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ALASKA STATE LEGISLATURE

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Rep. Dan Ogg
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Rep. Ralph Samuels
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State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal

From: Vanessa Tondini, Committee Aide *mt*
House Judiciary Committee

Date: April 16, 2003

Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0205\U, HCS CSSB 45, incorporating the following amendments:

Conceptual Amendment #1:
P.2, L.17-18
After "agency", delete "if the information...agency,"

Amendment #2:
P.2, L.1
Delete "knowingly"
Insert "intentionally"

I have also written the changes into the attached copy of the bill for clarification of the amendments. The bill passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

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

23-LS0205\U
Luckhaupt
4/8/03

HOUSE CS FOR CS FOR SENATE BILL NO. 45()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Legislative Budget and Audit Committee."**

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

3 *** Section 1.** AS 11.56 is amended by adding new sections to article 6 to read:

4 **Sec. 11.56.870. Hindering the Legislative Budget and Audit Committee in**
5 **the first degree.** (a) A person commits the crime of hindering the Legislative Budget
6 and Audit Committee in the first degree if the person violates AS 11.56.880(a) and the
7 person is a public servant.

8 (b) Each failure to comply with a request from the legislative auditor or the
9 legislative fiscal analyst is a separate violation of this section.

10 (c) Hindering the Legislative Budget and Audit Committee in the first degree
11 is a class A misdemeanor. A state employee who is convicted under this section
12 immediately forfeits the employee's office or position. In this subsection, "state
13 employee" has the meaning given in AS 39.25.990.

14 **Sec. 11.56.880. Hindering the Legislative Budget and Audit Committee in**
15 **the second degree.** (a) A person commits the crime of hindering the Legislative

1 Budget and Audit Committee in the second degree if the person ^{intentionally} ~~knowingly~~ (1) fails to
2 give, or (2) directs, orders, discourages, threatens, restrains, coerces, forces, or
3 prevents another person from giving, full cooperation to the legislative auditor or the
4 legislative fiscal analyst in assembling or furnishing requested information to the
5 committee or its staff.

6 (b) Each failure to comply with a request from the legislative auditor or the
7 legislative fiscal analyst is a separate violation of this section.

8 (c) Hindering the Legislative Budget and Audit Committee in the second
9 degree is a class B misdemeanor. A state employee who is convicted under this
10 section immediately forfeits the employee's office or position. In this subsection,
11 "state employee" has the meaning given in AS 39.25.990.

12 * Sec. 2. AS 24.20.201 is amended by adding a new subsection to read:

13 (c) When the legislative auditor or the legislative fiscal analyst requests
14 information from a state official or from an agency or department of the state, the
15 official or the agency or department may not refuse to provide that information by
16 claiming the information is privileged unless the official, or the commissioner of the
17 department or the head of an agency ^{delete} [if the information is requested from a department
18 or agency,] asserts the privilege and the basis for the privilege under oath. The
19 Legislative Budget and Audit Committee may consider the assertion of privilege, and,
20 if the committee disagrees, the committee may seek review of the claim of privilege in
21 the superior court.

22 * Sec. 3. AS 39.25.020 is amended by adding a new subsection to read:

23 (b) An appointing authority may not appoint a person to state service if the
24 person has been convicted of a crime under AS 11.56.870 or 11.56.880.

25 * Sec. 4. AS 39.90.140(3) is amended to read:

26 (3) "matter of public concern" means

27 (A) a violation of a state, federal, or municipal law, regulation,
28 or ordinance;

29 (B) a danger to public health or safety;

30 (C) gross mismanagement, a substantial waste of funds, or a
31 clear abuse of authority; [OR]

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(D) a matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320; or

(E) interference or any failure to cooperate with an audit or other matter within the authority of the Legislative Budget and Audit Committee;

* Sec. 5. AS 24.20.201(a)(9) and 24.20.206(1) are repealed.

ALASKA STATE LEGISLATURE



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SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 04/02/2003

To: House Judiciary
Representative Lesil McGuire
Attn: Vanessa Tondini

From: Senator Lyda Green\
Jacqueline F. Tupou

RE: Scheduling of SB45 "LB&A Crimes"
And SJR10 "Pledge of Allegiance"

As per our telephone conversation, I would appreciate Senate Bill 45 and Senate Joint Resolution 10 to be scheduled in Judiciary on April 10th, 2003 during your regularly scheduled meeting at 1:30 pm. I have attached the bills, sponsor statements and fiscal notes. Thank you for your time and attention to this matter.

If you have any questions or need any other information please call me at x3712.

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SENATOR LYDA GREEN SENATE DISTRICT G

SPONSOR STATEMENT FOR SENATE BILL 45

“An act relating to the Legislative Budget and Audit Committee.”

AS 24.20.201(a)(3) states that the Legislative Budget and Audit Committee has the power to “require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information.” Unfortunately, this well-intentioned statute is unenforceable because it lacks any penalties for those who are uncooperative or who undermine the work of this committee. Senate Bill 45 is designed to remedy this by providing prosecutors with the necessary tools to deter and punish those who hinder the investigative work of the legislative budget and audit committee.

Senate Bill 45 also clarifies the process by which privilege is claimed and the process by which it is determined.

When the legislature created the Legislative Budget and Audit committee, it envisioned this committee would have full access to all information necessary to carry out their work. Senate Bill 45 helps to ensure that this vision can occur.

I urge your support and swift passage of this important legislation.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 45
(S) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to the Legislative BRU Centralized Administrative Services
Budget & Audit Committee Component Administrative Services
Sponsor Senator Green
Requester (H) FIN Component No. 46

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on the Department.

Prepared by: Dan Spencer, Director
Division: Division of Administrative Services
Approved by: Mike Miller, Commissioner
Agency: Department of Administration

Phone 465-5655
Date/Time 2/20/03 11:45 AM
Date 2/20/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 45
(S) Publish Date: 3/24/03

Revision Date/Time (correction): 2/25/03 2:18 PM Dept. Affected: Law
Title "An Act relating to the Legislative Budget and Audit Committee." BRU Criminal Division
Sponsor Senator Green Component All
Requester Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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CHANGE IN REVENUES ()						
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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 (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates new crimes: Hindering the Legislative Budget and Audit Committee in the first and second degrees. Hindering the LB&A Committee in the first degree is a class B felony. Hindering the LB&A Committee in the second degree is a class C felony.

The Department of Law does not anticipate many new cases from passage of this legislation, and does not expect a measurable fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 2/25/03 2:18 PM
Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date 2/25/2003
Agency: Department of Law