

**HB**

**295**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
 MAY 09 2004  
 SENATE FINANCE  
 COMMITTEE

DATE: 5/18/03

FURTHER:

DATE TURNED IN TO OFFICE: 9 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 295(STA) am

## HB 295 REGULATIONS: NOTICE AND DISTRIBUTION

"An Act relating to the publishing, furnishing, and contents of certain notices regarding regulations or rules of certain state agencies and entities; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 295 (FIN)
- adopt previous CS CS forthcoming ( )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
fiscal note forthcoming				

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

# Draft - Prepared on draft CS

## FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SCSCSHB 295(Fin)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/28/04 Correction Dept. Affected: All  
 Title An Act relating to the publishing and BRU \_\_\_\_\_  
furnishing of certain public notices Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester Senate Finance Committee 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	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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 would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases. Estimated savings are lower than in the original version of HB 295 because agencies have reduced their public notice expenditures in the last year, and because of changes in the current version of the bill.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
 Division Office of Management and Budget Date/Time 4/28/04 8:12 AM  
 Approved by: Cheryl Frasca, Director Date 4/28/2004  
 Agency Office of Management and Budget

23-GH1145V  
Bannister  
4/1/04

SENATE CS FOR CS FOR HOUSE BILL NO. 295(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the publishing, furnishing, and contents of certain notices regarding  
2 regulations or rules of certain state agencies and entities; relating to distribution of the  
3 Alaska Administrative Code, Alaska Administrative Register, and supplements to the  
4 code or register; and providing for an effective date."

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

6 \* Section 1. AS 06.26.900(2) is amended to read:  
7 (2) in addition to other authority in this chapter to adopt regulations,  
8 adopt regulations necessary to interpret and implement this chapter, including  
9 regulations providing for the retention and preservation of records; the requirement  
10 of AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed  
11 action does not apply to a notice for regulations proposed to be adopted under  
12 this chapter;

13 \* Sec. 2. AS 09.25.510 is amended by adding a new subsection to read:  
14 (d) The requirement of AS 44.62.190(a)(7) for newspaper publication of a

1 notice of proposed action does not apply to a notice for regulations proposed to be  
2 adopted by the lieutenant governor or a state agency under this section.

3 \* Sec. 3. AS 14.25.022(c) is amended to read:

4 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
5 under this chapter, the Alaska Teachers' Retirement Board shall provide notice of the  
6 action that is being considered. The notice shall be

7 (1) posted in public buildings throughout the state;

8 (2) published in a newspaper [ONE OR MORE NEWSPAPERS] of  
9 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

10 (3) furnished [MAILED] to each person or group that has filed a  
11 request for notice of proposed action with the Alaska Teachers' Retirement Board; and

12 (4) furnished to each member of the legislature and to the Legislative  
13 Affairs Agency.

14 \* Sec. 4. AS 14.25.022(d) is amended to read:

15 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a  
16 notice under (c) of this section requests that the Alaska Teachers' Retirement  
17 Board mail the notice, the Alaska Teachers' Retirement Board shall furnish the  
18 notice to the person by mail. Failure to furnish [MAIL] notice to a person as  
19 required under this subsection or (c)(3) of this section does not invalidate an action  
20 taken by the Alaska Teachers' Retirement Board.

21 \* Sec. 5. AS 14.40.871(d) is amended to read:

22 (d) Except as provided in (e) of this section, at least 15 days before the  
23 adoption of a regulation, the corporation shall give public notice of the proposed  
24 action by publishing the notice in [AT LEAST] three newspapers of general  
25 circulation in the state and by furnishing [MAILING] a copy of the notice to every  
26 person who has filed a request for notice of proposed regulations with the corporation.  
27 If a person who is to receive a notice under this subsection requests that the  
28 corporation mail the notice, the corporation shall furnish the notice to the person  
29 by mail. The public notice must include a statement of the time, place, and nature of  
30 the proceedings for the adoption of the regulation, a brief general description [AND  
31 MUST INCLUDE AN INFORMATIVE SUMMARY] of the subject of the proposed

1            action, and a statement of how more detailed information can be obtained. On the  
2            date and at the time and place designated in the notice, the corporation shall give each  
3            interested person or an authorized representative of the person, or both, the  
4            opportunity to present statements, arguments, or contentions orally or in writing and  
5            shall give members of the public an opportunity to present oral statements, arguments,  
6            or contentions for a total period of at least one hour. The corporation shall consider all  
7            relevant matter presented to it before taking the proposed action on the regulation. At  
8            a hearing under this subsection, the corporation may continue or postpone the hearing  
9            to a time and place determined by the corporation and announced at the hearing before  
10           taking the action to continue or postpone the hearing. A regulation adopted by the  
11           corporation may vary from the brief general description [INFORMATIVE  
12           SUMMARY] specified in this subsection if the subject matter of the action taken on  
13           the regulation remains the same and if the original notice of the proposed action was  
14           written so as to assure that members of the public are reasonably notified of the  
15           subject matter of the proposed action in order for them to determine whether their  
16           interests could be affected by the corporation's proposed action on that subject.

17           \* Sec. 6. AS 18.56.088(d) is amended to read:

18                    (d) Except as provided in (e) of this section, at least 15 days before the  
19                    adoption, amendment, or repeal of a regulation on a subject specified in (c)(1) - (4) of  
20                    this section, the board shall give public notice of the proposed action by publishing the  
21                    notice in [AT LEAST] three newspapers of general circulation in the state and by  
22                    furnishing [MAILING] a copy of the notice to every person who has filed a request  
23                    for notice of proposed regulations with the board or the corporation. If a person who  
24                    is to receive a notice under this subsection requests that the board mail the  
25                    notice, the board shall furnish the notice to the person by mail. The public notice  
26                    must include a statement of the time, place, and nature of the proceedings for the  
27                    adoption, amendment, or repeal of the regulation, a brief general description [AND  
28                    MUST INCLUDE AN INFORMATIVE SUMMARY] of the proposed subject of the  
29                    regulation, and a statement of how more detailed information can be obtained.  
30                    On the date and at the time and place designated in the notice, the board shall give  
31                    each interested person or an authorized representative, or both, the opportunity to

1 present statements, arguments, or contentions in writing, and shall give members of  
2 the public an opportunity to present oral statements, arguments, or contentions for a  
3 total period of at least one hour. The board shall consider all relevant matter presented  
4 to it before adopting, amending, or repealing a regulation. At a hearing under this  
5 subsection, the board may continue or postpone the hearing to a time and place that it  
6 determines. A regulation that is adopted, or its amendment or repeal, may vary in  
7 content from the **brief general description** [INFORMATIVE SUMMARY] specified  
8 in this subsection if the subject matter of the regulation, or its amendment or repeal,  
9 remains the same and the original notice was written so as to assure that members of  
10 the public are reasonably notified of the proposed subject of the board's action in order  
11 for them to determine whether their interests could be affected by the board's action on  
12 that subject.

13 \* Sec. 7. AS 21.06.090(a) is amended to read:

14 (a) The director may adopt reasonable regulations to effectuate this title. **The**  
15 **requirement of AS 44.62.190(a)(7) for newspaper or other publication of a notice**  
16 **of proposed action does not apply to a notice for regulations proposed to be**  
17 **adopted under this title.** A regulation may not extend, modify, or conflict with any  
18 law of this state or the reasonable implications thereof. Except for regulations adopted  
19 under AS 21.06.250, a regulation affecting a person or matter other than the personnel  
20 or the internal affairs of the director's office shall be adopted or amended only after a  
21 hearing, of which notice was given as required by AS 21.06.200. If reasonably  
22 possible, the director shall set out the proposed regulation or amendment in or with the  
23 notice of hearing. A regulation or amendment as to which a hearing is required is not  
24 effective until it has been on file as a public record in the director's office for at least  
25 10 days.

26 \* Sec. 8. AS 22.25.027(c) is amended to read:

27 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
28 under this chapter, the commissioner of administration shall provide notice of the  
29 action that is being considered. The notice shall be

30 (1) posted in public buildings throughout the state;

31 (2) published in **a newspaper** [ONE OR MORE NEWSPAPERS] of

1 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

2 (3) furnished [MAILED] to each person or group that has filed a  
3 request for notice of proposed action with the commissioner of administration; and

4 (4) furnished to each member of the legislature and to the Legislative  
5 Affairs Agency.

6 \* Sec. 9. AS 22.25.027(d) is amended to read:

7 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a  
8 notice under (c)(3) of this section requests that the commissioner of  
9 administration mail the notice, the commissioner of administration shall furnish  
10 the notice to the person by mail. Failure to furnish [MAIL] notice to a person as  
11 required under this subsection or (c)(3) of this section does not invalidate an action  
12 taken by the commissioner of administration.

13 \* Sec. 10. AS 31.05.030(c) is amended to read:

14 (c) The commission shall adopt regulations and orders and take other  
15 appropriate action to carry out the purposes of this chapter. The requirement of  
16 AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed  
17 action does not apply to a notice for regulations proposed to be adopted under  
18 this chapter, including regulations under AS 31.05.040.

19 \* Sec. 11. AS 39.25.140(c) is amended to read:

20 (c) At least 30 days before the adoption, amendment, or repeal of a personnel  
21 rule, the secretary to the personnel board shall provide notice that the personnel board  
22 has the proposed action under consideration. The notice shall be

23 (1) posted in public buildings throughout the state;

24 (2) posted on the Alaska Online Public Notice System  
25 (AS 44.62.175) [PUBLISHED IN ONE OR MORE NEWSPAPERS OF GENERAL  
26 CIRCULATION THROUGHOUT THE STATE];

27 (3) furnished [MAILED] to each person or group that filed a request  
28 for notice of proposed action with the secretary to the personnel board;

29 (4) furnished to each member of the legislature and to the Legislative  
30 Affairs Agency.

31 \* Sec. 12. AS 39.25.140(f) is amended to read:

1 (f) Failure to furnish [MAIL] notice to a person as required in this section  
2 does not invalidate an action taken by the personnel board.

3 \* Sec. 13. AS 39.35.042(c) is amended to read:

4 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
5 under this chapter, the board shall provide notice of the action that is being considered.

6 The notice shall be

7 (1) posted in public buildings throughout the state;

8 (2) published in a newspaper [ONE OR MORE NEWSPAPERS] of  
9 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

10 (3) furnished [MAILED] to each person or group that has filed a  
11 request for notice of proposed action with the board; and

12 (4) furnished to each member of the legislature and to the Legislative  
13 Affairs Agency.

14 \* Sec. 14. AS 39.35.042(d) is amended to read:

15 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a  
16 notice under (c)(3) of this section requests that the board mail the notice, the  
17 board shall furnish the notice to the person by mail. Failure to furnish [MAIL]  
18 notice to a person as required under this subsection or (c)(3) of this section does not  
19 invalidate an action taken by the board.

20 \* Sec. 15. AS 42.06.140(a) is amended to read:

21 (a) The commission

22 (1) shall regulate pipelines and pipeline carriers in the state;

23 (2) may investigate upon complaint or its own motion, the rates,  
24 classifications, rules, regulations, prices, services, practices, and facilities of pipeline  
25 carriers, and the performance of obligations under and compliance with the terms of  
26 leases issued by the state;

27 (3) may make, prescribe, or require just, fair, and reasonable rates,  
28 classifications, regulations, practices, services, and facilities for pipeline carriers;

29 (4) may require pipeline carriers and affiliated interests to file with the  
30 commission reports and other information and data required or permitted to be  
31 required by other provisions of this chapter;

1 (5) may adopt regulations that are necessary and proper to the  
2 performance of its duties under this chapter, including regulations governing practices  
3 and procedures of the commission; the regulations may not be inconsistent with state  
4 law; the requirement of AS 44.62.190(a)(7) for newspaper or other publication of  
5 a notice of proposed action does not apply to a notice for regulations proposed to  
6 be adopted under this chapter;

7 (6) shall, during normal business hours, have access to and may  
8 designate any of its employees, agents, or consultants to inspect and examine the  
9 accounts, financial and property records, books, maps, inventories, appraisals,  
10 valuations, and related reports kept by a pipeline carrier, or kept for it by others, that  
11 directly affect the interests of the state and directly relate to pipelines located in the  
12 state;

13 (7) may initiate, intervene in, and appear personally or by counsel and  
14 offer evidence in and participate in, any proceedings involving a pipeline carrier, and  
15 affecting the interests of the state, before any officer, department, board, commission,  
16 or court of this state;

17 (8) shall require permits for the construction, enlargement in size or  
18 operating capacity, extension, connection and interconnection, operation, or  
19 abandonment of any oil or gas pipeline facility or facilities, subject to necessary and  
20 reasonable terms, conditions, and limitations;

21 (9) may prescribe the system of accounts and regulate the service of an  
22 oil or gas pipeline facility;

23 (10) shall provide all reasonable assistance to the Department of Law  
24 in intervening in, offering evidence in, and participating in proceedings involving a  
25 pipeline carrier or affiliated interest and affecting the interests of the state, before an  
26 officer, department, board, commission, or court of another state or the United States.

27 \* Sec. 16. AS 42.40.180(a) is amended to read:

28 (a) The board shall adopt rules to carry out its functions and the purposes of  
29 this chapter, including rules to safeguard property owned, managed, or transported by  
30 the corporation and to protect employees and persons using the corporation's property  
31 or services. At least 15 days before the adoption of a rule, the board shall give public

1 notice of the proposed action by publishing a notice in [AT LEAST] three newspapers  
2 of general circulation in the state and by furnishing [MAILING] a copy of the notice  
3 to each person who has requested notice of proposed changes to rules. The notice  
4 must include a statement of [STATE] the time, place, and nature of the proceedings,  
5 [AND MUST CONTAIN] a brief general description [SUMMARY] of the subject  
6 of the proposed rule, and a statement of how more detailed information can be  
7 obtained.

8 \* Sec. 17. AS 42.40.180(c) is amended to read:

9 (c) The board shall consider all relevant matters presented to it before  
10 adopting a rule. The board may take action on a rule that varies in content from the  
11 brief general description specified in (a) of this section [SUMMARY PROVIDED  
12 WITH THE NOTICE OF THE PROPOSED RULE] if the subject of the rule was  
13 reflected in the brief general description [SUMMARY] and the brief general  
14 description [IT] provided reasonable notice to members of the public as to whether  
15 their interests could be affected by the board's action on that subject.

16 \* Sec. 18. AS 42.40.200(a) is amended to read:

17 (a) If a person who is to receive a notice under AS 42.40.180(a) or  
18 42.40.190(a) requests that the board mail the notice, the board shall furnish the  
19 notice to the person by mail. Failure to furnish [MAIL] notice to a person under  
20 this subsection. AS 42.40.180(a)<sub>2</sub> or 42.40.190(a) does not invalidate an action taken  
21 by the board.

22 \* Sec. 19. AS 43.20.160(c) is amended to read:

23 (c) The department shall prescribe and furnish all necessary forms, and adopt  
24 and publish all necessary regulations in plain and concise language conformable with  
25 this chapter for the assessment and collection of the taxes imposed by this chapter.  
26 The department shall apply as far as practicable the administrative and judicial  
27 interpretations of the federal income tax law. The department shall also prepare a  
28 concise statement of the contents of the code sections referred to in this chapter for the  
29 information of the taxpayer and make them available to the taxpayer making a return.  
30 The requirement of AS 44.62.190(a)(7) for newspaper or other publication of a  
31 notice of proposed action does not apply to a notice for regulations proposed to

1 be adopted to administer AS 43.20.072.

2 \* Sec. 20. AS 43.56.200 is amended to read:

3 Sec. 43.56.200. Regulations. The board and the department may adopt  
4 regulations under AS 44.62 (Administrative Procedure Act) as appropriate to carry out  
5 their respective duties under this chapter. The requirement of AS 44.62.190(a)(7)  
6 for newspaper or other publication of a notice of proposed action does not apply  
7 to a notice for regulations proposed to be adopted under this section.

8 \* Sec. 21. AS 44.62.140 is amended to read:

9 Sec. 44.62.140. Distribution of code and register. Upon the request of the  
10 clerk of a local government unit for a paper or an electronic copy of [THE  
11 LIEUTENANT GOVERNOR SHALL SUPPLY] a complete set of the Alaska  
12 Administrative Code, and of the Alaska Administrative Register, and of each  
13 supplement to the code or register, and payment of the costs described in (b) of this  
14 section, the lieutenant governor shall supply the requested copy to the clerk of the  
15 [EACH] local government unit, or, if the authority to accept filings is delegated, to the  
16 person to whom this authority is delegated.

17 \* Sec. 22. AS 44.62.140 is amended by adding a new subsection to read:

18 (b) Upon receipt of a request under (a) of this section, the lieutenant governor  
19 shall inform the requesting clerk of the costs, including mailing costs, of complying  
20 with the local government unit's request.

21 \* Sec. 23. AS 44.62.190(a) is amended to read:

22 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,  
23 a state agency

24 (1) shall post a notice of the proposed action [SHALL BE (1)  
25 PUBLISHED IN THE NEWSPAPER OF GENERAL CIRCULATION OR TRADE  
26 OR INDUSTRY PUBLICATION THAT THE STATE AGENCY PRESCRIBES  
27 AND POSTED] on the Alaska Online Public Notice System; [IN THE DISCRETION  
28 OF THE STATE AGENCY GIVING THE NOTICE, THE REQUIREMENT OF  
29 PUBLICATION IN A NEWSPAPER OR TRADE OR INDUSTRY PUBLICATION  
30 MAY BE SATISFIED BY USING A COMBINATION OF PUBLICATION AND  
31 BROADCASTING; WHEN BROADCASTING THE NOTICE, AN AGENCY MAY

1 USE AN ABBREVIATED FORM OF THE NOTICE IF THE BROADCAST  
2 PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR TRADE OR  
3 INDUSTRY JOURNAL AND THE INTERNET ADDRESS OF THE ALASKA  
4 ONLINE PUBLIC NOTICE SYSTEM WHERE THE FULL TEXT OF THE  
5 NOTICE CAN BE FOUND;]

6 (2) shall furnish the notice of the proposed action [FURNISHED] to  
7 every person who has filed a request for notice of proposed action with the state  
8 agency;

9 (3) shall, if the agency is within a department, furnish the notice of  
10 the proposed action [FURNISHED] to the commissioner of the department;

11 (4) shall, when appropriate in the judgment of the agency,

12 (A) furnish the notice of the proposed action [FURNISHED]  
13 to a person or group of persons whom the agency believes is interested in the  
14 proposed action; and

15 (B) publish the notice of the proposed action [PUBLISHED]  
16 in the additional form and manner the state agency prescribes;

17 (5) shall furnish the notice of the proposed action [FURNISHED] to  
18 the Department of Law together with a copy of the proposed regulation, amendment,  
19 or order of repeal for the department's use in preparing the opinion required after  
20 adoption and before filing by AS 44.62.060;

21 (6) shall furnish the notice of the proposed action [FURNISHED]  
22 by electronic format, if the state agency has the technological capability, to all  
23 incumbent State of Alaska legislators, and furnish the notice [FURNISHED] to the  
24 Legislative Affairs Agency; if the state agency does not have the technological  
25 capability to furnish the notice by electronic format to the legislators, the state agency  
26 shall furnish the notice to the legislators by other means;

27 (7) shall publish an abbreviated form of the notice of the proposed  
28 action in a newspaper of general circulation or trade or industry publication that  
29 the state agency giving the notice prescribes; and

30 (8) may broadcast an abbreviated form of the notice of the  
31 proposed action.

1 \* **Sec. 24.** AS 44.62.200 is repealed and reenacted to read:

2 **Sec. 44.62.200. Contents of notice.** (a) The notice of proposed adoption,  
3 amendment, or repeal of a regulation that is posted on the Alaska Online Public Notice  
4 System and that is furnished under AS 44.62.190(a)(2) - (6) must include

5 (1) a statement of the time, place, and nature of proceedings for  
6 adoption, amendment, or repeal of the regulation;

7 (2) reference to the authority under which the regulation is proposed  
8 and a reference to the particular code section or other provisions of law that are being  
9 implemented, interpreted, or made specific;

10 (3) an informative summary of the proposed subject of agency action;

11 (4) other matters prescribed by a statute applicable to the specific  
12 agency or to the specific regulation or class of regulations; and

13 (5) a summary of the fiscal information required to be prepared under  
14 AS 44.62.195.

15 (b) The abbreviated form of the notice of proposed action that is published in a  
16 newspaper of general circulation or trade or industry publication, or that is broadcast,  
17 under AS 44.62.190(a)(7) or (8) must include

18 (1) a statement of the time, place, and nature of the proceedings for  
19 adoption, amendment, or repeal of the regulation;

20 (2) a reference to the particular code section or other provisions of law  
21 that are being implemented, interpreted, or made specific;

22 (3) a brief general description of the proposed subject of agency  
23 action; and

24 (4) a statement of how more detailed information may be obtained,  
25 including

26 (A) the Internet address of the Alaska Online Public Notice  
27 System where the full text of the notice of proposed action can be found; and

28 (B) the name, telephone number, and electronic and mailing  
29 addresses of the contact person for the state agency through whom a person  
30 may request a copy of the full text of the notice of, or submit comments on, the  
31 proposed action.

1 (c) A regulation that is adopted, amended, or repealed may vary in content  
2 from the summary specified in (a)(3) of this section, or the brief general description  
3 specified in (b)(3) of this section, if the subject matter of the regulation remains the  
4 same and the original notice was written so as to assure that members of the public are  
5 reasonably notified of the proposed subject of agency action in order for them to  
6 determine whether their interests could be affected by agency action on that subject.

7 \* Sec. 25. AS 44.88.085(d) is amended to read:

8 (d) Except as provided in (e) of this section, at least 15 days before the  
9 adoption, amendment, or repeal of a regulation, the authority shall give public notice  
10 of the proposed action by publishing the notice in [AT LEAST] three newspapers of  
11 general circulation in the state and by furnishing [MAILING] a copy of the notice to  
12 every person who has filed a request for notice of proposed regulations with the  
13 authority. If a person who is to receive a notice under this subsection requests  
14 that the authority mail the notice, the authority shall furnish the notice to the  
15 person by mail. The public notice must include a statement of the time, place, and  
16 nature of the proceedings for the adoption, amendment, or repeal of the regulation, a  
17 brief general description [AND MUST INCLUDE AN INFORMATIVE  
18 SUMMARY] of the subject of the proposed action, and a statement of how more  
19 detailed information can obtained. On the date and at the time and place designated  
20 in the notice, the authority shall give each interested person or an authorized  
21 representative of the person, or both, the opportunity to present statements, arguments,  
22 or contentions orally or in writing and shall give members of the public an opportunity  
23 to present oral statements, arguments, or contentions for a total period of at least one  
24 hour. The authority shall consider all relevant matter presented to it before taking the  
25 proposed action on the regulation. At a hearing under this subsection, the authority  
26 may continue or postpone the hearing to a time and place determined by the authority  
27 and announced at the hearing before taking the action to continue or postpone the  
28 hearing. A regulation adopted, amended, or repealed by the authority may vary from  
29 the brief general description [INFORMATIVE SUMMARY] specified in this  
30 subsection if the subject matter of the action taken on the regulation remains the same  
31 and if the original notice of the proposed action was written so as to assure that

1 members of the public are reasonably notified of the subject matter of the proposed  
2 action in order for them to determine whether their interests could be affected by the  
3 authority's proposed action on that subject.

4 \* **Sec. 26.** AS 45.55.960 is amended to read:

5 **Sec. 45.55.960. Administrative Procedure Act applies.** AS 44.62  
6 (Administrative Procedure Act) applies to all regulations adopted or authorized under  
7 this chapter, except that the requirement of AS 44.62.190(a)(7) for newspaper or  
8 other publication of a notice of proposed action does not apply to a notice for  
9 regulations proposed to be adopted under this chapter.

10 \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **APPLICABILITY.** The changes made by this Act do not apply to the adoption,  
13 amendment, or repeal of an agency regulation or rule unless notice of the proposed adoption,  
14 amendment, or repeal is first provided to the public in accordance with law on or after the  
15 effective date of this Act.

16 \* **Sec. 28.** This Act takes effect immediately under AS 01.10.070(c).



# Alaska State Senate

## Senate Finance Committee

Official Business

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 9 May 2004 TIME: 1:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please

SCS CS HB 295 (FIN)

23-GH 1145 \ I Bennister

4/1/04

no changes ☺

Thanks

Mindy

# LEGAL SERVICES

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

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

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

## MEMORANDUM

April 9, 2004

**SUBJECT:** SCS CSHB 295(FIN) relating to state agency notices and other matters (Work Order No. 23-GH1145VI)

**TO:** Senator Gary Wilken  
Co-Chair, Senate Finance Committee  
Attn: Sheila

**FROM:** <sup>AB</sup> Theresa L. Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** With regard to the powers of the Department of Community and Economic Development to adopt regulations under the Revised Alaska Trust Company Act, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for regulations proposed under the Act.

**Section 2.** With regard to electronic records and signatures, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under the section.

**Section 3.** With regard to regulations adopted by the Alaska Teachers' Retirement Board, changes the newspaper publication requirement. Changes the mailing requirement to a requirement to furnish the notice.

**Section 4.** With regard to regulations adopted by the Alaska Teachers' Retirement Board, requires that a notice be mailed under some circumstances. Makes some conforming changes.

**Section 5.** With regard to regulations adopted by the Alaska Aerospace Development Corporation, changes the notice publication requirement, changes the mailing requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

**Section 6.** With regard to regulations adopted by the Alaska Housing Finance Corporation, changes the notice publication requirement, changes the mailing

requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

**Section 7.** With regard to the regulations adopted by the director of the division of insurance, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed to be adopted under AS 21, the insurance title.

**Section 8.** With regard to the regulations adopted by the commissioner of administration to implement the chapter on judicial retirement and death benefits, changes the newspaper publication requirement. Changes the mailing requirement to a requirement to furnish the notice.

**Section 9.** With regard to the regulations adopted by the commissioner of administration to implement the chapter on judicial retirement and death benefits, requires that a notice be mailed under some circumstances. Makes some conforming changes.

**Section 10.** With regard to the regulations adopted by the Alaska Oil and Gas Conservation Commission, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under AS 31.05, the Alaska Oil and Gas Conservation Act.

**Section 11.** With regard to the adoption of personnel rules under the State Personnel Act, changes the notice publication requirement to posting on the Alaska Online Public Notice System and changes the mailing requirement to a requirement to furnish the notice.

**Section 12.** With regard to the adoption of personnel rules under the State Personnel Act, makes a conforming change.

**Section 13.** With regard to regulations adopted by the Public Employees Retirement Board, changes the newspaper publication requirement for the notice and changes the mailing requirement to a requirement to furnish the notice.

**Section 14.** With regard to regulations adopted by the Public Employees Retirement Board, requires that a notice be mailed under some circumstances and makes some conforming changes.

**Section 15.** With regard to the adoption of regulations by the Regulatory Commission of Alaska under the Pipeline Act chapter, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under that chapter.

**Section 16.** With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, changes the notice publication requirement, changes the mailing requirement to a requirement to furnish the notice, and changes the content of the notice.

**Section 17.** With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, allows a rule to vary from the description in the notice if the subject was reflected in description and the description provided reasonable notice to the public.

**Section 18.** With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, requires that a notice be mailed under some circumstances and makes some conforming changes.

**Section 19.** With regard to the adoption of regulations by the Department of Revenue under the Alaska Net Income Tax Act, as that act relates to oil and gas producers and pipelines, states that an Administrative Procedure Act publication requirement doesn't apply to notices for the proposed regulations.

**Section 20.** With regard to regulations adopted by the State Assessment Review Board and the Department of Revenue to carry out their duties under the chapter on oil and gas exploration, production, and pipeline transportation property taxes, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for proposed regulations.

**Section 21.** In the Administrative Procedure Act, directs the lieutenant governor to provide, upon request and payment of certain costs, a set of the Alaska Administrative Code and the Alaska Administrative Register (and supplements) to local government units.

**Section 22.** In the Administrative Procedure Act, directs the lieutenant governor, upon request, to inform the requesting local government clerk of the costs of complying with a request for a copy of the Alaska Administrative Code and the Alaska Administrative Register.

**Section 23.** With regard to the adoption of regulations under the Administrative Procedure Act, directs a state agency to post a notice of the proposed action on the Alaska Online Public Notice System and makes various changes to the other notice requirements.

**Section 24.** Establishes what a notice of the proposed adoption, amendment, or repeal of a regulation posted on the Alaska Online Public Notice System and furnished under certain provisions, must contain. Establishes what the abbreviated form of a published or broadcast notice must contain. Allows a final regulation action to vary from the required summary or brief general description if the subject matter remains the same and there was reasonable notice to the public

**Section 25.** With regard to regulations adopted by the Alaska Industrial Development and Export Authority, changes the notice publication requirement, changes the mailing

Senator Gary Wilken  
April 9, 2004  
Page 4

requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

**Section 26.** With regard to regulations adopted under the Alaska Securities Act, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for a regulation proposed under that Act.

**Section 27.** Provides a transition section. Indicates to which regulations and rules this Act applies.

**Section 28.** Gives this Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:mdr  
04-145.mdr

Draft - Prepared on draft CS  
**FISCAL NOTE**

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SCSCSHB 295(Fin)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/28/04 Correction Dept. Affected: All  
Title An Act relating to the publishing and BRU \_\_\_\_\_  
furnishing of certain public notices Component \_\_\_\_\_  
Sponsor Rules Committee  
Requester Senate Finance Committee 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	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>	<b>(123.1)</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
100- GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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 would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases. Estimated savings are lower than in the original version of HB 295 because agencies have reduced their public notice expenditures in the last year, and because of changes in the current version of the bill.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
Division: Office of Management and Budget Date/Time 4/28/04 8:12 AM  
Approved by: Cheryl Frasca, Director Date 4/28/2004  
Agency: Office of Management and Budget

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 295(STA)  
 (H) Publish Date: 5/14/03

Revision Date/Time (Note if correction): 5/6/03 Dept. Affected: All  
 Title An Act relating to the publishing and BRU \_\_\_\_\_  
furnishing of certain public notices Component \_\_\_\_\_  
 Sponsor Rules Committee \_\_\_\_\_  
 Requester Governor Component No. \_\_\_\_\_

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

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

OPERATING EXPEND. JRES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>

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

100? Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
 Division: Office of Management and Budget Date/Time 5/6/03 10:53 AM  
 Approved by: Jay Hogan, Deputy Director Date 5/6/2003  
 Agency: Office of Management and Budget

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 295  
 (H) Publish Date: 5/1/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title An Act relating to public notices BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester Governor 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						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

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 would result in savings from increased use of online public notices instead of newspaper advertisements. The amount of this savings is currently being researched and will be included in a revised fiscal note.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
 Division: OMB Date/Time 4/23/03 1:10 PM  
 Approved by: Cheryl Frasca, Director Date 4/23/2003  
 Agency: OMB

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



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB295  
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WWW.GOV.STATE.AK.US

April 30, 2003

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

Dear Speaker Kott: *Pete*

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to change the Alaska Administrative Procedure Act and make other statutory improvements to provide for better and more cost-effective notice of regulatory changes.

First, the bill would allow certain state agencies to publish, in a newspaper or other publication, an abbreviated notice of proposed regulatory changes that clearly describes the changes and how an interested person may obtain more detailed information through the Internet or in written form. Second, the bill also would amend a variety of state statutes to allow agencies the flexibility of sending out individual notices by means other than regular mail. This change would make these newspaper publication requirements consistent with the provision in the Administrative Procedure Act, that notice need be published in only one newspaper of general circulation in the state.

Under the Administrative Procedure Act, public notice of changes to regulations must be published in a newspaper of general circulation or other specified type of publication. This notice is to include an informative summary of the changes, which has been interpreted to require a comprehensive description. In practice this results in lengthy notices, usually in the classified advertisement section of the newspapers, that are expensive and often difficult to understand.

This bill would change this practice to allow for a more abbreviated notice in newspapers or other publications, clearly describing the subject matter of the changes and directing interested persons to more detailed information sources. Recognizing the utility and efficiency of the Internet, the bill requires detailed information on the changes to be available on the Alaska Online Public Notice System. Also, recognizing that the Internet is not available to all citizens, the bill would provide that detailed information be

made available to interested persons by other means, if requested. Thus, the bill would allow state agencies to use the Internet to improve communications regarding regulatory changes, while still providing notice for those who do not yet have the access or ability to use the Internet.

The bill also would change statutory notice provisions for specific government entities to allow for the flexibility to use methods of communication other than regular mail in providing public notice of regulation or rule changes. There is a provision that notices shall be delivered by mail, upon request. This flexible approach was put into place in 2000 for regulations under the Administrative Procedure Act, and has proven effective. The changes in this bill would simply extend that flexibility to certain named state agencies. In addition, the bill would amend the statutes relating to publication of newspaper notices to make it consistent with the requirement in the Administrative Procedure Act that notice be published in a single newspaper of general circulation. The governmental entities affected by these changes include the Alaska Teachers' Retirement Board, Alaska Aerospace Development Corporation, Alaska Railroad Corporation, Alaska Housing Finance Corporation, Department of Administration, Public Employees' Retirement Board, and the Alaska Industrial Development and Export Authority.

This bill also excludes specific government entities from having to publish an abbreviated notice in a newspaper or other publication relating to topics of concern to larger institutions and groups that have the ability to or already regularly communicate with the state through electronic means. These statutes include such areas as the Alaska Securities Act, the Alaska Trust Company Act, oil and gas leasing, state personnel rules, certifying authority for an electronic signature, Medicaid rate setting for facilities, and the Pipeline Act. When adopting regulations or rules under these specific statutes, the government agencies would continue to post the notice on the Alaska Online Public Notice System and furnish the notice to interested parties and other government entities, but would not be required to publish the abbreviated notice. The government entities affected by these changes include the lieutenant governor, Department of Administration, Department of Revenue, Department of Health and Social Services, State Assessment Review Board, Alaska Oil and Gas Conservation Commission, Department of Natural Resources, Department of Community and Economic Development, and the Regulatory Commission of Alaska.

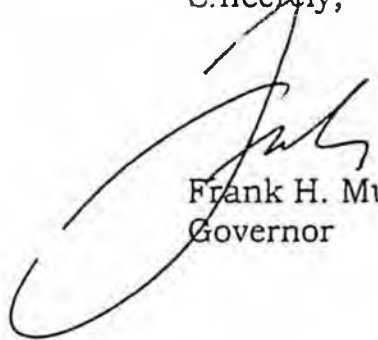
The changes to public notice procedures made by the bill would be applicable to public notices issued on or after the effective date of the Act.

The Honorable Pete Kott  
April 30, 2003  
Page 3

Lastly, this bill would amend the requirement for the lieutenant governor, at state expense, to supply a complete set of the Alaska Administrative Code, the Alaska Administrative Register, and each supplement to the code or register to the clerk of each local government unit. This bill allows local government units' clerks to request a paper or electronic copy of the publications, and would require payment for the requested copy. Because electronic access to the Alaska Administrative Code is currently available through the legislature's website, and through links to that website found on various state agency websites, local governments still would have a "no-cost" option for access to the information.

I urge your prompt consideration and passage of this bill.

Sincerely,



Frank H. Murkowski  
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 295-REGULATIONS: NOTICE AND DISTRIBUTION

NAME: JACK KREINHEDER Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: OMB Phone: X 4676  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_Yes \_\_\_No  Respond To Questions Fiscal Note

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_Yes \_\_\_No \_\_\_ Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_Yes \_\_\_No \_\_\_ Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_Yes \_\_\_No \_\_\_ Respond To Questions

