

SB

104

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 6, 2005

FURTHER REFERRALS:

Date of Committee Action: May 2, 2005

The JUDICIARY Committee considered:

CSSB 104(JUD)

CS FOR SENATE BILL NO. 104(JUD)

PERMANENT FUND DIVIDEND FRAUD

"An Act relating to the crimes of unsworn falsification in the first and second degrees and false information or report; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue; and providing for an effective date."

Recommends it be replaced with HCS or CS for CSSB 104 (JUD)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

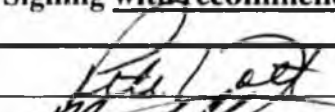
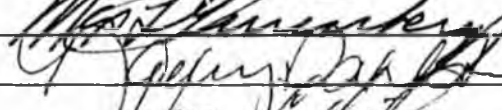
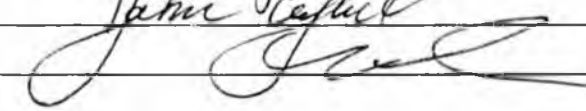

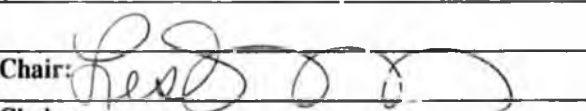

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

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

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
LAW	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	KOTT	✓			
	Greenberg	-			
	Lambert			X	
	Coghill			✓	
	Gawa	✓			
Chair: 	Melure	✓			
Chair:					

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 104 (JUD)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Permanent Fund Dividend Fraud RDU: Revenue Programs & Support
 Component: Permanent Fund Dividend
 Sponsor: Seekins
 Requester: _____ Component No.: 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 104 establishes unsworn falsification penalties in the first and second degrees; defines unsworn falsification of permanent fund dividend eligibility as a first degree class C felony.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division: Permanent Fund Dividend Date/Time 4/5/05 8:00 AM
 Approved by: Tom Boutin, Deputy Commissioner Date 4/5/2005
 Agency: Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to the crime of misrepresenting RDU: CIVIL
permanent fund eligibility..." Component: Commercial & Fair Business
 Sponsor: Senator Seakins Component No. _____
 Requester: Senate State Affairs

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would create a new statute in the criminal code making the crimes commonly associated with fraudulently applying for a permanent fund dividend a class C felony. Additionally, this bill would statutorily require the Department of Revenue to create a fraud investigation unit designed to detect and investigate permanent fund dividend crimes to aid in the prosecution of these offenses and the imposition of civil penalties. Currently Revenue has created a fraud investigation unit, but creating the unit in statute is necessary to facilitate access to information held by other law enforcement agencies. Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/22/05 11:21 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/22/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Dividend Fraud RDU Revenue Programs & Support
 Component Permanent Fund Dividend
 Sponsor Seekins
 Requester _____ Component No. 98

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 104 defines misrepresentation of permanent fund dividend eligibility and authorizes a class C felony penalty for misrepresenting permanent fund eligibility. Current Title 11 provisions for forgery only cover the forging of financial instruments and therefore do not cover PFD application documents.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division: Permanent Fund Dividend Date/Time 2/22/05 1:17 PM
 Approved by: Tom Boutin Date 2/22/2005
 Agency: Department of Revenue

24-LS0519\S
Cook
4/13/05

HOUSE CS FOR CS FOR SENATE BILL NO. 104(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS SEEKINS, Therriault, Bunde, Wilken, Stedman, Cowdery, Guess, Elton, Kookesh, Wagoner, Ellis, Olson, Gary Stevens, Green, French, Huggins, Dyson, Ben Stevens

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crimes of unsworn falsification in the first degree involving an**
2 **application for a permanent fund dividend and false information or report involving**
3 **eligibility for a permanent fund dividend; requiring the establishment of a permanent**
4 **fund dividend fraud investigation unit in the Department of Revenue; relating to service**
5 **in the peace corps and as a member of the United States Olympic Team as allowable**
6 **absences from the state for purposes of eligibility for permanent fund dividends and to**
7 **the period for filing an application for a permanent fund dividend; authorizing the**
8 **Department of Revenue to issue administrative orders imposing sanctions for certain**
9 **misrepresentations or other actions concerning eligibility for a permanent fund dividend**
10 **and providing for administrative appeal of those orders; and providing for an effective**
11 **date."**

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

1 * **Section 1.** AS 05.15.095(a) is amended to read:

2 (a) The applications and reports to the department required by this chapter
3 shall be signed under penalty of unsworn falsification in the second degree by the
4 following person, as applicable:

- 5 (1) the member in charge for the qualified organization;
6 (2) a person authorized to sign on behalf of the municipality;
7 (3) the operator or the operator's agent;
8 (4) the licensed pull-tab distributor or the distributor's agent; or
9 (5) the licensed pull-tab manufacturer or the manufacturer's agent.

10 * **Sec. 2.** AS 05.15.680(b) is amended to read:

11 (b) A person who, with the intent to mislead a public servant in the
12 performance of the public servant's duty, submits a false statement in an application
13 for a permit, license, or vendor registration under this chapter is guilty of unsworn
14 falsification in the second degree.

15 * **Sec. 3.** AS 06.05.045(a) is amended to read:

16 (a) Each state bank shall make at least four reports of condition each year to
17 the department on days designated by, and on forms prescribed by, the department.
18 The report shall be signed by a duly authorized officer of the bank and shall be signed
19 by at least three directors who certify under penalty of unsworn falsification in the
20 second degree under AS 11.56.210 that they, and each of them, have personal
21 knowledge of the facts stated in the report and that the facts are true. The reports must
22 exhibit in detail and under appropriate heads the resources and liabilities of the bank
23 and must be received by the department within 30 calendar days after the end of the
24 period covered by the report.

25 * **Sec. 4.** AS 06.50.310(a) is amended to read:

26 (a) On or before March 15 of each year, a licensee shall file with the
27 department a composite annual report for the preceding calendar year in the form
28 prescribed by the department relating to all advances made by the licensee. The
29 department may require that the report be submitted under oath or affirmation, or with
30 notice that false statements made are punishable as unsworn falsification in the
31 second degree under AS 11.56.210.

1 * Sec. 5. AS 08.88.460(a) is amended to read:

2 (a) Subject to (e) of this section, a person seeking reimbursement for a loss
3 suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or
4 the conversion of trust funds or the conversion of community association accounts
5 under the control of a community association manager on the part of a licensee
6 licensed under this chapter shall make a claim to the commission for reimbursement
7 on a form furnished by the commission. In order to be eligible for reimbursement by
8 the commission, the claim form must be filed within two years after the occurrence of
9 the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of
10 community association accounts under the control of a community association
11 manager claimed as the basis for the reimbursement. The form shall be executed under
12 penalty of unsworn falsification in the second degree and must include the following:

- 13 (1) the name and address of each real estate licensee involved;
- 14 (2) the amount of the alleged loss;
- 15 (3) the date or period of time during which the alleged loss occurred;
- 16 (4) the date upon which the alleged loss was discovered;
- 17 (5) the name and address of the claimant; and
- 18 (6) a general statement of facts relative to the claim.

19 * Sec. 6. AS 10.20.655(b) is amended to read:

20 (b) The interrogatories shall be answered within 30 days after mailing, or
21 within the additional time fixed by the commissioner, and the answers shall be full and
22 complete, in writing and under penalty of unsworn falsification in the second degree
23 under AS 11.56.210. If the interrogatories are directed to an individual, they shall be
24 answered by that individual and, if directed to a corporation, they shall be answered by
25 the president, vice-president, secretary, or assistant secretary of the corporation.

26 * Sec. 7. AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.205. Unsworn falsification in the first degree.** (a) A person
28 commits the crime of unsworn falsification in the first degree if the person violates
29 AS 11.56.210(a)(1) and the application is an application for a permanent fund
30 dividend.

31 (b) In this section,

1 (1) "application for a permanent fund dividend" includes a written or
2 electronic application and any other documentation submitted to support an
3 application for a permanent fund dividend;

4 (2) "permanent fund dividend" has the meaning given in
5 AS 43.23.095.

6 (c) Unsworn falsification in the first degree is a class C felony.

7 * **Sec. 8.** AS 11.56.210 is amended to read:

8 **Sec. 11.56.210. Unsworn falsification in the second degree.** (a) A person
9 commits the crime of unsworn falsification in the second degree if, with the intent to
10 mislead a public servant in the performance of a duty, the person submits a false
11 written or recorded statement that [WHICH] the person does not believe to be true

12 (1) in an application for a benefit; or

13 (2) on a form bearing notice, authorized by law, that false statements
14 made in it are punishable.

15 (b) Unsworn falsification in the second degree is a class A misdemeanor.

16 * **Sec. 9.** AS 11.56.220 is amended to read:

17 **Sec. 11.56.220. Proof of guilt.** In a prosecution for perjury or unsworn
18 falsification in the first or second degree it is not necessary that proof be made by a
19 particular number of witnesses or by documentary or other type of evidence.

20 * **Sec. 10.** AS 11.56.800(a) is amended to read:

21 (a) A person commits the crime of false information or report if the person
22 knowingly

23 (1) gives false information to a peace officer

24 (A) with the intent of implicating another in an offense; or

25 (B) concerning the person's identity while the person is

26 (i) under arrest, detention, or investigation for a crime;

27 or

28 (ii) being served with an arrest warrant or being issued a

29 citation;

30 (2) makes a false report to a peace officer that a crime has occurred or
31 is about to occur;

1 (3) makes a false report or gives a false alarm, under circumstances not
2 amounting to terroristic threatening in the second degree under AS 11.56.810, that a
3 fire or other incident dangerous to life or property calling for an emergency response
4 has occurred or is about to occur; [OR]

5 (4) makes a false report to the Department of Natural Resources under
6 AS 46.17 concerning the condition of a dam or reservoir; or

7 (5) gives false information to a public employee relating to a
8 person's eligibility for a permanent fund dividend under AS 43.23 and the false
9 information does not also violate AS 11.56.205.

10 * Sec. 11. AS 12.55.045(j) is amended to read:

11 (j) A defendant who is convicted of an offense for which restitution may be
12 ordered shall submit financial information as ordered by the court. The Alaska Court
13 System shall prepare a form, in consultation with the Department of Law, for the
14 submission of the information; the form must include a warning that submission of
15 incomplete or inaccurate information is punishable as unsworn falsification in the
16 second degree under AS 11.56.210. A defendant who is convicted of (1) a felony
17 shall submit the form to the probation office within 30 days after conviction, and the
18 probation officer shall attach the form to the presentence report, or (2) a misdemeanor
19 shall file the form with the defendant's response or opposition to the restitution
20 amount. The defendant shall provide a copy of the completed form to the prosecuting
21 authority.

22 * Sec. 12. AS 16.05.450(a) is amended to read:

23 (a) The commissioner or an authorized agent shall issue a crewmember fishing
24 license under AS 16.05.480 to each qualified person who files a written application at
25 a place in the state designated by the commissioner, containing the reasonable
26 information required by the commissioner together with the required fee. The
27 commissioner shall require the reporting of the applicant's social security number on
28 the application. The application shall be simple in form and shall be executed by the
29 applicant under the penalty of unsworn falsification in the second degree.

30 * Sec. 13. AS 16.05.450(b) is amended to read:

31 (b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel

1 license under AS 16.05.490 to each qualified vessel for which a written application
2 has been filed, at a place in the state designated by the commission, containing the
3 reasonable information required by the commission together with the required fee.
4 The application shall be simple in form and shall be executed by the applicant under
5 the penalty of unsworn falsification in the second degree.

6 * Sec. 14. AS 16.43.970(b) is amended to read:

7 (b) A person or entity who knowingly makes a false statement to the
8 commission for the purpose of obtaining a benefit, including the issuance, renewal,
9 duplication, or transfer of an entry or interim-use permit, vessel license, vessel
10 interim-use permit, or vessel entry permit, or a person who assists another by
11 knowingly making a false statement to the commission for the purpose of obtaining a
12 benefit for another, is guilty of the crime of unsworn falsification in the second
13 degree as set out in AS 11.56.210. Upon conviction, the person or entity is also
14 subject to suspension of commercial fishing privileges and revocation of commercial
15 fishing permits under (i) of this section.

16 * Sec. 15. AS 18.60.095(f) is amended to read:

17 (f) A person who knowingly makes a false statement, representation, or
18 certification with the intent to mislead in an application, record, report, plan or other
19 document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty
20 of unsworn falsification in the second degree.

21 * Sec. 16. AS 18.65.710(a) is amended to read:

22 (a) The application for a permit to carry a concealed handgun must contain the
23 following information:

24 (1) the applicant's name, physical residence, mailing address, place and
25 date of birth, physical description, including height, weight, race, hair color, and eye
26 color, Alaska driver's license or identification card number, and the city and state of
27 each place the applicant has resided in the five years immediately preceding the
28 application;

2 (2) a statement that the applicant qualifies under AS 18.65.705;

30 (3) a statement that the applicant has been furnished with a copy of the
31 state laws and regulations relating to concealed handguns, has read those sections, and

1 understands them;

2 (4) a statement that the applicant desires a permit to carry a concealed
3 handgun for a lawful purpose, which may include self-defense;

4 (5) a statement by the applicant that all statements, answers, and
5 attachments to the application are true and complete;

6 (6) a conspicuous warning that an applicant who supplies a false
7 statement, answer, or document in connection with the application that the applicant
8 does not believe to be true may be prosecuted for unsworn falsification in the second
9 degree and, if found guilty, may be punished for violation of a class A misdemeanor,
10 and that, in such cases, the permit shall be revoked and the applicant may be barred
11 from any further application for a permit; and

12 (7) a statement that the applicant understands that a permit eligibility
13 investigation will be conducted as a part of the application process, that this may
14 involve computerized records searches, and that the applicant authorizes the
15 investigation.

16 * Sec. 17. AS 21.27.110(h) is amended to read:

17 (h) A notice of termination submitted to the director under this section must
18 include a statement of the reasons for the termination. A statement of the reasons for
19 termination is confidential and not subject to inspection and copying under
20 AS 40.25.110. A statement of reasons for the termination may not be admitted as
21 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
22 or authorized representative by or on behalf of a person affected by the termination,
23 except when the action or proceeding involves perjury, unsworn falsification in the
24 second degree, fraud, or failure to comply with this subsection.

25 * Sec. 18. AS 28.35.130 is amended to read:

26 **Sec. 28.35.130. False report or destruction of evidence.** An officer or
27 person who knowingly makes or subscribes a false report concerning an investigation
28 of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is
29 guilty of unsworn falsification in the second degree. A person who destroys,
30 obliterates, conceals or removes, or who aids, abets, or assists in the destruction,
31 obliteration, concealment, or removal from a vehicle, of evidence showing or tending

1 to show that the vehicle collided with a person or property, is punishable by a fine of
2 not more than \$500, or by imprisonment for not more than six months, or by both.

3 * Sec. 19. AS 28.35.135(a) is amended to read:

4 (a) A person may not knowingly make a false affidavit, statement, or
5 representation, or affirm falsely with respect to a matter or fact required to be set out
6 under this title, nor may the person use a name other than the person's true name. A
7 person convicted of violating this section is guilty of unsworn falsification in the
8 second degree and is punishable as prescribed by law.

9 * Sec. 20. AS 43.23.008(a) is amended to read:

10 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
11 is absent from the state during the qualifying year remains eligible for a current year
12 permanent fund dividend if the individual was absent

13 (1) receiving secondary or postsecondary education on a full-time
14 basis;

15 (2) receiving vocational, professional, or other specific education on a
16 full-time basis for which, as determined by the Alaska Commission on Postsecondary
17 Education, a comparable program is not reasonably available in the state;

18 (3) serving on active duty as a member of the armed forces of the
19 United States or accompanying, as that individual's spouse, minor dependent, or
20 disabled dependent, an individual who is

21 (A) serving on active duty as a member of the armed forces of
22 the United States; and

23 (B) eligible for a current year dividend;

24 (4) serving under foreign or coastal articles of employment aboard an
25 oceangoing vessel of the United States merchant marine;

26 (5) receiving continuous medical treatment recommended by a
27 licensed physician or convalescing as recommended by the physician that treated the
28 illness if the treatment or convalescence is not based on a need for climatic change;

29 (6) providing care for a parent, spouse, sibling, child, or stepchild with
30 a critical life-threatening illness whose treatment plan, as recommended by the
31 attending physician, requires travel outside the state for treatment at a medical

1 specialty complex;

2 (7) providing care for the individual's terminally ill family member;

3 (8) settling the estate of the individual's deceased parent, spouse,
4 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

5 (9) serving as a member of the United States Congress;

6 (10) serving on the staff of a member from this state of the United
7 States Congress;

8 (11) serving as an employee of the state in a field office or other
9 location;

10 (12) accompanying a minor who is absent under (5) of this subsection;

11 (13) accompanying another eligible resident who is absent for a reason
12 permitted under (1), (2), (5) - (12), or (16) [14] of this subsection as the spouse, minor
13 dependent, or disabled dependent of the eligible resident;

14 (14) serving as a volunteer in the federal peace corps program;

15 (15) because of training or competing as a member of the United
16 States Olympic Team;

17 (16) for any reason consistent with the individual's intent to remain a
18 state resident, provided the absence or cumulative absences do not exceed

19 (A) 180 days in addition to any absence or cumulative absences
20 claimed under (3) of this subsection if the individual is not claiming an absence
21 under (1), (2), or (4) - (15) [(4) - (13)] of this subsection;

22 (B) 120 days in addition to any absence or cumulative absences
23 claimed under (1) - (3) of this subsection if the individual is not claiming an
24 absence under (4) - (15) [(4) - (13)] of this subsection but is claiming an
25 absence under (1) or (2) of this subsection; or

26 (C) 45 days in addition to any absence or cumulative absences
27 claimed under (1) - (15) [(1) - (13)] of this subsection if the individual is
28 claiming an absence under (1) - (15) [(4) - (13)] of this subsection.

29 * Sec. 21. AS 43.23.008(b) is amended to read:

30 (b) An individual may not claim an allowable absence under (a)(1) - (15)
31 [(a)(1) - (13)] of this section unless the individual was a resident of the state for at

1 least six consecutive months immediately before leaving the state.

2 * Sec. 22. AS 43.23.011(a) is amended to read:

3 (a) An application for a permanent fund dividend shall be filed during the
4 period that begins January 1 [JANUARY 2] and ends March 31 of that dividend year.

5 * Sec. 23. AS 43.23.035(c) is amended to read:

6 (c) In addition to any criminal penalties imposed by state law, if the
7 department finds that a 'AN] individual [WHO], in claiming a permanent fund
8 dividend, or an individual [WHO], in certifying another person's eligibility, willfully
9 misrepresents, exercises gross negligence with respect to, or recklessly disregards a
10 material fact pertaining to, eligibility, the department may issue an order against
11 the individual for the

12 (1) forfeiture of [FORFEITS] the dividend;

13 (2) imposition of [, IS SUBJECT TO] a civil fine of up to \$3,000;
14 [\$5,000,] and

15 (3) loss of [LOSES] eligibility to receive the next five dividends
16 following the forfeited dividend [DIVIDENDS. THE COMMISSIONER MAY
17 COMMENCE PROCEEDINGS IN COURT TO ENFORCE THIS SUBSECTION].

18 * Sec. 24. AS 43.23.035 is amended by adding a new subsection to read:

19 (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of,
20 and to appeal of, a decision under (c) of this section by an individual aggrieved by the
21 decision. When all appeals have been exhausted under this chapter or the time when
22 all of the appeals that could have been taken has expired, the order issued imposing a
23 civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same
24 manner as a judgment of the court.

25 * Sec. 25. AS 43.23.055 is amended by adding a new paragraph to read:

26 (10) establish a fraud investigation unit for the purpose of assisting the

27 (A) Department of Law in the prosecution of individuals who
28 apply for or obtain a permanent fund dividend in violation of a provision in
29 AS 11, by detecting and investigating those crimes; and

30 (B) commissioner to detect and investigate the claiming or
31 paying of permanent fund dividends that should not have been claimed by or

1 paid to an individual and to impose the penalties and enforcement provisions
2 under AS 43.23.035.

3 * **Sec. 26.** AS 43.65.020(a) is amended to read:

4 (a) A person subject to tax under this chapter shall make a return stating
5 specifically the items of gross income from the property, including royalty received
6 and the deductions and credits allowed by this chapter and the exploration incentive
7 credit authorized by AS 27.30, and other information for carrying out this chapter that
8 the department prescribes. The return must show the mining license number and must
9 be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of
10 unsworn falsification in the second degree. If receivers, trustees, or assigns are
11 operating the property or business, they shall make returns for the person engaged in
12 mining, or the recipient of royalty in connection with mining property. The tax due on
13 the basis of the returns shall be collected in the same manner as if collected from the
14 person of whose business they have custody and control. In a tax year in which a
15 taxpayer applies against the tax levied under this chapter the exploration incentive
16 credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit
17 the accounting of mining operation activities form required by AS 27.30.030(b).

18 * **Sec. 27.** AS 43.75.030(a) is amended to read:

19 (a) A person subject to the tax shall file a return stating the value of fisheries
20 resources processed during the license year, computed as required by this chapter, and
21 such other information as the department prescribes by regulation. The return must
22 show the license number and must be signed by the taxpayer or an authorized agent,
23 under penalty of unsworn falsification in the second degree. If a receiver, trustee, or
24 assign is operating the property or business, that person shall file the return for the
25 person. A tax due on the basis of such a return shall be collected in the same manner
26 as if collected from the person of whose business the receiver, trustee, or assign has
27 custody and control.

28 * **Sec. 28.** AS 43.75.110 is amended to read:

29 **Sec. 43.75.110. Duty of taxpayer and payment of tax.** A person subject to
30 taxes under AS 43.75.100 shall make a return stating the value of fisheries resources
31 taken, purchased, or otherwise acquired during the license year for sale to fisheries

1 businesses outside of the taxing jurisdiction of the state computed as required by
2 AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as
3 may be prescribed by the department. The return must contain the license number and
4 must be signed by the taxpayer or an authorized agent, under penalty of unsworn
5 falsification in the second degree. If a receiver, trustee, or assign is operating the
6 property or business, that person shall make the return for the person. A tax due on
7 the basis of such return shall be collected in the same manner as if collected from the
8 person of whose business the receiver, trustee, or assign has custody and control. The
9 requirements for time and place of payment of tax, and the obligation to keep records
10 and make the records available to the commissioner are the same as those prescribed
11 in AS 43.75.011 - 43.75.050.

12 * Sec. 29. AS 45.63.010(d) is amended to read:

13 (d) The notice of intent must be on a form or in a format provided and
14 established by the department by regulation. The department may require the notice
15 of intent to be submitted under oath or affirmation or with notice that false statements
16 made are punishable as unsworn falsification in the second degree under
17 AS 11.56.210. The notice of intent must include detailed information about the nature
18 of the solicitation campaign and the identity and business practices of the telephone
19 seller, including information on the employees, agents, and officers affiliated with the
20 telephone seller. The notice of intent must disclose criminal convictions, civil
21 judgments, orders, consent decrees, or administrative determinations involving
22 allegations of unfair or deceptive business practices by the telephone seller.

23 * Sec. 30. AS 45.68.010(f) is amended to read:

24 (f) The department may require the registration and registration renewal
25 statement required under (c)(1) and (d) of this section to be submitted

26 (1) under oath or affirmation; or

27 (2) with notice that false statements made in the statement are
28 punishable as unsworn falsification in the second degree under AS 11.56.210.

29 * Sec. 31. AS 45.68.055(c) is amended to read:

30 (c) The authorized contracting agent for the paid solicitor shall sign the report
31 required by (b) of this section. Signature of the report under this subsection must be

1 made under oath or affirmation, but submission of false information in a notice that is
2 not signed under oath or affirmation is punishable as an unsworn falsification in the
3 second degree under AS 11.56.210.

4 * Sec. 32. AS 46.03.550(a) is amended to read:

5 (a) Property for which a notice has been issued under AS 46.03.500 shall be
6 determined by the department to be fit for use if the owner certifies to the department
7 under penalty of unsworn falsification in the second degree that

8 (1) based on sampling and testing procedures established by the
9 department under AS 46.03.520(b) and performed by laboratories that are on the list
10 maintained by the department under AS 46.03.520(c), the limits on substances
11 specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

12 (2) if the property was ever sampled and tested under AS 46.03.520
13 and the test results showed the property to be unfit for use under AS 46.03.530,
14 decontamination procedures were performed in accordance with the guidelines
15 established under AS 46.03.540(b) and the requirements of (1) of this subsection have
16 been met; or

17 (3) a court has held that the determination that the property was an
18 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

19 * Sec. 33. AS 47.12.120(b) is amended to read:

20 (b) If the minor is not subject to (j) of this section and the court finds that the
21 minor is delinquent, it shall

22 (1) order the minor committed to the department for a period of time
23 not to exceed two years or in any event extend past the day the minor becomes 19
24 years of age, except that the department may petition for and the court may grant in a
25 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
26 19th birthday if the extension is in the best interests of the minor and the public; and
27 (B) an additional one-year period of supervision past age 19 if continued supervision
28 is in the best interests of the person and the person consents to it; the department shall
29 place the minor in the juvenile facility that the department considers appropriate and
30 that may include a juvenile correctional school, juvenile work camp, treatment facility,
31 detention home, or detention facility; the minor may be released from placement or

1 detention and placed on probation on order of the court and may also be released by
2 the department, in its discretion, under AS 47.12.260;

3 (2) order the minor placed on probation, to be supervised by the
4 department, and released to the minor's parents, guardian, or a suitable person; if the
5 court orders the minor placed on probation, it may specify the terms and conditions of
6 probation; the probation may be for a period of time not to exceed two years and in no
7 event to extend past the day the minor becomes 19 years of age, except that the
8 department may petition for and the court may grant in a hearing

9 (A) two-year extensions of supervision that do not extend
10 beyond the minor's 19th birthday if the extension is in the best interests of the
11 minor and the public; and

12 (B) an additional one-year period of supervision past age 19 if
13 the continued supervision is in the best interests of the person and the person
14 consents to it;

15 (3) order the minor committed to the custody of the department and
16 placed on probation, to be supervised by the department and released to the minor's
17 parents, guardian, other suitable person, or suitable nondetention setting such as with a
18 relative or in a foster home or residential child care facility, whichever the department
19 considers appropriate to implement the treatment plan of the predisposition report; if
20 the court orders the minor placed on probation, it may specify the terms and conditions
21 of probation; the department may transfer the minor, in the minor's best interests, from
22 one of the probationary placement settings listed in this paragraph to another, and the
23 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
24 attorney are entitled to reasonable notice of the transfer; the probation may be for a
25 period of time not to exceed two years and in no event to extend past the day the
26 minor becomes 19 years of age, except that the department may petition for and the
27 court may grant in a hearing

28 (A) two-year extensions of commitment that do not extend
29 beyond the minor's 19th birthday if the extension is in the best interests of the
30 minor and the public; and

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person
2 consents to it;

3 (4) order the minor and the minor's parent to make suitable restitution
4 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
5 under this paragraph,

6 (A) except as provided in (B) of this paragraph, the court may
7 not refuse to make an order of restitution to benefit the victim of the act of the
8 minor that is the basis of the delinquency adjudication; under this
9 subparagraph, the court may require the minor to use the services of a
10 community dispute resolution center that has been recognized by the
11 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
12 and the victim of the minor's offense as to the amount of or manner of payment
13 of the restitution;

14 (B) the court may not order payment of restitution by the parent
15 of a minor who is a runaway or missing minor for an act of the minor that was
16 committed by the minor after the parent has made a report to a law
17 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
18 away or is missing; for purposes of this subparagraph, "runaway or missing
19 minor" means a minor who a parent reasonably believes is absent from the
20 minor's residence for the purpose of evading the parent or who is otherwise
21 missing from the minor's usual place of abode without the consent of the
22 parent; and

23 (C) at the request of the department, the Department of Law,
24 the victims' advocate, or on its own motion, the court shall, at any time, order
25 the minor and the minor's parent, if applicable, to submit financial information
26 on a form approved by the Alaska Court System to the court, the department,
27 and the Department of Law for the purpose of establishing the amount of
28 restitution or enforcing an order of restitution under AS 47.12.170; the form
29 must include a warning that submission of incomplete or inaccurate
30 information is punishable as unsworn falsification in the second degree under
31 AS 11.56.210;

1 (5) order the minor committed to the department for placement in an
2 adventure-based education program established under AS 47.21.020 with conditions
3 the court considers appropriate concerning release upon satisfactory completion of the
4 program or commitment under (1) of this subsection if the program is not satisfactorily
5 completed;

6 (6) in addition to an order under (1) - (5) of this subsection, order the
7 minor to perform community service; for purposes of this paragraph, "community
8 service" includes work

9 (A) on a project identified in AS 33.30.901; or

10 (B) that, on the recommendation of the city council or
11 traditional village council, would benefit persons within the city or village who
12 are elderly or disabled; or

13 (7) in addition to an order under (1) - (6) of this subsection, order the
14 minor's parent or guardian to comply with orders made under AS 47.12.155, including
15 participation in treatment under AS 47.12.155(b)(1).

16 * Sec. 34. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REGULATIONS AND APPLICATION. (a) The Department of Revenue may
19 immediately adopt regulations necessary to implement the changes made by secs. 22 - 24 of
20 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
21 before July 1, 2005.

22 (b) AS 43.23.035(c), as amended in sec. 23 of this Act, and AS 43.23.035(e), as
23 added in sec. 24 of this Act, apply only with respect to applications filed on or after July 1,
24 2005. AS 43.23.035(c) as it read immediately before July 1, 2005, applies with respect to
25 applications filed before July 1, 2005.

26 * Sec. 35. Section 34 of this Act takes effect immediately under AS 01.10.070(c).

27 * Sec. 36. Sections 1 - 19 and 22 - 33 of this Act take effect July 1, 2005.

28 * Sec. 37. Sections 20 and 21 of this Act take effect January 1, 2006.

24-LS0519X

Cook

4/28/05

HOUSE CS FOR CS FOR SENATE BILL NO. 104(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS SEEKINS, Therriault, Bunde, Wilken, Stedman, Cowdery, Guess, Elton, Kookesh, Wagoner, Ellis, Olson, Gary Stevens, Green, French, Huggins, Dyson, Ben Stevens

REPRESENTATIVE Gruenberg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crimes of unsworn falsification in the first degree involving an
2 application for a permanent fund dividend and false information or report involving
3 eligibility for a dividend; requiring the establishment of a permanent fund dividend
4 fraud investigation unit in the Department of Revenue; relating to service in the peace
5 corps and as a member of the United States Olympic Team as allowable absences from
6 the state for purposes of eligibility for permanent fund dividends and to the period for
7 filing an application for a dividend; relating to the permanent fund dividends of
8 individuals claiming allowable absences; authorizing the Department of Revenue to
9 issue administrative orders imposing sanctions for certain misrepresentations or other
10 actions concerning eligibility for a permanent fund dividend and providing for
11 administrative appeal of those orders; and providing for an effective date."

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

1 * **Section 1.** AS 05.15.095(a) is amended to read:

2 (a) The applications and reports to the department required by this chapter
3 shall be signed under penalty of unsworn falsification in the second degree by the
4 following person, as applicable:

- 5 (1) the member in charge for the qualified organization;
6 (2) a person authorized to sign on behalf of the municipality;
7 (3) the operator or the operator's agent;
8 (4) the licensed pull-tab distributor or the distributor's agent; or
9 (5) the licensed pull-tab manufacturer or the manufacturer's agent.

10 * **Sec. 2.** AS 05.15.680(b) is amended to read:

11 (b) A person who, with the intent to mislead a public servant in the
12 performance of the public servant's duty, submits a false statement in an application
13 for a permit, license, or vendor registration under this chapter is guilty of unsworn
14 falsification in the second degree.

15 * **Sec. 3.** AS 06.05.045(a) is amended to read:

16 (a) Each state bank shall make at least four reports of condition each year to
17 the department on days designated by, and on forms prescribed by, the department.
18 The report shall be signed by a duly authorized officer of the bank and shall be signed
19 by at least three directors who certify under penalty of unsworn falsification in the
20 second degree under AS 11.56.210 that they, and each of them, have personal
21 knowledge of the facts stated in the report and that the facts are true. The reports must
22 exhibit in detail and under appropriate heads the resources and liabilities of the bank
23 and must be received by the department within 30 calendar days after the end of the
24 period covered by the report.

25 * **Sec. 4.** AS 06.50.310(a) is amended to read:

26 (a) On or before March 15 of each year, a licensee shall file with the
27 department a composite annual report for the preceding calendar year in the form
28 prescribed by the department relating to all advances made by the licensee. The
29 department may require that the report be submitted under oath or affirmation, or with
30 notice that false statements made are punishable as unsworn falsification in the
31 second degree under AS 11.56.210.

1 * Sec. 5. AS 08.88.460(a) is amended to read:

2 (a) Subject to (e) of this section, a person seeking reimbursement for a loss
3 suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or
4 the conversion of trust funds or the conversion of community association accounts
5 under the control of a community association manager on the part of a licensee
6 licensed under this chapter shall make a claim to the commission for reimbursement
7 on a form furnished by the commission. In order to be eligible for reimbursement by
8 the commission, the claim form must be filed within two years after the occurrence of
9 the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of
10 community association accounts under the control of a community association
11 manager claimed as the basis for the reimbursement. The form shall be executed under
12 penalty of unsworn falsification in the second degree and must include the following:

- 13 (1) the name and address of each real estate licensee involved;
- 14 (2) the amount of the alleged loss;
- 15 (3) the date or period of time during which the alleged loss occurred;
- 16 (4) the date upon which the alleged loss was discovered;
- 17 (5) the name and address of the claimant; and
- 18 (6) a general statement of facts relative to the claim.

19 * Sec. 6. AS 10.20.655(b) is amended to read:

20 (b) The interrogatories shall be answered within 30 days after mailing, or
21 within the additional time fixed by the commissioner, and the answers shall be full and
22 complete, in writing and under penalty of unsworn falsification in the second degree
23 under AS 11.56.210. If the interrogatories are directed to an individual, they shall be
24 answered by that individual and, if directed to a corporation, they shall be answered by
25 the president, vice-president, secretary, or assistant secretary of the corporation.

26 * Sec. 7. AS 11.56 is amended by adding a new section to read:

27 **Sec. 11.56.205. Unsworn falsification in the first degree.** (a) A person
28 commits the crime of unsworn falsification in the first degree if the person violates
29 AS 11.56.210(a)(1) and the application is an application for a permanent fund
30 dividend.

31 (b) In this section,

1 (1) "application for a permanent fund dividend" includes a written or
 2 electronic application and any other documentation submitted to support an
 3 application for a permanent fund dividend;

4 (2) "permanent fund dividend" has the meaning given in
 5 AS 43.23.095.

6 (c) Unsworn falsification in the first degree is a class C felony.

7 * **Sec. 8.** AS 11.56.210 is amended to read:

8 **Sec. 11.56.210. Unsworn falsification in the second degree.** (a) A person
 9 commits the crime of unsworn falsification in the second degree if, with the intent to
 10 mislead a public servant in the performance of a duty, the person submits a false
 11 written or recorded statement that [WHICH] the person does not believe to be true

12 (1) in an application for a benefit; or

13 (2) on a form bearing notice, authorized by law, that false statements
 14 made in it are punishable.

15 (b) Unsworn falsification in the second degree is a class A misdemeanor.

16 * **Sec. 9.** AS 11.56.220 is amended to read:

17 **Sec. 11.56.220. Proof of guilt.** In a prosecution for perjury or unsworn
 18 falsification in the first or second degree it is not necessary that proof be made by a
 19 particular number of witnesses or by documentary or other type of evidence.

20 * **Sec. 10.** AS 11.56.800(a) is amended to read:

21 (a) A person commits the crime of false information or report if the person
 22 knowingly

23 (1) gives false information to a peace officer

24 (A) with the intent of implicating another in an offense; or

25 (B) concerning the person's identity while the person is

26 (i) under arrest, detention, or investigation for a crime;

27 or

28 (ii) being served with an arrest warrant or being issued a

29 citation;

30 (2) makes a false report to a peace officer that a crime has occurred or
 31 is about to occur;

1 (3) makes a false report or gives a false alarm, under circumstances not
2 amounting to terroristic threatening in the second degree under AS 11.56.810, that a
3 fire or other incident dangerous to life or property calling for an emergency response
4 has occurred or is about to occur; [OR]

5 (4) makes a false report to the Department of Natural Resources under
6 AS 46.17 concerning the condition of a dam or reservoir; or

7 (5) gives false information to a public employee relating to a
8 person's eligibility for a permanent fund dividend under AS 43.23 and the false
9 information does not also violate AS 11.56.205.

10 * Sec. 11. AS 12.55.045(j) is amended to read:

11 (j) A defendant who is convicted of an offense for which restitution may be
12 ordered shall submit financial information as ordered by the court. The Alaska Court
13 System shall prepare a form, in consultation with the Department of Law, for the
14 submission of the information; the form must include a warning that submission of
15 incomplete or inaccurate information is punishable as unsworn falsification in the
16 second degree under AS 11.56.210. A defendant who is convicted of (1) a felony
17 shall submit the form to the probation office within 30 days after conviction, and the
18 probation officer shall attach the form to the presentence report, or (2) a misdemeanor
19 shall file the form with the defendant's response or opposition to the restitution
20 amount. The defendant shall provide a copy of the completed form to the prosecuting
21 authority.

22 * Sec. 12. AS 16.05.450(a) is amended to read:

23 (a) The commissioner or an authorized agent shall issue a crewmember fishing
24 license under AS 16.05.480 to each qualified person who files a written application at
25 a place in the state designated by the commissioner, containing the reasonable
26 information required by the commissioner together with the required fee. The
27 commissioner shall require the reporting of the applicant's social security number on
28 the application. The application shall be simple in form and shall be executed by the
29 applicant under the penalty of unsworn falsification in the second degree.

30 * Sec. 13. AS 16.05.450(b) is amended to read:

31 (b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel

1 license under AS 16.05.490 to each qualified vessel for which a written application
2 has been filed, at a place in the state designated by the commission, containing the
3 reasonable information required by the commission together with the required fee.
4 The application shall be simple in form and shall be executed by the applicant under
5 the penalty of unsworn falsification in the second degree.

6 * Sec. 14. AS 16.43.970(b) is amended to read:

7 (b) A person or entity who knowingly makes a false statement to the
8 commission for the purpose of obtaining a benefit, including the issuance, renewal,
9 duplication, or transfer of an entry or interim-use permit, vessel license, vessel
10 interim-use permit, or vessel entry permit, or a person who assists another by
11 knowingly making a false statement to the commission for the purpose of obtaining a
12 benefit for another, is guilty of the crime of unsworn falsification in the second
13 degree as set out in AS 11.56.210. Upon conviction, the person or entity is also
14 subject to suspension of commercial fishing privileges and revocation of commercial
15 fishing permits under (i) of this section.

16 * Sec. 15. AS 18.60.095(f) is amended to read:

17 (f) A person who knowingly makes a false statement, representation, or
18 certification with the intent to mislead in an application, record, report, plan or other
19 document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty
20 of unsworn falsification in the second degree.

21 * Sec. 16. AS 18.65.710(a) is amended to read:

22 (a) The application for a permit to carry a concealed handgun must contain the
23 following information:

24 (1) the applicant's name, physical residence, mailing address, place and
25 date of birth, physical description, including height, weight, race, hair color, and eye
26 color, Alaska driver's license or identification card number, and the city and state of
27 each place the applicant has resided in the five years immediately preceding the
28 application;

29 (2) a statement that the applicant qualifies under AS 18.65.705;

30 (3) a statement that the applicant has been furnished with a copy of the
31 state laws and regulations relating to concealed handguns, has read those sections, and

1 understands them;

2 (4) a statement that the applicant desires a permit to carry a concealed
3 handgun for a lawful purpose, which may include self-defense;

4 (5) a statement by the applicant that all statements, answers, and
5 attachments to the application are true and complete;

6 (6) a conspicuous warning that an applicant who supplies a false
7 statement, answer, or document in connection with the application that the applicant
8 does not believe to be true may be prosecuted for unsworn falsification in the second
9 degree and, if found guilty, may be punished for violation of a class A misdemeanor,
10 and that, in such cases, the permit shall be revoked and the applicant may be barred
11 from any further application for a permit; and

12 (7) a statement that the applicant understands that a permit eligibility
13 investigation will be conducted as a part of the application process, that this may
14 involve computerized records searches, and that the applicant authorizes the
15 investigation.

16 * Sec. 17. AS 21.27.110(h) is amended to read:

17 (h) A notice of termination submitted to the director under this section must
18 include a statement of the reasons for the termination. A statement of the reasons for
19 termination is confidential and not subject to inspection and copying under
20 AS 40.25.110. A statement of reasons for the termination may not be admitted as
21 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
22 or authorized representative by, or on behalf of a person affected by the termination,
23 except when the action or proceeding involves perjury, unsworn falsification in the
24 second degree, fraud, or failure to comply with this subsection.

25 * Sec. 18. AS 28.35.130 is amended to read:

26 **Sec. 28.35.130. False report or destruction of evidence.** An officer or
27 person who knowingly makes or subscribes a false report concerning an investigation
28 of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is
29 guilty of unsworn falsification in the second degree. A person who destroys,
30 obliterates, conceals or removes, or who aids, abets, or assists in the destruction,
31 obliteration, concealment, or removal from a vehicle, of evidence showing or tending

1 to show that the vehicle collided with a person or property, is punishable by a fine of
2 not more than \$500, or by imprisonment for not more than six months, or by both.

3 * **Sec. 19.** AS 28.35.135(a) is amended to read:

4 (a) A person may not knowingly make a false affidavit, statement, or
5 representation, or affirm falsely with respect to a matter or fact required to be set out
6 under this title, nor may the person use a name other than the person's true name. A
7 person convicted of violating this section is guilty of unsworn falsification in the
8 second degree and is punishable as prescribed by law.

9 * **Sec. 20.** AS 43.23.008(a) is amended to read:

10 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
11 is absent from the state during the qualifying year remains eligible for a current year
12 permanent fund dividend if the individual was absent

13 (1) receiving secondary or postsecondary education on a full-time
14 basis;

15 (2) receiving vocational, professional, or other specific education on a
16 full-time basis for which, as determined by the Alaska Commission on Postsecondary
17 Education, a comparable program is not reasonably available in the state;

18 (3) serving on active duty as a member of the armed forces of the
19 United States or accompanying, as that individual's spouse, minor dependent, or
20 disabled dependent, an individual who is

21 (A) serving on active duty as a member of the armed forces of
22 the United States; and

23 (B) eligible for a current year dividend;

24 (4) serving under foreign or coastal articles of employment aboard an
25 oceangoing vessel of the United States merchant marine;

26 (5) receiving continuous medical treatment recommended by a
27 licensed physician or convalescing as recommended by the physician that treated the
28 illness if the treatment or convalescence is not based on a need for climatic change;

29 (6) providing care for a parent, spouse, sibling, child, or stepchild with
30 a critical life-threatening illness whose treatment plan, as recommended by the
31 attending physician, requires travel outside the state for treatment at a medical

1 specialty complex;

2 (7) providing care for the individual's terminally ill family member;

3 (8) settling the estate of the individual's deceased parent, spouse,
4 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

5 (9) serving as a member of the United States Congress;

6 (10) serving on the staff of a member from this state of the United
7 States Congress;

8 (11) serving as an employee of the state in a field office or other
9 location;

10 (12) accompanying a minor who is absent under (5) of this subsection;

11 (13) accompanying another eligible resident who is absent for a reason
12 permitted under (1), (2), (5) - (12), or (16) [14] of this subsection as the spouse, minor
13 dependent, or disabled dependent of the eligible resident;

14 (14) serving as a volunteer in the federal peace corps program;

15 (15) because of training or competing as a member of the United
16 States Olympic Team;

17 (16) for any reason consistent with the individual's intent to remain a
18 state resident, provided the absence or cumulative absences do not exceed

19 (A) 180 days in addition to any absence or cumulative absences
20 claimed under (3) of this subsection if the individual is not claiming an absence
21 under (1), (2), or (4) - (15) [(4) - (13)] of this subsection;

22 (B) 120 days in addition to any absence or cumulative absences
23 claimed under (1) - (3) of this subsection if the individual is not claiming an
24 absence under (4) - (15) [(4) - (13)] of this subsection but is claiming an
25 absence under (1) or (2) of this subsection; or

26 (C) 45 days in addition to any absence or cumulative absences
27 claimed under (1) - (15) [(1) - (13)] of this subsection if the individual is
28 claiming an absence under (1) - (15) [(4) - (13)] of this subsection.

29 * Sec. 21. AS 43.23.008(b) is amended to read:

30 (b) An individual may not claim an allowable absence under (a)(1) - (15)
31 [(a) 1] - (13)] of this section unless the individual was a resident of the state for at

1 least six consecutive months immediately before leaving the state.

2 * **Sec. 22.** AS 43.23 is amended by adding a new section to read:

3 **Sec. 43.23.009. Dividends of individuals with allowable absences.** (a)

4 Notwithstanding other provisions regarding payment of dividends, the dividend of an
5 individual who was absent from the state during the qualifying year as allowed in
6 AS 43.23.008(a)(1) - (8) or (10) - (15) shall be paid to that individual on the first
7 subsequent year that the individual is eligible for a dividend without claiming an
8 allowable absence under AS 43.23.008(a)(1) - (8) c - (10) - (15). A dividend that has
9 not become payable under this subsection may not be paid under AS 43.23.005(h).

10 (b) If an individual who is eligible for a dividend that has not become payable
11 under (a) of this section fails to be eligible for a subsequent year dividend, the
12 individual's eligibility for the dividend that has not become payable under (a) of this
13 section is terminated, and that dividend may not be paid.

14 (c) Notwithstanding other provisions, a dividend that has not become payable
15 to an individual under (a) of this section is not subject to levy, execution, garnishment,
16 attachment, or any other remedy for the collection of debt until that dividend becomes
17 payable or is paid to the individual.

18 * **Sec. 23.** AS 43.23.011(a) is amended to read:

19 (a) An application for a permanent fund dividend shall be filed during the
20 period that begins January 1 [JANUARY 2] and ends March 31 of that dividend year.

21 * **Sec. 24.** AS 43.23.025(a) is amended to read:

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

24 (1) determining the total amount available for dividend payments,
25 which equals

26 (A) the amount of income of the Alaska permanent fund
27 transferred to the dividend fund under AS 37.13.145(b) during the current year;

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

31 (C) less the amount necessary to pay prior year dividends from

1 the dividend fund in the current year under AS 43.23.005(h), 43.23.009, and
2 under AS 43.23.055(3) and (7);

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

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

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

13 (3) dividing the amount determined under (1) of this subsection by the
14 amount determined under (2) of this subsection.

15 * Sec. 25. AS 43.23.035(c) is amended to read:

16 (c) In addition to any criminal penalties imposed by state law, if the
17 department finds that an [AN] individual [WHO], in claiming a permanent fund
18 dividend, or an individual [WHO], in certifying another person's eligibility, willfully
19 misrepresents, exercises gross negligence with respect to, or recklessly disregards a
20 material fact pertaining to, eligibility, the department may issue an order against
21 the individual for the

22 (1) forfeiture of [FORFEITS] the dividend;

23 (2) imposition of [, IS SUBJECT TO] a civil fine of up to \$3,000;
24 [\$5,000,] and

25 (3) loss of [LOSES] eligibility to receive the next five dividends
26 following the forfeited dividend [DIVIDENDS. THE COMMISSIONER MAY
27 COMMENCE PROCEEDINGS IN COURT TO ENFORCE THIS SUBSECTION].

28 * Sec. 26. AS 43.23.035 is amended by adding a new subsection to read:

29 (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of,
30 and to appeal of, a decision under (c) of this section by an individual aggrieved by the
31 decision. When all appeals have been exhausted under this chapter or the time when

1 all of the appeals that could have been taken has expired, the order issued imposing a
2 civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same
3 manner as a judgment of the court.

4 * Sec. 27. AS 43.23.055 is amended by adding a new paragraph to read:

5 (10) establish a fraud investigation unit for the purpose of assisting the

6 (A) Department of Law in the prosecution of individuals who
7 apply for or obtain a permanent fund dividend in violation of a provision in
8 AS 11, by detecting and investigating those crimes; and

9 (B) commissioner to detect and investigate the claiming or
10 paying of permanent fund dividends that should not have been claimed by or
11 paid to an individual and to impose the penalties and enforcement provisions
12 under AS 43.23.035.

13 * Sec. 28. AS 43.65.020(a) is amended to read:

14 (a) A person subject to tax under this chapter shall make a return stating
15 specifically the items of gross income from the property, including royalty received
16 and the deductions and credits allowed by this chapter and the exploration incentive
17 credit authorized by AS 27.30, and other information for carrying out this chapter that
18 the department prescribes. The return must show the mining license number and must
19 be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of
20 unsworn falsification in the second degree. If receivers, trustees, or assigns are
21 operating the property or business, they shall make returns for the person engaged in
22 mining, or the recipient of royalty in connection with mining property. The tax due on
23 the basis of the returns shall be collected in the same manner as if collected from the
24 person of whose business they have custody and control. In a tax year in which a
25 taxpayer applies against the tax levied under this chapter the exploration incentive
26 credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit
27 the accounting of mining operation activities form required by AS 27.30.030(b).

28 * Sec. 29. AS 43.75.030(a) is amended to read:

29 (a) A person subject to the tax shall file a return stating the value of fisheries
30 resources processed during the license year, computed as required by this chapter, and
31 such other information as the department prescribes by regulation. The return must

1 show the license number and must be signed by the taxpayer or an authorized agent,
2 under penalty of unsworn falsification in the second degree. If a receiver, trustee, or
3 assign is operating the property or business, that person shall file the return for the
4 person. A tax due on the basis of such a return shall be collected in the same manner
5 as if collected from the person of whose business the receiver, trustee, or assign has
6 custody and control.

7 * **Sec. 30.** AS 43.75.110 is amended to read:

8 **Sec. 43.75.110. Duty of taxpayer and payment of tax.** A person subject to
9 taxes under AS 43.75.100 shall make a return stating the value of fisheries resources
10 taken, purchased, or otherwise acquired during the license year for sale to fisheries
11 businesses outside of the taxing jurisdiction of the state computed as required by
12 AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as
13 may be prescribed by the department. The return must contain the license number and
14 must be signed by the taxpayer or an authorized agent, under penalty of unsworn
15 falsification in the second degree. If a receiver, trustee, or assign is operating the
16 property or business, that person shall make the return for the person. A tax due on
17 the basis of such return shall be collected in the same manner as if collected from the
18 person of whose business the receiver, trustee, or assign has custody and control. The
19 requirements for time and place of payment of tax, and the obligation to keep records
20 and make the records available to the commissioner are the same as those prescribed
21 in AS 43.75.011 - 43.75.050.

22 * **Sec. 31.** AS 45.63.010(d) is amended to read:

23 (d) The notice of intent must be on a form or in a format provided and
24 established by the department by regulation. The department may require the notice
25 of intent to be submitted under oath or affirmation or with notice that false statements
26 made are punishable as unsworn falsification in the second degree under
27 AS 11.56.210. The notice of intent must include detailed information about the nature
28 of the solicitation campaign and the identity and business practices of the telephone
29 seller, including information on the employees, agents, and officers affiliated with the
30 telephone seller. The notice of intent must disclose criminal convictions, civil
31 judgments, orders, consent decrees, or administrative determinations involving

1 allegations of unfair or deceptive business practices by the telephone seller.

2 * **Sec. 32.** AS 45.68.010(f) is amended to read:

3 (f) The department may require the registration and registration renewal
4 statement required under (c)(1) and (d) of this section to be submitted

5 (1) under oath or affirmation; or

6 (2) with notice that false statements made in the statement are
7 punishable as unsworn falsification in the second degree under AS 11.56.210.

8 * **Sec. 33.** AS 45.68.055(c) is amended to read:

9 (c) The authorized contracting agent for the paid solicitor shall sign the report
10 required by (b) of this section. Signature of the report under this subsection must be
11 made under oath or affirmation, but submission of false information in a notice that is
12 not signed under oath or affirmation is punishable as an unsworn falsification in the
13 second degree under AS 11.56.210.

14 * **Sec. 34.** AS 46.03.550(a) is amended to read:

15 (a) Property for which a notice has been issued under AS 46.03.500 shall be
16 determined by the department to be fit for use if the owner certifies to the department
17 under penalty of unsworn falsification in the second degree that

18 (1) based on sampling and testing procedures established by the
19 department under AS 46.03.520(b) and performed by laboratories that are on the list
20 maintained by the department under AS 46.03.520(c), the limits on substances
21 specified in regulations adopted under AS 46.03.530 are not exceeded on the property;

22 (2) if the property was ever sampled and tested under AS 46.03.520
23 and the test results showed the property to be unfit for use under AS 46.03.530,
24 decontamination procedures were performed in accordance with the guidelines
25 established under AS 46.03.540(b) and the requirements of (1) of this subsection have
26 been met; or

27 (3) a court has held that the determination that the property was an
28 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

29 * **Sec. 35.** AS 47.12.120(b) is amended to read:

30 (b) If the minor is not subject to (j) of this section and the court finds that the
31 minor is delinquent, it shall

1 (1) order the minor committed to the department for a period of time
2 not to exceed two years or in any event extend past the day the minor becomes 19
3 years of age, except that the department may petition for and the court may grant in a
4 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
5 19th birthday if the extension is in the best interests of the minor and the public; and
6 (B) an additional one-year period of supervision past age 19 if continued supervision
7 is in the best interests of the person and the person consents to it; the department shall
8 place the minor in the juvenile facility that the department considers appropriate and
9 that may include a juvenile correctional school, juvenile work camp, treatment facility,
10 detention home, or detention facility; the minor may be released from placement or
11 detention and placed on probation on order of the court and may also be released by
12 the department, in its discretion, under AS 47.12.260;

13 (2) order the minor placed on probation, to be supervised by the
14 department, and released to the minor's parents, guardian, or a suitable person; if the
15 court orders the minor placed on probation, it may specify the terms and conditions of
16 probation; the probation may be for a period of time not to exceed two years and in no
17 event to extend past the day the minor becomes 19 years of age, except that the
18 department may petition for and the court may grant in a hearing

19 (A) two-year extensions of supervision that do not extend
20 beyond the minor's 19th birthday if the extension is in the best interests of the
21 minor and the public; and

22 (B) an additional one-year period of supervision past age 19 if
23 the continued supervision is in the best interests of the person and the person
24 consents to it;

25 (3) order the minor committed to the custody of the department and
26 placed on probation, to be supervised by the department and released to the minor's
27 parents, guardian, other suitable person, or suitable nondetention setting such as with a
28 relative or in a foster home or residential child care facility, whichever the department
29 considers appropriate to implement the treatment plan of the predisposition report; if
30 the court orders the minor placed on probation, it may specify the terms and conditions
31 of probation; the department may transfer the minor, in the minor's best interests, from

1 one of the probationary placement settings listed in this paragraph to another, and the
2 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
3 attorney are entitled to reasonable notice of the transfer; the probation may be for a
4 period of time not to exceed two years and in no event to extend past the day the
5 minor becomes 19 years of age, except that the department may petition for and the
6 court may grant in a hearing

7 (A) two-year extensions of commitment that do not extend
8 beyond the minor's 19th birthday if the extension is in the best interests of the
9 minor and the public; and

10 (B) an additional one-year period of supervision past age 19 if
11 the continued supervision is in the best interests of the person and the person
12 consents to it;

13 (4) order the minor and the minor's parent to make suitable restitution
14 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
15 under this paragraph,

16 (A) except as provided in (B) of this paragraph, the court may
17 not refuse to make an order of restitution to benefit the victim of the act of the
18 minor that is the basis of the delinquency adjudication; under this
19 subparagraph, the court may require the minor to use the services of a
20 community dispute resolution center that has been recognized by the
21 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
22 and the victim of the minor's offense as to the amount of or manner of payment
23 of the restitution;

24 (B) the court may not order payment of restitution by the parent
25 of a minor who is a runaway or missing minor for an act of the minor that was
26 committed by the minor after the parent has made a report to a law
27 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
28 away or is missing; for purposes of this subparagraph, "runaway or missing
29 minor" means a minor who a parent reasonably believes is absent from the
30 minor's residence for the purpose of evading the parent or who is otherwise
31 missing from the minor's usual place of abode without the consent of the

1 parent; and

2 (C) at the request of the department, the Department of Law,
3 the victims' advocate, or on its own motion, the court shall, at any time, order
4 the minor and the minor's parent, if applicable, to submit financial information
5 on a form approved by the Alaska Court System to the court, the department,
6 and the Department of Law for the purpose of establishing the amount of
7 restitution or enforcing an order of restitution under AS 47.12.170; the form
8 must include a warning that submission of incomplete or inaccurate
9 information is punishable as unsworn falsification in the second degree under
10 AS 11.56.210;

11 (5) order the minor committed to the department for placement in an
12 adventure-based education program established under AS 47.21.020 with conditions
13 the court considers appropriate concerning release upon satisfactory completion of the
14 program or commitment under (1) of this subsection if the program is not satisfactorily
15 completed;

16 (6) in addition to an order under (1) - (5) of this subsection, order the
17 minor to perform community service; for purposes of this paragraph, "community
18 service" includes work

19 (A) on a project identified in AS 33.30.901; or

20 (B) that, on the recommendation of the city council or
21 traditional village council, would benefit persons within the city or village who
22 are elderly or disabled; or

23 (7) in addition to an order under (1) - (6) of this subsection, order the
24 minor's parent or guardian to comply with orders made under AS 47.12.155, including
25 participation in treatment under AS 47.12.155(b)(1).

26 * Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 REGULATIONS AND APPLICATION. (a) The Department of Revenue may
29 immediately adopt regulations necessary to implement the changes made by secs. 23, 25, and
30 26 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
31 but not before July 1, 2005.

1 (b) AS 43.23.035(c), as amended in sec. 25 of this Act, and AS 43.23.035(e), as
2 added in sec. 26 of this Act, apply only with respect to applications filed on or after July 1,
3 2005. AS 43.23.035(c) as it read immediately before July 1, 2005, applies with respect to
4 applications filed before July 1, 2005.

5 * **Sec. 37.** Section 36 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 38.** Sections 1 - 19, 23, 25, and 26 of this Act take effect July 1, 2005.

7 * **Sec. 39.** Sections 20 - 22 and 24 of this Act take effect January 1, 2006.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE LESIL MCGUIRE
HOUSE DISTRICT 23

Chair
Judiciary Committee

Member
House Leadership
Rules Committee
Health, Education
& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

SPONSOR STATEMENT HB 127

"An Act relating to service in the peace corps and members of the United States Olympic Team as allowable absence from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

Alaskans are known for being proud of their great state. But even beyond that, Alaskans are proud to be Americans. Many Alaskans consider serving or volunteering their time as a way to give back to the country what has been given to them. Many serve in the military; others choose to make conditions better for others by devoting two years of their lives to the Peace Corps. These Alaskans play a major role in promoting democracy in other countries and representing us as Americans.

Peace Corps Volunteers sacrifice time with family, often live in less comfortable conditions, and many times place themselves in harms way to serve our country. We should not cause them to sacrifice further by requiring them to forfeit their permanent fund dividends during their time overseas.

The policy decision has been made to provide every qualifying Alaskan man, woman and child with a dividend from the permanent fund. Alaskan Peace Corps Volunteers meet all the requirements, have the intent to return to the state and yet they are denied their opportunity to receive a dividend. Peace Corps Volunteers were one of the original groups that were a recognizable exemption. In 1998, amid wide-range debate about who to add and who to leave off, Peace Corps Volunteers were cut from the list. If the Peace Corps Volunteers were added to the list of recognizable exemptions, it will make the difference of less than a penny on each Alaskan's dividend.

Peace Corps Volunteers deserve the gratitude that they have earned in their time as volunteers to have the opportunity to receive their permanent fund dividend. HB 127 will add Peace Corps Volunteers as an allowable absence for the purpose of filing and receiving an Alaska Permanent Fund Dividend.

Sponsor Statement

HB 273

"An Act relating to the dividends of individuals claiming allowable absences; and providing for an effective date."

The Alaska Permanent Fund Dividend was initiated to provide Alaskans with a share of the state's resource wealth, primarily derived from oil. As dividend values increase, the number of allowable absences also has increased. While receiving dividends out of state, many valuable Alaskans become highly educated and highly trained. Very few of these people ever return to the state. To encourage our best and brightest to return, HB 273 simply asks individuals to return to the state in order to collect their dividends.

Individuals collecting dividends out of state, leave little in net return to Alaska. In 2003, roughly 17,000 dividends were paid to people living out of state, removing \$19 million directly from the state's economy. With a dividend in the amount of \$1963 in 2000, roughly \$30 million left the state.

The system for paying dividends out of state is based on statutory absences created by the legislature. Unfortunately, the absences listed by statute are the only allowable absences, thus disadvantaging other Alaskans, who also wish to leave the state for other reasons. Nothing in the bill changes the eligibility requirements with regards to allowable absences. HB 273 creates a fair and equitable dividend system by requiring all people applying for dividends out of state to return to Alaska for one year in order to collect their dividends.

Distributing dividends in Alaska through HB 273's one-year return requirement, suggests that more money will be spent in Alaska. Knowing that a sizable nest egg had accrued in absence, HB 273 might encourage college graduates and our technically trained military personnel to return home. By distributing more dividends in state, HB 273 seeks to remedy Alaska's brain drain, while potentially pumping more money into the state's economy.

**Permanent Fund Dividend
HB 273
Projections Summary**

The current PFD data base is not configured to query precise information regarding applicant return. However, a sample of 202 applicants who received a 1995 dividend and were out on allowable absences for more than 180 days was manually tracked through 2004 and analyzed. The results were used to estimate:

The percent of individuals in each absence category who were paid one or more dividends and then did not return to Alaska

83.7%	Accompanying (spouses and children who accompany an individual who is absent for allowable reasons)
61.0%	Students
71.0%	Active Duty Military
55.3%	Medical

Note: the sample size does not result in statistically valid results. These percentages should be used with caution.

These percentages, weighted for relative numbers in each category in the sample, were then used to extrapolate the approximate total amount paid to all individuals, from 1995-2004, who were absent for more than 180 days and never returned.

The calculated average of no-return for all categories is 70.1%

The estimated sum of dividends paid to all applicants between 1995 and 2004 who were absent more than 180 days and never returned to the state, is \$86.1 million.

Again, use this number with caution, it is not based on a statistically valid sample.

ALASKA STATE SENATE



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Senator Ralph Seekins
District D

MEMORANDUM

Date: April 5, 2005

To: Office of Representative McGuire

From: Senator Ralph Seekins

Re: Request for Hearing of SB 104

AS for RS

Attached please find Senate Bill 104 along with a concomitant sponsor statement.

Senate Bill 104 elevates the crime of permanent fund dividend (PFD) fraud to a class C felony from a class A misdemeanor. It also codifies in law the Department of Revenue's PFD fraud investigation unit.

I respectfully request this bill be scheduled in the House Judiciary Committee at your earliest convenience. Thank you.

ALASKA STATE SENATE

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Senator Ralph Seekins
District D

Senate Bill 104 Sponsor Statement

“An Act relating to the crimes of unsworn falsification in the first and second degrees and false information or report; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue.”

Senate Bill 104 seeks to strengthen the Department of Revenue’s ability to investigate fraud associated with making a false application for a permanent fund dividend. Furthermore, submission of a fraudulent permanent fund dividend application would become a class C felony.

In 2004 the Department of Revenue (DOR) examined over 1,600 fraud tips and audited over 1,700 permanent fund dividend (PFD) applications suspected of being fraudulent. This resulted in \$1.4 million in denied or assessed dividends (1,500+ applications). Furthermore, there were three federal indictments and one conviction for crimes involving PFD fraud.

The most common PFD fraud offense involves persons who forge the signature of another on the application (or related documents) with the intent of receiving a dividend to which they are not entitled. It’s important to note that the bill is not intended to capture, for example, cases where husbands or wives sign for each other. However, the provisions of this legislation would apply in cases where the individual is attempting to steal from another person or from the state.

Current law (AS 11.46.500 - 510) describes three separate degrees of forgery — the two most serious offenses are punishable as class B and C felonies, but are limited to cases involving various types of financial instruments such as currency, securities, deeds of trust, etc.

Forgery in the third degree covers instances where a person intentionally makes a false statement on a written instrument (such as a PFD application). However, this offense is punishable as a class A misdemeanor only. The DOR’s proposal to elevate PFD fraud from a simple misdemeanor to a class C felony is expected to provide a more effective deterrent for this type of theft.

Furthermore, Senate Bill 104 aids in identifying and curing instances of permanent fund dividend fraud by codifying in statute a fraud investigation unit within the Department of Revenue. This unit will assist the Department of Law in detecting and investigating instances of PFD fraud.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: Permanent Fund Dividend Fraud RDU: Revenue Programs & Support
 Component: Permanent Fund Dividend
 Sponsor: Seekins
 Requester: _____ Component No.: 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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)

10 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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 104 defines misrepresentation of permanent fund dividend eligibility and authorizes a class C felony penalty for misrepresenting permanent fund eligibility. Current Title 11 provisions for forgery only cover the forging of financial instruments and therefore do not cover PFD application documents.

The bill also authorizes an investigation unit in the Department of Revenue to detect and investigate fraud in the permanent fund dividend program and to assist the Department of Law in the prosecution of such individuals. Although the department has administratively established an investigation unit, statutory designation is required for access to certain federal data bases (NCIC and NLETS). These data bases would facilitate more efficient and effective investigation of PFD crimes, especially those perpetrated by individuals living out of state.

Prepared by: Sharon Barton Phone 465-4785
 Division: Permanent Fund Dividend Date/Time 2/22/05 1:17 PM
 Approved by: Tom Boutin Date 2/22/2005
 Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 104(STA)
 (S) Publish Date: 2/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the crime of misrepresenting RDU CIVIL
permanent fund eligibility..." Component Commercial & Fair Business
 Sponsor Senator Seekins
 Requester Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) 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 create a new statute in the criminal code making the crimes commonly associated with fraudulently applying for a permanent fund dividend a class C felony. Additionally, this bill would statutorily require the Department of Revenue to create a fraud investigation unit designed to detect and investigate permanent fund dividend crimes to aid in the prosecution of these offenses and the imposition of civil penalties. Currently Revenue has created a fraud investigation unit, but creating the unit in statute is necessary to facilitate access to information held by other law enforcement agencies. Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 2/22/05 11:21 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/22/2005
 Agency Department of Law

Sec. 11.56.210. Unsworn falsification. (a) A person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement which the person does not believe to be true

(1) in an application for a benefit; or

(2) on a form bearing notice, authorized by law, that false statements made in it are punishable.

(b) Unsworn falsification is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For the crime of false information or report, see AS 11.56.800.

NOTES TO DECISIONS

Double jeopardy. — Criminal prosecution for unsworn falsification was not barred on double jeopardy grounds in the case of a person who had lied in her unemployment insurance benefits application and

subsequently agreed to repay the unlawfully obtained benefits plus the fifty-percent penalty specified in AS 23.20.390(f). *Mitchell v. State*, 818 P.2d 1163 (Alaska Ct. App. 1991).

Sec. 11.56.220. Proof of guilt. In a prosecution for perjury or unsworn falsification it is not necessary that proof be made by a particular number of witnesses or by documentary or other type of evidence. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Annotator's notes. — The case cited in the notes below was decided under former AS 11.30.010.

Required proof. — To be guilty of perjury, it was necessary under former law to prove that a person under oath willfully and falsely swore. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

One could not be convicted of perjury on the uncorroborated testimony of one witness under former law. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Testimony of perjury had to be corroborated by other evidence, either direct or circumstantial.

Nelson v. State, 546 P.2d 592 (Alaska 1976).

The purpose of such a rule was to prevent ill-founded retaliatory attacks by perjury prosecution upon a witness based on no more than the contrary oath of another. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

What was corroborative evidence. — In order to be corroborative, evidence had to induce a rational belief that what the witness said was true. *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Sufficiency of evidence. — See *Nelson v. State*, 546 P.2d 592 (Alaska 1976).

Sec. 11.56.230. Perjury by inconsistent statements. (a) A person commits the crime of perjury by inconsistent statements if

(1) in the course of one or more official proceedings the person makes two or more sworn statements which are irreconcilably inconsistent to the degree that one of them is necessarily false;

(2) the person does not believe one of the statements to be true at the time the statement is made; and

(3) each statement is made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged.

(b) In a prosecution under this section, it is not necessary for the state to prove which statement was false but only that one or the other was false and not believed by the defendant to be true at the time the defendant made the statement. Proof of the irreconcilable inconsistency of the statements is prima facie evidence that one or the other of the statements was false.

(c) Perjury by inconsistent statements is a class C felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.235. Retraction as a defense. (a) In a prosecution under AS 11.56.200 or 11.56.230, if the false statement was made in an official proceeding, it is an affirmative defense that the defendant expressly retracted the false statement

(1) during the course of the same official proceeding;

(2) before discovery of the falsification became known to the defendant;

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