director decisions that affect a right, privilege, benefit or duty under the act. It describes the method of undertaking review and allows 30 days for a director decision to be appealed to the commission. This provision also establishes the same standard for obtaining a stay of appeal of a director decision as of a compensation order; the party seeking a stay must demonstrate irreparable damage.

The second new statute, AS 23.30.127, establishes the basic procedure for appeal to the commission. This provision allows the director to intervene in an appeal. If a party does not have legal representation and the order appealed concerns an unsettled question of law, the director may file an appeal to obtain a ruling. This provision sets a 30-day period for appeal of a compensation order or a director decision. It describes the documents that must be filed with the commission to initiate an appeal and a cross-appeal. It authorizes the commission to charge a fee up to \$100 for filing appeals and cross appeals, but exempts the state and political subdivisions of the state from the filing fee. It authorizes the commission to require an appellant to pay costs of preparing a transcript and preparing the record on appeal. Cross appellants and intervenors may be required to share in the costs. This provision grants the commission general authority to make rules and orders for the prompt fair and just disposition of appeals and authorizes the commission to require written briefs.

The third new statutory provision in Section 66, AS 23.30.128, establishes the commission's authority to review and act on appeals. The commission hears appeals in panels of three members, the chair and one citizen member representing employees and one citizen member representing employers. The panel decision is the decision of the commission. The commission may review de novo all exercises of discretion, factual findings, and legal conclusions below, except that an administrative law judge's findings regarding the credibility of a witness who appeared in the hearing is binding on the commission. Any other finding, including the weight given expert evidence, may be set aside by the commission. If not set aside, the administrative law judge's findings are conclusive. This statute provides that the commission review will be on the record, except that briefs and argument shall be allowed. The exception is that the commission may receive evidence in applications for a stay of a decision below (see section 65 above), attorney fees and costs of appeal, waiver of fees for indigent appellants, and dismissal of appeals for failure to prosecute or settlement. This provision also gives the commission wide discretion to act on appeal. The commission may expedite appeals. It may affirm, reverse or modify a decision; remand matters it determines were improperly or insufficiently developed, or remand for further action without relinquishing jurisdiction. The commission members who

heard an appeal must decide whether to grant reconsideration. The commission may reconsider its decisions on specific grounds listed in subsection (f): misapplication or failure to apply directly controlling law; overlooking or misconceiving a material fact; misunderstanding a material question in the case presented on appeal; or, applying law that has subsequently changed. AS 44.62 does not apply to proceedings of the commission. This provision balances shorter time for appeal and reconsideration (30 days) with sufficient time for collegial consideration of the merits of the appeal before a commission decision (90 days). This provision sets out clearly when a decision of the commission is final, to avoid confusion as to dates of finality.

The fourth new statutory provision exempts the commission from the grant of superior court jurisdiction over judicial appeals of administrative agency decisions contained in AS 44.62.590 and states that commission orders may not be otherwise appealed to the superior court. The purpose of this provision is to eliminate appeal to the superior court, and to provide that decisions of the commission may be appealed directly to the Supreme Court. This provision withdraws workers' compensation appeals from the jurisdiction of the superior court, which the legislature may do by law. See, Art. IV, Sec. 1 of the Alaska Constitution, see also AS 22.10.020(d). It does not encroach on the judicial power reserved to the courts under Art. IV, Sec. 15, because incidental effects of substantive change do not trigger Art. IV, Sec. 15 requirements. See, *Wienegardner v. Greater Anchorage Borough Bd. Of Equalization*, 534 P.2d 541, 547 n. 18 (Alaska 1975). This provision does not affect the right to seek declaratory judgment in superior court on matters affecting workers' compensation law, as, for example, to declare a regulation invalid or to require coverage under an insurance contract. This provision also establishes the standard of review for commission findings of the weight to be accorded witness testimony and commission findings of fact, which must be supported by substantial evidence in light of the whole record.

Section 67 amends AS 23.30.130 to remove references to the board, transfer the authority of the board to modify decisions to an administrative law judge, conform the statute language to modern usage, and to add the director to those who may petition for modification of a compensation order. This provision also limits modification based on mistake of fact to mistake of material fact. This provision does not limit the type of fact that may be the subject of mistake, but does require that the mistake be one that is important to the outcome.

Section 68 amends AS 23.30.135 regarding investigation proceedings before the division to remove references to the board, transfer the authority of the board to make investigations under the act, take testimony and hold hearings to the director, give the director power to issue subpoenas and examine records relating to the

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

investigation and requires the superior court to enforce the director's subpoenas.

- Section 69** amends AS 23.30.140 to remove reference to the board and transfer the authority of the board to require appointment of a guardian to receive compensation to the director.
- Sections 70** amends AS 23.30.145(a) to remove references to the board, transfer the authority of the board to award attorney fees to an administrative law judge, and conform the language of the statute to modern usage.
- Sections 71** amends AS 23.30.145(b) to remove references to the board, transfer from the board to an administrative law judge the authority to award costs and attorney fees and conform the language of the statute to modern usage.
- Section 72** amends AS 23.30.155(a) to remove a reference to the board and transfer the authority to prescribe forms from the board to the director.
- Section 73** amends AS 23.30.155(b) to remove a reference to the board and transfer from the board to an administrative law judge the authority to vary periodic payments from the biweekly standard.
- Section 74** amends AS 23.30.155(c) to remove references to the board, transfer the authority of the board to prescribe forms to the director, and replace the board with the division as the agency receiving notices and filings of compensation reports. The language of the statute is also conformed to modern usage.
- Section 75** amends AS 23.30.155(d) to remove references to the board and replaces the board with the division as the agency where controversion notices are filed. The amendment also conforms language to modern usage.
- Section 76** amends AS 23.30.155(e) to remove a reference to the board and transfer the authority to excuse nonpayment of compensation from the board to an administrative law judge.
- Section 77** amends AS 23.30.155(f) removes a reference to stay of payment on appeal issued by a court and substitutes a reference to stay of payment by order of the commission. This conforms to the provisions of Section 65 above.
- Section 78** amends AS 23.30.155(h) to remove references to the board, transfer the authority to initiate investigations, order independent medical examinations, and take other action to protect the parties' rights from the board to the director. The provision also gives the director the authority to file petitions in disputed matters for a hearing before an administrative law judge. The provision also conforms the language of the statute to modern usage.
- Section 79** amends AS 23.30.155(i) to remove references to the board and transfer the authority to require the employer to make deposits with the Department of Revenue to secure payment of compensation from the board to the director.

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

- Section 80** amends AS 23.30.155(j) to remove a references to the board and transfer the authority to approve offset of overpayments exceeding 20% of periodic compensation payments from the board to an administrative law judge.
- Section 81** amends AS 23.30.155(k) to remove reference to the board and transfer the authority to inspect receipts from the board to the director.
- Section 82** amends AS 23.30.155(m) to remove references to the board. This provision transfers to the director the authority of the board to prescribe forms; the authority of the commissioner to review the timeliness of insurer and adjuster annual reports; and the authority of the commissioner to give notice of penalties. This provision also replaces the board with the division for the agency receiving annual reports.
- Section 83** amends AS 23.30.155(o) to remove references to the board. It transfers the obligation to notify the division of insurance of frivolous or unfair controversion determinations from the board to the director, and the authority to make such determinations from the board to an administrative law judge.
- Section 84** amends AS 23.30.170(a) to remove references to the board, modernize the language of the statute and conform it to other usage in the act, replace the board with the division as the recipient agency for petition filings, transfer the authority to make investigation from the board to the director, and transfer authority to make supplementary orders to an administrative law judge.
- Section 85** amends AS 23.30.170(b) to remove references to the board, transfer the authority to declare awards in default from the board to an administrative law judge, and transfer authority to request collection of defaulted payments by the attorney general from the commissioner to the director. The provision also makes a technical amendment, replacing applicant with petitioner to conform to current usage.
- Section 86** amends AS 23.30.175(a) to remove references to the board and transfer the authority to determine spendable weekly wages, order adjustment of compensation rates, and direct deduction of prior payments from unpaid compensation from the board to an administrative law judge.
- Section 87** creates a new statutory provision, AS 23.30.175(b)(5), which caps compensation paid to non-resident recipients at the compensation rate the recipient would receive if residing in Alaska. The effect of the amendment is to allow compensation rates paid to a non-resident to decrease by cost of living adjustments for the recipient's area of residence, but not to allow the compensation rate to rise higher than the Alaska rate if the cost of living is higher in the recipient's area of residence.

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

- Section 88** amends AS 23.30.175(c) to remove a reference to the board and transfer the authority to provide cost of living comparisons from the board to the department.
- Section 89** amends AS 23.30.180 to remove a reference to the board and transfer the authority to determine inflation adjustments and reductions of permanent total compensation for prior payment of permanent partial disability compensation from the board to an administrative law judge. This amendment also conforms the language of the statute to modern usage.
- Section 90** amends AS 23.30.190(b) to remove a reference to the board and transfer the authority to adopt a schedule for injuries that cannot be rated by use of the American Medical Association Guides from the board to the department.
- Section 91** amends AS 23.30.190(d) to remove references to the board, transfer from the board to the director the requirement to hold open hearings on the adoption date for new editions of the American Medical Association Guides and the authority to select and publish a date that new editions will be used for impairment ratings.
- Section 92** amends AS 23.30.200(b) to remove a reference to the board and transfer the authority to fix wage-earning capacity from the board to an administrative law judge.
- Section 93** amends AS 23.30.205(e) to replace the commissioner with the director for receipt of notice of award or adjudication respecting the second injury fund.
- Section 94** amends AS 23.30.205(f) to replace the commissioner with the director as the recipient of notice of possible claim against the second injury fund.
- Section 95** amends AS 23.30.215(d) to remove references to the board, transfer the authority of the board to an administrative law judge to commute payments of future compensation to persons residing outside the United States or Canada, and conform the language of the statute to modern usage. This amendment also adds the director and employer to the persons who may petition for commutation.
- Section 96** amends AS 23.30.220(a) to remove references to the board, transfer the authority to determine matters relating to gross weekly earnings from the board to an administrative law judge and conforms the language of the statute to modern usage.
- Section 97** amends AS 23.30.240 to transfer the authority to approve executive officer waivers of coverage from the commissioner to the director.
- Section 98** creates a new section relating to fraudulent acts or false or misleading statements in workers' compensation. Provisions for civil reimbursement for benefits obtained through fraudulent acts or false or misleading statements

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

formerly in AS 23.30.250(b), are moved to this section, and the standard of proof of fraudulent acts or false or misleading statements is clarified. The form of the statute conforms to modern usage. This section also provides civil immunity for a person who furnishes information regarding fraud in good faith to law enforcement officials, the division, the division of insurance in the Department of Commerce, Community and Economic Development, or an insurer or risk manager of a self-insured employer. The immunity is not extended to those whose liability is the result of reckless, willful or intentional misconduct. In addition, an insurer, adjuster or risk manager is required to report information about suspected fraud to the director, and is immune from civil liability for making such a report. The provision grants the director authority to investigate reports of fraud, and, if the director finds credible evidence of fraud, to refer the facts to a prosecutor and to the affected insurer. If the fraud was perpetrated against the division, the director may seek an order of forfeiture against the person, precluding the person from future benefits. The director's investigations are made confidential, unless a court directs public inspection. The director is given power to obtain information outside the state, through other state's officials, and to cooperate with officials outside the state. Definitions are provided of "fraudulent acts", which include actions by persons other than an employee.

Section 99 amends AS 23.30.250, relating to criminal penalties for fraudulent acts or false or misleading statements. The section is reserved to the criminal statute, incorporating former AS 23.30.250(a), and civil restitution is moved to a new section. (See Section 98, above.) A new subsection (b) incorporates definitions to assist the prosecution of fraud under this section.

Section 100 amends AS 23.30.260 to remove a reference to the board, transfer the power to approve fees for representation to an administrative law judge and commission, clarifies that the statute refers to representation or advice with respect to a claim, and conforms the language of the statute to modern usage.

Section 101 amends AS 23.30.260 to add a new subsection (b) that provides that an attorney may charge up to \$300 for one-time only consultation with a claimant. This provision gives statutory authority for a regulation that presently exists allowing such fees.

Section 102 amends AS 23.30.395(28) to remove a reference to the board and replaces the board with the division as the agency which is furnished proof of financial ability to make direct payments.

Section 103 amends AS 23.30.395 to add new subsections defining the commission, director, division and administrative law judge. The administrative law judge is "employed or retained by the office of administrative hearings (AS 44.64.010)".

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

Section 104 amends AS 39.25.110 to include the chair of the commission in the exempt service.

Section 105 amends AS 39.25.120(c)(14) to remove a reference to the board and substitute the division as the employer of the rehabilitation administrator.

Section 106 amends AS 39.50.200(b)(31) to remove a reference to the board and substitute the commission.

Section 107 amends AS 44.62.330(a)(15) to remove a reference to the board and to substitute the division and director. This provision also modernizes the reference to the act by substituting the statute citation.

Section 108 amends AS 44.64.020(a) to add a provision that exempts the commission from the authority of the chief administrative law judge to devise hearing procedures.

Section 109 includes the workers' compensation act (AS 23.30) in the list of subject jurisdiction of the office of administrative hearings.

Section 110 establishes the rate of pay of administrative law judges within the office of administrative hearings who do workers' compensation hearings and other proceedings under AS 23.30 at Range 24.

Section 111 repeals AS 21.39.155(c), relating to the assigned risk pool.

Section 112 repeals AS 23.30.395(3), defining the board.

Section 113 creates a new provision of uncodified law that provides that the cap on rates paid to out of state claimants shall apply only to injuries occurring after the effective date of the provision establishing the cap.

Section 114 creates a new provision of uncodified law that establishes a transition period during which the director of insurance will name members of the board of governors of the Alaska Insurance Guaranty Association to serve staggered initial terms, sets dates of expiration of the current board of governors and permits a member of the current board of governors to continue to serve until a successor is appointed.

Section 115 creates a new provision of uncodified law that establishes a transition period during which matters pending before the board may be completed, setting an expiration date for the terms of members of the board, and providing for continuation of effect notwithstanding a transfer of function from the board to the commission or director. This provision also continues in force all regulations, orders, decisions, or certificates issued by the board until revoked, modified or vacated under the provisions of this bill; continues in effect all contracts, rights, liabilities or obligations; and transfers the property of the board or other state agencies to implement the provisions of this bill.

Section by Section Analysis
Proposed Workers' Compensation Reform Bill

Section 116 creates a new provision of uncodified law setting the initial terms of the commission to achieve staggered terms as provided in AS 39.05.055.

Section 117 creates a new provision of uncodified law permitting the director to lend staff temporarily to the commission for a period of six months after the effective date of the provision creating the commission.

Section 118 creates a new provision of uncodified law providing for general transition authority, the continuance of litigation, investigations, and other proceedings notwithstanding a transfer or amendment provided above. Certificates, decisions, and orders remain in effect and contract, rights and liabilities created by law remain in effect notwithstanding the passage of this act, and records, appropriations, and other property is transferred with the functions of the affected agency, so as to implement this act.

Section 119 creates a new provision of uncodified law permitting the director of insurance in the Department of Community and Economic Development and Department of Labor and Workforce Development to proceed to adopt necessary regulations to implement this bill, but not before the effective date of the bill.

Section 120 creates a new provision of uncodified law establishing that those sections transferring authority to or establishing authority, duties, qualifications, or otherwise affecting administrative law judges and the commission is conditioned upon enactment of HCS CSSB 203(FIN), passed by the Twenty-Third Alaska State Legislature.

Section 121 provides an immediate effective date for Section 119(a), relating to the power of Department of Labor and Workforce development and the Department of Commerce, Community and Economic Development to develop regulations to implement this act.

Section 122 provides an effective date of September 1, 2004 for all the provisions relating to the division of insurance reforms.

Section 123 provides all Sections remaining, relating to reorganization and reform of the workers' compensation system an effective date of July 1, 2005.

BACKUP

BOND PACKAGE

**This section
intentionally left blank
at this time**

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 21, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill authorizing the issuance of general obligation bonds to finance capital improvement projects for the University of Alaska. Great progress has been made with our university system. Student enrollment is at the highest level ever. (Increase of 14.5 percent system wide between 2000 and 2004). Research activities are also at an all-time high, and have increased by more than 75 percent since fiscal year 1999. These successes are based on the state's on-going commitment to the university. This bill builds upon, and reinforces this commitment, while realizing the harsh reality of the limits forced on the state by the present fiscal situation.

The projects in this bill address a number of the University of Alaska's critical infrastructure needs. The projects include improvements to the integrated science facility at the University of Alaska, Anchorage to provide crucial science classroom and instructional labs.

Also included are projects that address essential life safety, renovation, and equipment priorities. These include Americans with Disabilities Act and life safety issues, as well as crucial equipment and space renovation needs. Basic information technology upgrades and replacement of academic and instructional equipment is included. Designed and construction, such as for the Biological and Computational Science Facility on the Fairbanks campus, will support the continued successful expansion of the state and university's research and development agenda.

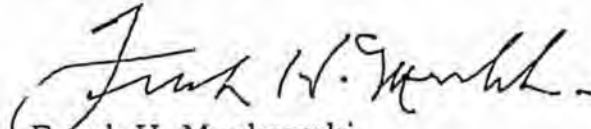
New construction, such as for the Biological and Computational Facility on the Fairbanks campus, will support the continued successful expansion of the state and university's research and development agenda.

The Honorable Gene Therriault
June 21, 2004
Page 2

The bill requires that sections one through seven of the bill only take effect once the Lieutenant Governor has certified a long-range fiscal plan has been adopted as specified in the bill and the bonds have been approved by the voters.

I urge your prompt and favorable action on this legislation.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



F.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 21, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill authorizing the issuance of general obligation bonds to finance capital improvement projects for the University of Alaska. Great progress has been made with our university system. Student enrollment is at the highest level ever. (Increase of 14.5 percent system wide between 2000 and 2004). Research activities are also at an all-time high, and have increased by more than 75 percent since fiscal year 1999. These successes are based on the state's on-going commitment to the university. This bill builds upon, and reinforces this commitment, while realizing the harsh reality of the limits forced on the state by the present fiscal situation.

The projects in this bill address a number of the University of Alaska's critical infrastructure needs. The projects include improvements to the integrated science facility at the University of Alaska, Anchorage to provide crucial science classroom and instructional labs.

Also included are projects that address essential life safety, renovation, and equipment priorities. These include Americans with Disabilities Act and life safety issues, as well as crucial equipment and space renovation needs. Basic information technology upgrades and replacement of academic and instructional equipment is included. Designed and construction, such as for the Biological and Computational Science Facility on the Fairbanks campus, will support the continued successful expansion of the state and university's research and development agenda.

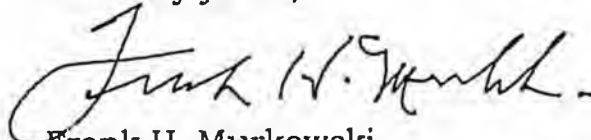
New construction, such as for the Biological and Computational Facility on the Fairbanks campus, will support the continued successful expansion of the state and university's research and development agenda.
The Honorable Pete Kott

The Honorable Pete Kott
June 21, 2004
Page 2

The bill requires that sections one through seven of the bill only take effect once the Lieutenant Governor has certified a long-range fiscal plan has been adopted as specified in the bill and the bonds have been approved by the voters.

I urge your prompt and favorable action on this legislation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

BILL

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for and relating to the issuance of general obligation bonds for the
2 purpose of paying the cost of state surface transportation projects; and providing for an
3 effective date."

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **GENERAL OBLIGATION BONDS.** For the purpose of paying the cost of state
8 surface transportation projects, general obligation bonds of the state in the principal amount of
9 not more than \$77,100,000 shall be issued and sold. The full faith, credit, and resources of
10 the state are pledged to the payment of the principal of and interest and redemption premium,
11 if any, on the bonds. The bonds shall be issued under the provisions of AS 37.15 as those
12 provisions read at the time of issuance.

13 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

1 SURFACE TRANSPORTATION PROJECT FUND. A special fund of the state to be
 2 known as the "surface transportation project fund" shall be established, to which shall be
 3 credited the proceeds of the sale of the bonds described in sec. 1 of this Act except for the
 4 accrued interest and premiums.

5 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
 6 read:

7 SURFACE TRANSPORTATION PROJECTS. (a) The amount of \$76,700,000 is
 8 appropriated from the surface transportation project fund to the Department of Transportation
 9 and Public Facilities to be allocated among the following surface transportation projects in the
 10 amounts listed, subject to reallocation between projects in accordance with AS 37.07.080(e):

| PROJECT | ALLOCATION |
|--|--------------|
| 11 (1) Anchorage - Abbott Loop Road upgrade | \$15,000,000 |
| 12 (Tudor Road to Abbott Road) | |
| 13 (2) Anchorage - Lake Otis and Tudor intersection | 8,500,000 |
| 14 improvements | |
| 15 (3) Anchorage - Dowling East Extension | 14,600,000 |
| 16 (4) Fairbanks - Cowles Street and 21st Avenue upgrade | 1,200,000 |
| 17 (5) Fairbanks - Van Horn Road - Cushman to Peger | 6,100,000 |
| 18 (6) North Slope - Bullen Point Road EIS and Design | 3,700,000 |
| 19 (7) Matanuska - Susitna - Bogard Road East Extension | |
| 20 EIS, Design, and Right-of-Way | 6,600,000 |
| 21 (8) Kenai Peninsula - Area Road Paving | 4,000,000 |
| 22 (9) Aleknagik- Wood River Bridge Design | 1,000,000 |
| 23 (10) Sitka - Sawmill Creek Road | 1,000,000 |
| 24 (11) Southeast Alaska Road Construction | 8,000,000 |
| 25 (12) Yukon-Kuskokwim Rivers transportation corridor | |
| 26 EIS and Design | 2,000,000 |
| 27 (13) Kodiak - Pasagshak Road paving | 1,500,000 |
| 28 (14) Noatak Airport to Red Dog Mine Road EIS | |
| 29 and Design | 3,500,000 |

30 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
 31

1 read:

2 STATE BOND COMMITTEE. The amount of \$400,000 or as much of that amount
3 as is found necessary is appropriated from the general fund of the state to the state bond
4 committee to carry out the provisions of this Act and to pay expenses incident to the sale and
5 issuance of the bonds authorized in sec. 1 of this Act. The amounts expended from the
6 appropriation authorized by this section shall be reimbursed to the general fund from the
7 proceeds of the sale of the bonds authorized by sec. 1 of this Act.

8 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 ANNUAL EARNINGS APPROPRIATIONS. The annual earnings on the proceeds of
11 the sale of bonds authorized in sec. 1 of this Act managed by the Department of Revenue may
12 be appropriated for reimbursement to the Department of Revenue for the costs of establishing
13 and managing the funds.

14 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 ADVANCE PLANNING. The amount withdrawn from the public facility planning
17 fund (AS 35.10.135) for the purpose of advance planning for the capital improvements
18 financed under sec. 3 of this Act shall be reimbursed to the fund from the proceeds of the sale
19 of bonds authorized by sec. 1 of this Act.

20 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 LAPSE; REDEMPTION; REIMBURSEMENT. The unexpended and unobligated
23 balance of the appropriation made in sec. 3 of this Act lapses under AS 37.25.020 and is
24 appropriated to the state bond committee to redeem bonds sold under sec. 1 of this Act. The
25 amounts expended from the general fund to pay the principal, interest, and redemption
26 premium on bonds issued under sec. 1 of this Act shall be reimbursed to the general fund
27 from the appropriation made under this section to the extent that the money is not needed to
28 redeem the bonds.

29 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 BALLOT PROPOSITION. The question whether the bonds authorized in this Act are

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for and relating to the issuance of general obligation bonds for the
2 purpose of paying the cost of design, construction, and major maintenance of facilities at
3 the University of Alaska; and providing for an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 GENERAL OBLIGATION BONDS. For the purpose of paying the cost of design,
8 construction, and major maintenance of facilities at the University of Alaska, general
9 obligation bonds of the state in the principal amount of not more than \$39,304,000, shall be
10 issued and sold. The full faith, credit, and resources of the state are pledged to the payment of
11 the principal of and interest and redemption premium, if any, on the bonds. The bonus shall
12 be issued under the provisions of AS 37.15 as those provisions read at the time of issuance.

13 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

1 2004 UNIVERSITY OF ALASKA FACILITIES DESIGN, CONSTRUCTION, AND
2 MAJOR MAINTENANCE FUND. A special fund of the state to be known as the "2004
3 University of Alaska facilities design, construction, and major maintenance fund" shall be
4 established, to which shall be credited the proceeds of the sale of the bonds described in sec. 1
5 of this Act except for the accrued interest and premiums.

6 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 UNIVERSITY OF ALASKA. The amount of \$38,904,000 is appropriated from the
9 2004 University of Alaska facilities design, construction, and major maintenance fund to the
10 University of Alaska to be allocated among the following projects in the amounts listed,
11 subject to reallocation between projects in accordance with AS 37.07.080(e):

| 12 | PROJECT | LOCATION | AMOUNT |
|----|---------------------------------|------------|-------------|
| 13 | (1) Integrated Science Facility | Anchorage | \$9,500,000 |
| 14 | construction | | |
| 15 | (2) School of Fisheries and | Juneau | 7,000,000 |
| 16 | Ocean Science research | | |
| 17 | facility design and | | |
| 18 | construction | | |
| 19 | (3) Biological and | Fairbanks | 12,000,000 |
| 20 | Computational Science | | |
| 21 | research facility design | | |
| 22 | and construction | | |
| 23 | (4) Safety code and Americans | Statewide | 2,941,000 |
| 24 | with Disabilities Act | | |
| 25 | improvements | | |
| 26 | (5) Lucy Cuddy Center upgrade | Anchorage | 1,000,000 |
| 27 | and renewal | | |
| 28 | (6) Bristol Bay classroom | Dillingham | 1,000,000 |
| 29 | expansion construction | | |
| 30 | (7) Paul/Ziegler classroom | Ketchikan | 500,000 |
| 31 | renovation | | |

| | | | |
|----|--------------------------------|------------|-----------|
| 1 | (8) Sitka campus improvements | Sitka | 250,000 |
| 2 | (9) Tanana Valley campus | Fairbanks | 1,000,000 |
| 3 | classroom expansion | | |
| 4 | and renovation | | |
| 5 | (10) Hendrickson Building | Juneau | 1,213,000 |
| 6 | renovations | | |
| 7 | (11) Homer campus new facility | Homer | 500,000 |
| 8 | classroom construction | | |
| 9 | (12) Prince William Sound | Valdez | 1,000,000 |
| 10 | facilities classroom | | |
| 11 | construction | | |
| 12 | (13) Additional Rural Campus | Systemwide | 1,000,000 |
| 13 | needs | | |

14 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 STATE BOND COMMITTEE. The amount of \$400,000 or as much of that amount
17 as is found necessary is appropriated from the general fund of the state to the state bond
18 committee to carry out the provisions of this Act and to pay expenses incident to the sale and
19 issuance of the bonds authorized in this Act. The amounts expended from the appropriation
20 authorized by this section shall be reimbursed to the general fund from the proceeds of the
21 sale of the bonds authorized by this Act.

22 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 ANNUAL EARNINGS APPROPRIATIONS. The annual earnings on the proceeds of
25 the sale of bonds authorized in sec. 1 of this Act managed by the Department of Revenue may
26 be appropriated for reimbursement to the Department of Revenue for the costs of establishing
27 and managing the funds.

28 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 ADVANCE PLANNING. The amount withdrawn from the public facility planning
31 fund (AS 35.10.135) for the purpose of advance planning for the capital improvements

1 financed under this Act shall be reimbursed to the fund from the proceeds of the sale of bonds
 2 authorized by this Act.

3 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
 4 read:

5 LAPSE; REDEMPTION; REIMBURSEMENT. The unexpended and unobligated
 6 balance of the appropriation made in sec. 3 of this Act lapses under AS 37.25.020 and is
 7 appropriated to the state bond committee to redeem bonds sold under this Act. The amounts
 8 expended from the general fund to pay the principal, interest, and redemption premium on
 9 bonds issued under this Act shall be reimbursed to the general fund from the appropriation
 10 made under this section to the extent that the money is not needed to redeem the bonds.

11 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 BALLOT QUESTION. The question whether the bonds authorized in this Act are to
 14 be issued shall be submitted to the qualified voters of the state at the next general election and
 15 shall read substantially as follows:

16 PROPOSITION

17 State General Obligation University of Alaska Facilities \$39,304,000

18 Design, Construction, and Major Maintenance Bonds

19 Shall the State of Alaska issue its general obligation bonds in the principal
 20 amount of not more than \$39,304,000 for the purpose of paying the cost of
 21 design, construction, and major maintenance of facilities at the University of
 22 Alaska?

23 Bonds Yes []

24 Bonds No []

25 * Sec. 9. Section 8 of this Act takes effect immediately under AS 01.10.070(c).

26 * Sec. 10. Sections 1 - 7 of this Act take effect on the date that the lieutenant governor
 27 certifies to the revisor of statutes that

28 (1) a majority of the qualified voters of the state who vote on the question at
 29 the 2004 general election affirmatively voted in favor of the 2004 amendments to the
 30 Constitution of the State of Alaska relating to and limiting appropriations from the Alaska
 31 permanent fund based on an averaged percent of the fund market value; and

1
2

(2) the issuance of bonds authorized by this Act is ratified by a majority of the qualified voters of the state who vote on the question at the 2004 general election.

FISCAL

NOTE

FISCAL NOTE

STATE OF ALASKA
2004 SPECIAL SESSION

Fiscal Note Number: _____
 Bill Version: LL# 04-0171
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title General Obligation Bonds for RDU Revenue Programs & Services
State Transportation Projects Component Treasury Management
 Sponsor Rules Committee
 Requester Governor Murkowski Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|--------------|----------------|----------------|----------------|----------------|----------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 381.9 | 49.9 | 34.0 | 24.0 | 9.0 | 6.0 |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Debt Service | | 7,552.9 | 7,553.7 | 7,555.0 | 7,556.0 | 7,556.3 |
| TOTAL OPERATING | 381.9 | 7,602.8 | 7,587.7 | 7,579.0 | 7,565.0 | 7,562.3 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|--------------|----------------|----------------|----------------|----------------|----------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 381.9 | 7,602.8 | 7,587.7 | 7,579.0 | 7,565.0 | 7,562.3 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 381.9 | 7,602.8 | 7,587.7 | 7,579.0 | 7,565.0 | 7,562.3 |

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Authorizes the issuance of \$77.1 million in general obligation bonds to pay for state transportation capital improvement projects.

If the bill is passed by the legislature the proposal would be included on the ballot for voter authorization in the fall of 2004. Assuming voter approval the entire authorization of bonds would be issued in the spring of 2005. However, the State Bond Committee would determine the actual timing, amount, and term of the bond sales based on project demand and market conditions. In FY '05 up to \$381.9 will be appropriated from the general fund of the state to forward fund the costs of issuing the bonds including rating agency, printing, public notice, travel, financial advisor, and bond counsel fees. In FY '06 and following the contractual charges are for money management fees and paying agent fees. The general fund will be reimbursed from bond proceeds following the bond sale.

Prepared by: Deven Mitchell, State Debt Manager Phone 465-3750
 Division Treasury Division Date/Time 6/21/2004/3:13 PM
 Approved by: Tom Boutin, Deputy Commissioner Date 6/21/2004
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 SPECIAL SESSION

BILL NO. LL# 04-0171

ANALYSIS CONTINUATION

However if state general obligation bonds for other purposes (such as University projects) were approved at the same time, issuance of all bonds would likely take place at one time. In that instance, issuance costs would be largely combined. However, this fiscal note must contemplate issuance of only these bonds in order to provide for issuance costs in the event only this authorization is approved.

These bonds would be sold on a competitive basis with the bonds being awarded to the bidder offering the lowest true interest cost. The bidder would be given the option of purchasing bond insurance. This structure almost always results in a net bond premium. The bonds would be remarketed, with the premium used to pay the underwriter's sales force and expenses.

Assuming an interest rate of 5.25% (approximately 50 basis points higher than current rates) and a 15 year term, level annual debt service would be approximately \$7.5 million per year beginning in FY 2006. With current interest rates, annual debt service would be reduced to \$7.3 million.

The interest rates in this fiscal note require the maintenance of the State's credit ratings through this additional bonds issuance, a probable scenario since adoption of a fiscal plan would be concurrent with voter approval of this bond authorization. The State is currently on negative outlook from Moody's Investors Service. Standard and Poor's and Fitch Services have indicated mid-term concern related to the disparity between ongoing recurring revenues and expenditures and the continuing and projected depletion of the State's short term reserves. If no steps had been taken to balance recurring revenues with expenditures by the time these bonds were issued, it is likely that the cost of capital would increase for all issuers of Alaska public debt when the state credit ratings were downgraded by at least one of the agencies.

FISCAL NOTE

STATE OF ALASKA
2004 SPECIAL SESSION

Fiscal Note Number: _____
Bill Version: LL# 04-0182
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title General Obligation Bonds for RDU Revenue Programs Services
University Projects Component Treasury Management
Sponsor Rules Committee
Requester Governor Murkowski Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|--------------|----------------|----------------|----------------|----------------|----------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 205.0 | 30.0 | 21.0 | 16.0 | 8.0 | 6.0 |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Debt Service | | 3,850.9 | 3,850.9 | 3,850.9 | 3,850.9 | 3,850.9 |
| TOTAL OPERATING | 205.0 | 3,880.9 | 3,871.9 | 3,866.9 | 3,858.9 | 3,856.9 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|--------------|----------------|----------------|----------------|----------------|----------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 205.0 | 3,880.9 | 3,871.9 | 3,866.9 | 3,858.9 | 3,856.9 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 205.0 | 3,880.9 | 3,871.9 | 3,866.9 | 3,858.9 | 3,856.9 |

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Authorizes the issuance of \$39.3 million in general obligation bonds to pay for cost of design, construction, and major maintenance of University of Alaska facilities. If the bill is passed by the legislature the proposal would be included on the ballot for voter authorization in the fall of 2004. Assuming voter approval the entire authorization of bonds would be issued in the spring of 2005. However, the State Bond Committee would determine the actual timing, amount, and term of the bond sales based on project demand and market conditions. In FY '05 \$205.0 will be appropriated from the general fund of the state to forward fund the costs of issuing the bonds including rating agency, printing, public notice, travel, financial advisor, and bond counsel fees. In FY '06 and following the contractual charges are for money management fees and paying agent fees. The general fund will be reimbursed from fund bond proceeds following the bond sale.

Prepared by: Deven Mitchell, State Debt Manager Phone 465-3750
Division Treasury Division Date/Time 6/21/2004/3:21 PM
Approved by: Tom Boutin, Deputy Commissioner Date 6/21/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 SPECIAL SESSION

BILL NO. LL# 04-0182

ANALYSIS CONTINUATION

However if state general obligation bonds for other purposes (such as Transportation projects) were approved at the same time, issuance of all bonds would likely take place at one time. In that instance, issuance costs would be largely combined. However, this fiscal note must contemplate issuance of only these bonds in order to provide for issuance costs in the event only this authorization is approved.

These bonds would be sold on a competitive basis with the bonds being awarded to the bidder offering the lowest true interest cost. The bidder would be given the option of purchasing bond insurance. This structure almost always results in a net bond premium. The bonds would be remarketed, with the premium used to pay the underwriter's sales force and expenses.

Assuming an interest rate of 5.25% (approximately 50 basis points higher than current rates) and a 15 year term, level annual debt service would be approximately \$3.9 million per year beginning in FY 2006. With current interest rates, annual debt service would be reduced to \$3.7 million.

The interest rates in this fiscal note require the maintenance of the State's credit ratings through this additional bonds issuance, a probable scenario since adoption of a fiscal plan would be concurrent with voter approval of this bond authorization. The State is currently on negative outlook from Moody's Investors Service. Standard and Poor's and Fitch Services have indicated mid-term concern related to the disparity between ongoing recurring revenues and expenditures and the continuing and projected depletion of the State's short term reserves. If no steps had been taken to balance recurring revenues with expenditures by the time these bonds were issued, it is likely that the cost of capital would increase for all issuers of Alaska public debt when the state credit ratings were downgraded by at least one of the agencies.

SECTIONAL

BILL ANALYSIS
DEPARTMENT OF REVENUE

Section 1: Pledges the full faith, credit and resources of the state for payment of principal, interest and premium of not more than \$77,100,000 of bonded debt as allowed by Art. IX, Section 8, of the Constitution provided that a majority of the qualified voters voting on the question must approve the debt unless the purpose is repelling invasion, suppressing insurrection, defending in war, or meeting natural disasters. Refinancing pre-statehood debt is also an exception to the voter requirement but there is no longer any pre-statehood debt outstanding. Section 1 also requires issuance in accord with AS 37.15 which directs terms and procedures for debt issuance.

Section 2: Establishes a fund to receive the bond proceeds. Provided the bonds are issued as tax-exempt bonds under the Internal Revenue Code, the Code requires that proceeds must be kept in this state fund until spent, and that earnings of this fund be subject to rebate of arbitrage earnings to the IRS.

Section 3. Lists the public projects to be funded with bond proceeds.

Section 4. Provides that up to \$400,000 is appropriated for issuance costs, and to be reimbursed from bond proceeds. A breakdown and explanation of estimated issuance costs can be provided by the Department of Revenue/State Bond Committee.

It's worth noting that if both bond bills passed, and if all bonds were issued at one time, the issuance costs would aggregate to less than \$400,000 for all bonds, and the issuance costs would be only incrementally more for all bonds than they would be for only one issue. However this language is necessary to provide for an instance where only one bond issue was approved and an instance where all bonds were not issued at one time.

Section 5. Provided the bonds are issued as tax-exempt bonds, so long as some bond proceeds are unspent they must be invested, and the investment earnings are subject to rebate of arbitrage earnings to the IRS. This section provides for investment costs and the cost of complying with arbitrage requirements provided the funds are appropriated.

Section 6. Provides for reimbursement of planning costs from bond proceeds once bonds are issued.

Section 7. Allows any bond proceeds not needed for project completion to be used to redeem bonds. If there are bond proceeds not needed for project completion and all bonds have been redeemed, the amount can be used to reimburse the general fund for debt service paid on the bonds.

Section 8. States the question to be asked of voters in the next general election so far as whether the general obligation is approved for these projects in the amount of \$77,100,000.

Section 9. Immediate effective date for Section 8.

Section 10. Sections 1 through 7 above become effective when the lieutenant governor certifies that constitutional amendments relating to and limiting appropriations from the permanent fund under the POMV and this bond proposition were approved by a majority of the qualified voters who voted.

BILL ANALYSIS
DEPARTMENT OF REVENUE

Section 1: Pledges the full faith, credit and resources of the state for payment of principal, interest and premium of not more than \$39,304,000 of bonded debt as allowed by Art. IX, Section 8, of the Constitution provided that a majority of the qualified voters voting on the question must approve the debt unless the purpose is repelling invasion, suppressing insurrection, defending in war, or meeting natural disasters. Refinancing pre-statehood debt is also an exception to the voter requirement but there is no longer any pre-statehood debt outstanding. Section 1 also requires issuance in accord with AS 37.15 which directs terms and procedures for debt issuance.

Section 2: Establishes a fund to receive the bond proceeds. Provided the bonds are issued as tax-exempt bonds under the Internal Revenue Code, the Code requires that proceeds must be kept in this state fund until spent, and that earnings of this fund be subject to rebate of arbitrage earnings to the IRS.

Section 3. Lists the public projects to be funded with bond proceeds. All of the projects are University of Alaska projects.

Section 4. Provides that up to \$400,000 is appropriated for issuance costs, and to be reimbursed from bond proceeds. A breakdown and explanation of estimated issuance costs can be provided by the Department of Revenue/State Bond Committee.

It's worth noting that if both bond bills passed, and if all bonds were issued at one time, the issuance costs would aggregate to less than \$400,000 for all bonds, and the issuance costs would be only incrementally more for all bonds than they would be for only one issue. However this language is necessary to provide for an instance where only one bond issue was approved and an instance where all bonds were not issued at one time.

Section 5. Provided the bonds are issued as tax-exempt bonds, so long as some bond proceeds are unspent they must be invested, and the investment earnings are subject to rebate of arbitrage earnings to the IRS. This section provides for investment costs and the cost of complying with arbitrage requirements provided the funds are appropriated.

Section 6. Provides for reimbursement of planning costs from bond proceeds once bonds are issued.

Section 7. Allows the any bond proceeds not needed for project completion to be used to redeem bonds. If there are bond proceeds not needed for project completion and all bonds have been redeemed, the amount can be used to reimburse the general fund for debt service paid on the bonds.

Section 8. States the question to be asked of voters in the next general election so far as whether the general obligation is approved for these projects in the amount of \$39,304,000.

Section 9. Immediate effective date for Section 8.

Section 10. Sections 1 through 7 above become effective when the lieutenant governor certifies that constitutional amendments relating to and limiting appropriations from the permanent fund under the POMV and this bond proposition were approved by a majority of the qualified voters who voted.

BACK UP

Proposed University of Alaska G.O. Bond Projects

1. Integrated Science Facility (Anchorage) \$9,500,000

Design and construction of a new Integrated Science Facility, which incorporates the existing science facility into expanded instructional, student, and administrative space. The project is in response to a critical shortage of fundamental core science, instructional, and laboratory space. Current facilities are insufficient and inadequate to meet the current demand of 450 science majors and 4,000 non-majors each semester. The new facility will feature state-of-the-art science academic labs and technology associated with distance delivery. The facility will be designed to incorporate program growth in integrated sciences, including integrated science instruction for majors and non-majors, environmental studies and systems research, biomedical research, and complex system studies to prepare students to meet the employment needs of the State of Alaska.

2. School of Fisheries and Ocean Science Research Facility Design and Construction (Juneau) \$7,000,000

Located at Lena Point, the facility will provide long-term support for the School of Fisheries and Ocean Sciences and its academic and research mission. The facility is a three-story building consisting of approximately 41,500 square feet and programmed to provide space for 14 faculty members and their associated research assistants and graduate students. The academic space consists of two classrooms, one teaching lab, and a seminar room with a capacity for 120 people. The research space consists of 19 laboratories for a multitude of scientific disciplines, which range from computer labs for statistical analysis to wet labs with large salt-water tanks.

3. Biological and Computational Sciences Research Facility Design and Construction (Fairbanks) \$12,000,000

The Biological and Computational Sciences Facility will provide instructional and research lab space for Biology and Computational Science programs, the State of Alaska Virology Labs, and affiliated classrooms and offices. The Arctic Region Super Computer staff will also reside in this new facility. Phase I of the project, funded by the passage of the 2002 GO Bond, includes construction of the utilidor; a new Central Animal Facility (CAF) with provisions for an incinerator and necropsy lab; relocation of three existing structures on the proposed CAF site; and revised BICS programming/concept design. Phases II through IV in this request will complete the design, contract documents, construction, and build-out of the facility.

4. Safety Code and Americans with Disability Act Improvements (System-wide) \$2,941,000

Will fund crucial projects aligned with maintaining current operating effectiveness at the University of Alaska system. Projects will include code compliance, life health/safety renovations and repairs, as well as capital improvements dealing with Americans with Disabilities Act compliance.

- 5. Lucy Cuddy Center Renewal (Anchorage) \$1,000,000**

Will renew building infrastructure in a 30-year-old facility, which houses the Culinary Arts and Hospitality academic programs and is the dining venue for students, faculty, and staff on the west campus. Recent increases in student enrollment and changes in student dining plans have shifted dining patterns and increased utilization of the Cuddy facility dramatically. Upgrading the building to contemporary use will improve space efficiency, the ability to responding to growing student enrollment, and assist faculty in delivering cutting edge instruction. The Culinary Arts and Hospitality programs support major economic engines in the State of Alaska – hospitality and tourism.
- 6. Bristol Bay Classroom Expansion \$1,000,000**

Construction of an addition to the existing classroom facility, which will include new vocational instructional areas, administrative offices, registration and student support services, and an independent learning area.
- 7. Paul / Zeigler Classroom Renovation (Ketchikan) \$500,000**

Renovations include general building system upgrades; renovation and addition of classrooms for the dynamic and expanding curriculum offerings; faculty offices; and common study space for students.
- 8. Sitka Campus Improvements \$250,000**

Construct area separations and install code complying mechanical, electrical, and fire systems in the open hangar area of the Sitka Campus facility. This area currently serves a number of uses that are incompatible under current building and life safety codes. Vocational programs for welding, construction, and small engines are interspersed in this single area without fire separations. Other uses such as general storage, art, vehicle parking, and fire exits also coexist in the hangar.
- 9. Tanana Valley Classroom improvements (Fairbanks) \$1,000,000**

Replaces the aged mechanical and electrical systems within the old Fairbanks Courthouse, upgrades the exterior envelope, and completes seismic corrections, as well as revitalizes the interior spaces to meet TVC's rapidly expanding program needs.
- 10. Hendrickson Remodel and Renovation (Juneau) \$1,213,000**

Renew and remodel the Hendrickson Building and the Hendrickson Annex to provide more effective use of the space, provide building code mandated toilet rooms and fire sprinklers, and replace or renew building systems and finishes.
- 11. Homer Campus New Facility Classroom Construction \$500,000**

Completion of the Kachemak Bay campus classroom facility, which was begun with funds from the 2004 GO Bond package.

12. Prince William Sound Facilities Classroom Construction (Valdez) \$1,000,000

Construction of a classroom/theatre/museum addition to the existing PWSCC facility. Funds will supplement the 2002 General Obligation Bond package and allow the completion of the renovation of an existing facility as well as add classroom space and a theatre/museum complex in which a significant collection of Alaska historical artifacts will be housed.

13. Additional Rural Campus Needs \$1,000,000

Provide for the upgrade, renovation, and repair at rural campuses on an as-needed basis consistent with the Board of Regents on-going priorities to maintain rural campuses.

Total \$38,904,000

**Proposed Surface
Transportation G.O. Bond
Package**

*congestion
resources/gasline
supplement existing
recondition
new roads
safety issue
reduce cost to state*

| Project | Amount | Project Benefits | | | | | | | Description and scope of work |
|--|--------------|------------------|-----|-----|--|-----|--|--|--|
| 1 Anchorage - Abbott Loop Upgrade (Tudor Road to Abbott Road) | \$15,000,000 | yes | | yes | | | | | Supplements existing funding for a new roadway and bridges. Project was one of the November 2002 GO Bond Projects. The additional funding is needed to upgrade the intersection with Tudor Road and provide a project contingency. New alignment to be transferred to local ownership. |
| 2 Anchorage - Lake Otis & Tudor Intersection Improvements | \$8,500,000 | yes | | | | | | | Relieves congestion at one of the most congested intersections in the state. MOA has begun ROW acquisition with \$3 million of municipal funds. |
| 3 Anchorage - Dowling Road East Extension | \$14,600,000 | yes | | | | yes | | | Extends Dowling Road east from Lake Otis to the new Abbott Loop Road. State traffic engineers believe that this project, combined with the ongoing Abbott Loop extension, will provide significant congestion relief on Lake Otis and at the Lake Otis and Tudor intersection. New alignment to be transferred to local ownership. |
| 4 Fairbanks - Cowles Street and 21st Avenue Upgrade | \$1,200,000 | yes | | | | yes | | | Upgrades Cowles Street and 21st Avenue in the vicinity of the hospital. Project is needed to accommodate new traffic patterns resulting from hospital expansion. The total project budget is \$2,900,000 and FMATS anticipated to supplement project funds to achieve full scope. |
| 5 Fairbanks - Van Horn Road - Cushman to Peger | \$6,100,000 | yes | yes | | | | | | Widens and upgrades the existing road, including shoulders, turn lanes, and other safety improvements. This road serves Fairbanks' primary industrial area and has a high volume of truck traffic. |

| | Proposed Surface Transportation G.O. Bond Package | | | congestion | resources/gasoline | supplement existing | recondition | new roads | safety issues | reduce cost to state | |
|----|--|-------------|-----|------------|--------------------|---------------------|-------------|-----------|---------------|----------------------|--|
| 6 | North Slope - Bullen Point Road EIS & Design | \$3,700,000 | | yes | | | yes | | | | Enhances the economic viability of oil deposits located east of Prudhoe Bay on State land. The 50-60 mile road is from Prudhoe Bay east toward Pt. Thompson and ANWR. |
| 7 | Mat-Su - Bogard Road East Extension, EIS, design and ROW | \$6,600,000 | yes | | | | yes | | | | Extends Bogard Road easterly to provide a new east-west route between Palmer and Wasilla and alleviate traffic problems on the Palmer Wasilla Highway. This is much less expensive than a major upgrade of the P-W Hwy. Requested funding will get the state through an EIS and ROW acquisition and get the project ready for STIP funding and construction. New and upgraded alignment to be transferred to local ownership |
| 8 | Kenai Peninsula - Area Road Paving | \$4,000,000 | | | | | | | yes | | Provides for a variety of road upgrade projects after which maintenance responsibility is to be transferred to the local government. If negotiations are not successful, the funds will be used to repave other state highways in the Kenai Peninsula area. |
| 9 | Aleknagik - Wood River Bridge Design | \$1,000,000 | | | | | yes | yes | | | Connects Aleknagik with the Dillingham road system. Currently residents and school children cross the river by boat and snow machine with an average of one resident drowning each year due to an accident. The NEPA environmental assessment for this project has been recently completed and the department is waiting for funding. It is presently in the STIP as a potential earmark project estimated at \$12-14 million. |
| 10 | Sitka - Sawmill Creek Road | \$1,000,000 | | | yes | | | | | | Supplements existing funding from the 2002 GO Project which was not sufficient for full reconstruction of the roadway and paving. |

| Proposed Surface Transportation G.O. Bond Package | | | <i>congestion</i> <i>resources/gasline</i> <i>supplement existing</i> <i>recondition</i> <i>new roads</i> <i>safety issue</i> <i>reduce cost to state</i> | | | | | | | |
|---|--|---------------------|---|-----|-----|-----|-----|--|-----|--|
| 11 | Southeast Alaska Road Construction | \$8,000,000 | | yes | | | yes | | yes | Will implement one or more of the road segments of the new Southeast Alaska Transportation Plan. The plan includes many new road segments connecting USFS roads that will increase community access and access to resources. |
| 12 | Yukon-Kuskokwim Rivers Transportation Corridors EIS & Design | \$2,000,000 | | yes | | | yes | | | Supplements other funding to examine and build a resource transportation corridor from the Kuskokwim River north to the Yukon River, and take in the Donlin, Ophir, and other mining districts. Current funding for portions of this route includes \$4 million in the 2002 bond issue and \$10 million in the Federal 2004 Omnibus Appropriations bill for Donlin Creek Road. |
| 13 | Kodiak - Pasagshak Road Paving | \$1,500,000 | | yes | yes | | | | | Supplements other funding intended to reconstruct the 13 mile road to the Kodiak Launch Facility. The launch facility has national significance and is a major new economic activity in the state. |
| 14 | Noatak Airport to Red Dog Mine EIS and Design | \$3,500,000 | | | | yes | yes | | | Funds design of a new road to connect the Red Dog transportation system to the community of Noatak. Construction of this approximately 19 mile link will provide Red Dog with access to Noatak's airport and will give the village access to the Red Dog port. |
| 14 | Total | \$76,700,000 | | | | | | | | |